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European Union

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Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.

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**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 19 October 2004

13567/04

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NOTE

From : General Secretariat

To : Coreper

No. prev. doc. : 11746/04 CRIMORG 69 RESTREINT UE

12135/04 CRIMORG 76 RESTREINT UE

12814/04 CRIMORG 86 RESTREINT UE

Subject : Recommendation from the Commission to the Council authorising the Commission to open negotiations in the framework of the Council of Europe Committee of Experts deliberations on an Additional Protocol to the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime of November 1990

1. On 25 June 2004 the Commission submitted a Recommendation from the Commission to the Council authorising the Commission to open negotiations in the framework of the Council of Europe Committee of Experts deliberations on an Additional Protocol to the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime of November 1990.
2. The Multidisciplinary group on organised crime discussed the draft authorisation on 22 July and on 24 September 2004. At the meeting of the Multidisciplinary group on organised crime, the Commission noted that the compromise reached would mean that no further request for a negotiation mandate would have to be submitted when the Common Position on the Third

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Money Laundering Directive. At its meeting of 8 October 2004, the Article 36 Committee reached consensus on the text, subject to one outstanding issue, which in the meantime has been resolved.

3. The Commission has a reservation on the approach of listing articles as set out in the first indent of the draft authorisation.
4. Denmark has a parliamentary reservation.
5. Subject to the lifting of the above reservations, Coreper is accordingly requested to invite the Council to adopt the text set out in annex to this note.

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**Draft Council Decision authorising the Commission to negotiate, on behalf of the Community,
the Draft Additional Protocol to the Council of Europe Convention on
Laundering, Search, Seizure and Confiscation of the Proceeds from Crime**

THE COUNCIL OF THE EUROPEAN UNION,

hereby,

- authorises the Commission to negotiate those aspects of the draft Additional Protocol which are a matter of Community competence. This authorisation relates to Articles 1(f) and 10, in as far as they relate to Community competence, and 11 and 12 of the draft Additional Protocol. The negotiations will be conducted by the Commission, in accordance with the negotiation directives contained in the Annex to this decision;
- authorises the Commission to negotiate matters which are covered by the Proposal on a Third Money Laundering Directive and the discussions thereon and which contain provisions deviating from the First and Second Money Laundering Directive, in the discussions of the expert committee only after the Council of the EU has adopted a common position on those provisions (...);
- appoints a special committee to assist it in this task. The Commission shall seek assistance from the special committee as regards the appropriateness of the application of provisions from the Money Laundering Directives to non-EU Member States.

Negotiation directives

1. The Commission shall negotiate the provisions of the Additional Protocol to the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime to the extent that such provisions are matters of Community competence.
2. The Commission shall seek to ensure that the Additional Protocol is compatible with measures of Community law based on the Treaty establishing the European Community.
3. The Commission shall seek to ensure that the Additional Protocol takes into account the standards of the Financial Action Task Force which are a matter of Community competence by referring in general to these standards as guidelines. The Additional Protocol should take into account relevant international instruments, in particular the UN Convention against Transnational Organised Crime and the UN Convention against Corruption.
4. The draft Additional Protocol should include a clause providing that the Community may accede to the Additional Protocol.
5. The draft Additional Protocol should include a clause providing for the Community to take part in all the decisions subject to Community competence to be commonly adopted by the Contracting Parties to Additional Protocol, and the principle that the Community should have the same number of votes as the number of its Member States that are parties to the Convention.
6. Should it prove appropriate in view of the content of the Protocol and Community legislation, a disconnection provision should be included in the Protocol authorising application of current or future Community rules.