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COMMUNICATION FROM THE COMMISSION TO THE COUNCIL AND THE EUROPEAN PARLIAMENT

Area of Freedom, Security and Justice: Assessment of the Tampere programme and future orientations

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TABLE OF CONTENTS

COMMUNICATION FROM THE COMMISSION TO THE COUNCIL AND THE EUROPEAN PARLIAMENT Area of Freedom, Security and Justice: Assessment of the Tampere programme and future orientations 1

1. Five years to establish the area of freedom, security and justice 3

1.1. Important achievements in a difficult environment 3

1.2. A new context 5

2. What Priorities for the future of the area of freedom, security and justice 7

2.1. Improve the protection of persons in the exercise of their fundamental rights 8

2.2. Encourage initiatives as regards Union citizenship 8

2.3. Develop an integrated border management system and visa policy 9

2.4. Promote a genuine common policy of management of migratory flows 9

2.5. Develop a common European asylum policy on a fair basis 10

2.6. Establish a European judicial area respecting the legal traditions and systems of the Member States, and closely associating those working in relevant areas 10

2.7. Establish a judicial area in civil and commercial matters to facilitate cooperation and access to justice 10

2.8. Promote a coherent criminal justice policy 11

2.9. Strengthen the efficacy of police and customs action 13

2.10. Strengthen action to prevent and combat terrorism and specific forms of crime 14

2.11. Stronger action for crime prevention 15

2.12. Develop multidisciplinary mobilisation to combat drugs 15

2.13. Resolute external action 15

3. Conclusions 15

1. FIVE YEARS TO ESTABLISH THE AREA OF FREEDOM, SECURITY AND JUSTICE

The progressive establishment of the area of freedom, security and justice was a new objective set for the European Union by the Treaty of Amsterdam. The Tampere European Council in October 1999 placed this objective at the head of the Union's political agenda and set a very ambitious programme. The programme set out policy guidelines and practical objectives, with a timetable for their attainment. The Commission, at the request of the European Council, drew up a scoreboard to review progress every six months[1].

This final six-monthly report will therefore mark the end of this five-year period by presenting an overall balance sheet and outlining future priorities[2].

In this regard, the Commission is opening a public consultation process and calls on interested parties and individuals to send their contributions on a new programme by 31 August 2004, to the following address: DG JAI Public Consultation "Future of Justice and Home Affairs", European Commission, LX 46, 1049 Brussels (Jai-Tampere-consultation@cec.eu.int).

1.1. Important achievements in a difficult environment

- Substantial progress has been made in most areas of justice and home affairs

Compared to 1999, progress to date has been undeniable and tangible. The Commission has presented the main proposals called for at Tampere.

- European public opinion supports the development of European action in the field of justice and home affairs

Public opinion surveys (Eurobarometers) show that a high proportion of citizens fully support cooperation and joint action at European level[3]. In particular, nationals

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1 A Commission Communication to the Council and Parliament "Scoreboard to review progress on the creation of an area of freedom, security and justice in the European Union" has been presented every six-month since the Tampere European Council. The references are as follows: COM(2000)167 final, 24.3.2000; COM(2000)782 final, 30.11.2000; COM(2001)278 final, 23.05.2001; COM(2001)628 final, 30.10.2001; COM(2002)261 final, 30.5.2002; COM(2002)738 final, 16.12.2002; COM(2003)291 final, 22.5.2003; COM(2003)812 final, 30.12.2003.

2 The Commission Staff Working Document "Area of Freedom, Security and Justice: assessment of the Tampere programme and future orientations" SEC(2004)693 includes the assessment by sector. The Commission Staff Working Document SEC(2004)680 contains a list of the most important instruments adopted within the framework of the Tampere programme (the "Scoreboard").

3 A recent Eurobarometer conducted in December 2003 confirms the results of previous Eurobarometers. The citizens of European are clearly in favour of a common policy on asylum and immigration. 56% recognise the economic needs of immigrants and 66% want them to enjoy equal rights. At the same time, 80% are in favour of strengthening checks on persons from third countries at external borders. Nine citizens out of 10 advocate judicial cooperation in civil matters, in particular family matters, and the equal rights of defence in all Member States. Concerning cross-border crime, citizens are aware that no Member State alone is in a position to tackle the problem. The results of the survey show that 71% consider that joint decisions and joint actions are the best way of preventing and of fighting crime throughout the European Union.

of new Member States have high expectations of the European Union regarding security[4].

