



Council of the  
European Union

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## DECLASSIFICATION

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of document: ST 12135/04 RESTREINT UE

dated: 17 September 2004

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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

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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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# RESTREINT UE



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 17 September 2004**

**12135/04**

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## **NOTE**

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from : Presidency

to : Delegations

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

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On 25 June 2004 the Commission submitted 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.

Further to the discussions that took place in the Multidisciplinary group on organised crime on 22 July 2004, the Presidency submitted a revised version of the proposal to the JHA Councillors/Financial Attachés (doc. 11746/04 CRIMORG 69 RESTREINT UE), who discussed it on 1 and 3 September 2004. In view of the outcome of these discussions, the Presidency submits a new revised draft, as set out in the annex to this note.

# RESTREINT UE

ANNEX

**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<sup>1</sup> relates to Articles 1(f) and 10, in as far as they relate to Community competence<sup>2</sup>, 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 and their application to Non-EU Member States;<sup>3</sup>
- appoints a special committee to assist it in this task.

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<sup>1</sup> Suggestion from Council Legal Service

<sup>2</sup> Reservation by DE.

<sup>3</sup> Paragraph rephrased after suggestions from Council Legal Service

## 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. (...) <sup>1</sup>.
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 and is in accordance with these standards. (The Additional Protocol should also take into account other relevant international instruments, notably the UN Convention against Transnational Organised Crime and the UN Convention against Corruption). <sup>2</sup>
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.

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<sup>1</sup> The deletion of this sentence is subject to a reservation from ES and COM.

<sup>2</sup> Reservation by DE.