



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 14 November 2002

13996/02

ADD 1

LIMITE

EUROPOL 95

NOTE

from : Presidency

to : COREPER/Council

No. prev. doc. : 13996/02 EUROPOL 95

Subject : Exchange of letters related to the Supplemental Agreement between the United States of America and Europol on the exchange of personal data and related information
- Opinion of the Europol Joint Supervisory Body

Delegations please find enclosed the opinion of the Europol Joint Supervisory Body regarding the exchange of letters related to the Supplemental Agreement between the United States of America and Europol on the exchange of personal data and related information.

**THE JOINT SUPERVISORY BODY
OF EUROPOL**

To the attention of:
*The Chairman of the
Article 36 Committee
Mr. J. Scharf
Rue de la Loi 175
B- 1048 Brussels*

Brussels, 13 November 2002

Our ref.: 02-73

Your ref:

Dear Mr. Scharf,

I am pleased to refer to your oral request for a quick check on the available draft of the exchange of notes related to the Supplemental Agreement between the United States of America and Europol on the exchange of personal data and related information (Doc. 13996/02, Europol 95).

In view of the fact that the JSB has been discussing all the details of the agreement including the necessity of an exchange of notes during its sessions on the 20th September and the 3rd October 2002 and the limited time for the further procedure by the Presidency, the JSB Europol limits itself to the following impression:

1. In its opinion of 3 October 2002, nr. 02-65, Paragraph B, in respect of the draft agreement to be signed between the United States of America and Europol, the JSB stated that its opinion was subject to some considerations that ought to be fully addressed in the exchange of notes. The JSB notes that these considerations are included in the exchange of notes.

2. The JSB stresses that one of the considerations aims to clarify that the interpretation of Article 5(1a) ensures conformity with the relevant provisions of the Europol Convention.

In this regard, the JSB observes that the text of Article 5(1a) referred to in the exchange of notes differs (1st sentence) from the text in respect of which the JSB prepared its opinion of 3 October 2002.

3. The JSB is satisfied that the exchange of notes specifically links the interpretation of the different articles of the agreement with the legal framework of Europol, and accordingly expects that Europol, in its operation of the agreement, will be cognisant in particular of the requirement of specificity laid down in Article 18.1(1) of the Europol Convention.
4. The explanatory note to Article 12 of the Agreement (see 8.) explains the oversight to the implementation of the agreement. To avoid any misunderstandings concerning this supervision, the JSB suggests to add in the exchange of notes that the authorities also oversee the compliance with the agreement.
5. Finally the JSB underlines once again the need to monitor the implementation of the agreement and the exchange of notes in view of the law and regulations in the United States of America in relation to the protection of personal data.

I hope that these arguments on the Exchange of Notes will be helpful and contribute to the final decision-making process.

Yours sincerely

Klaus-Rainer Kalk

Chairman of the Joint Supervisory Body

(signed in his absence by the Data Protection Secretary)