- The justice and home affairs dimension is now firmly identified as one of the Union's priority policies

These matters are regularly on the European Council's agenda, and the volume of justice and home affairs business being done in the European institutions is evidence of their vital importance. The Commission Communication on the **new financial perspective** also reflects the growing importance of these matters, as the establishment of the area of freedom, security and justice is the central element of the new heading "European Citizenship"[5].

- Within the general framework of Tampere, specific priorities were identified by the European Council in response to serious unforeseen events

The Union has proved it can act efficiently and rapidly when the situation demands.

This sensitivity to crises, such as the tragic events of 11 September 2001 and 11 March 2004, have sometimes given rise to criticism that progress is made in an unbalanced way overemphasising security aspects.. While this is the impression that may be given by certain media reports, **European integration in this area is based on a rigorous concept of the protection of fundamental rights, and the Commission has always been at pains to ensure balance between the freedom, security and justice aspects. In addition, the Union must guarantee a high level of security so that the freedoms can be exercised to the full.**

- The constraints of the decision-making process and of the current institutional context preclude the effective, rapid and transparent attainment of certain political commitments

Despite the resolute line taken by the Tampere conclusions, it was not always possible to reach agreement at European level for the adoption of certain sensitive measures relating to policies which remain at the core of national sovereignty.

The **legal and institutional constraints of the current Treaties**, where unanimity in the Council generally remains the rule, partly explain these difficulties. The Member States are sometimes reluctant to cooperate within this new European framework when their interests are at stake. Moreover, the right of initiative shared with the Member States sometimes had the effect that national concerns were given priority over Tampere priorities. In addition, the current restrictions on Parliament's role as co-legislator have been criticised in terms of the transparency of the decision-making system.

Once the instruments are adopted, the institutional limits regarding the real possibilities for verifying the implementation of policies by national authorities, given the limited role of the Court of Justice and the restricted powers of the

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4 According to the results of the Eurobarometer, the citizens of the new Member States are more inclined fear corruption, drugs, organised crime and money laundering.

5 COM(2004)101, 10.2.2004.

Commission as regards police and judicial cooperation in criminal matters, are a real obstacle to ensuring that the instruments and decisions adopted are actually effective.

In addition, Union action cannot be effective if it is not backed up, in the Member States, by a declared political determination to ensure that European decisions have effect in reality. It is up to the experts in the Member States to use the opportunities for cooperation that European integration offers.

In conclusion, it is clear that the **successes that have been achieved are considerable**. However, the **original ambition** was limited by institutional constraints, and sometimes also by a lack of sufficient political consensus. The **step by step approach** was often the only possible way of moving forward. For the Commission, the establishment of the area of freedom, security and justice has been a **strategic priority** to be attained also with contributions from several of the Union's policies.

1.2. A new context

In a new context, the institutional progress envisaged in the field of justice and home affairs at the Intergovernmental Conference, and in particular the transition to qualified majority voting in the enlarged Union, will make it possible to increase the rate of completion of work.

But the possibilities offered by the Treaties of Amsterdam and Nice will have to be fully exploited.

Apart from certain new decision making procedures which automatically entered into force on 1 February 2003 and on 1 May 2004, Article 67(2) of the EC Treaty provides that the Council, after 1 May 2004, is to take a decision with a view to providing for all or parts of the areas covered by Title IV to be governed by the co-decision procedure[6]. It would be legitimate to make use of this facility immediately after 1 May.

Enlargement will increase the number of citizens wishing to enjoy the benefits of living and moving in the area of freedom, security and justice. **The adoption of high common standards as regards security and justice is bound to help strengthen the general level of security** throughout the territory.

Enlargement also raises specific challenges for certain policies, such as the **strengthening of external borders**, the establishment of the **second-generation Schengen Information System** and more generally the **preparation of the new Member States for full accession to the *Schengen 'acquis'*** with a view to removing all internal border checks. In this respect, the EU is in process of providing the necessary means to strengthen the external borders of the new Member State, such as the Schengen Facility. In order to allow for the new Member States' full

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[6] Declaration No 5 concerning Article 67 of the EC Treaty annexed to the Treaty at Nice provides assistance for the interpretation of this Article and contains a precise political commitment to change over to the co-decision procedure immediately after 1 May 2004 for the measures provided for by Article 62(3) and 63(3)(b) concerning the free movement of third-country nationals for a maximum three-month period and illegal immigration and residence, including repatriation.

participation in Schengen and the removal of internal frontiers as swiftly as possible, it is necessary to put in place the SIS II and undertake the evaluation process foreseen by the acquis as soon as possible. Similarly, in judicial matters, the enlarged Union further enhances the need to adopt measures to **boost mutual confidence** in order to consolidate the mutual recognition principle.

In the light of expected developments as regards management of external borders, solutions will also have to be found guaranteeing that the current variable geometry in Schengen does not have a negative effect on the smooth operation of cooperation between the Member States implementing the 'acquis'.

2. WHAT PRIORITIES FOR THE FUTURE OF THE AREA OF FREEDOM, SECURITY AND JUSTICE

Major practical progress has been made in the first phase of the area of freedom, security and justice. But the objectives set at Tampere have not yet all been achieved. Pending the results of the Intergovernmental Conference, the **current institutional framework** will cause difficulties. In this respect, and for the intermediate period, the possibilities offered by the Treaty of Nice could have an energizing effect. The use of Article 67(2) of the EC Treaty should be envisaged.

Most of the projects in hand flow logically from the Tampere programme, and there is consequently some overlap between them and the future priorities. The ambition of this Communication is to be the **starting point for studying the development of a future programme of measures** identifying priorities in the field of justice and home affairs for the period 2004-09. This Communication will also lay the foundations for a **public debate**.

Several elements have to be taken into account **at Union level** for the development of the future programme. First, this means measures following on from the Tampere programme. In particular:

- *Work still in hand,* and *long-term measures that have already been defined*;

- *The degree of effective implementation of the instruments adopted and their evaluation*. The Commission has embarked on an exercise to evaluate a first generation of instruments adopted following the Tampere European Council. It is important that the future programme is accompanied by a process that evaluates the establishment and implementation of the acquis adopted following Tampere, in order to ensure that new proposals complement efficiently the existing instruments.

Secondly, for the future, proper institutional and financial resources will have to be made available to attain the new objectives. As regards the draft Constitutional Treaty, the Commission believes that one of its most important aspects will be the abolition of the multi-pillar structure of the Union and the extension of the Community method to the full range of justice and home affairs matters[7]. As concerns the financial aspect, the Commission has proposed a substantial increase in the resources available for the area of freedom, security and justice under the "European Citizenship" heading. The ideas put forward in this Communication do not prejudge the proposals that will be made in connection with the new financial perspective or the inter-institutional debates ahead.

It will be important to **adhere to established priorities** in order to avoid an excessive dispersal of common action. These priorities will have to take into account the **overall context** facing the Union. In particular: economic divergence between the regions of the world, and political instability in certain regions or countries; demographic changes in Europe; the expectations of citizens in relation to their rights; citizens' expectations as regards security.

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[7] COM(2003)548 final, 17.9.2003.

2.1. Improve the protection of persons in the exercise of their fundamental rights

European integration rests on common values in the form of fundamental rights, respect for the rule of law and democratic institutions. These must be the basis for any action of the Union.

Incorporating the Charter into the Constitutional Treaty and accession to the European Convention for the protection of human rights and fundamental freedoms will place the Union, including its institutions, under a legal obligation to ensure that in all its areas of activity, fundamental rights are not only respected but also actively promoted. In December 2003, the representatives of the Member States meeting within the European Council, stressing the importance of human rights data collection and analysis with a view to defining Union policy in this field, agreed to build upon the existing European Monitoring Centre on Racism and Xenophobia and to extend its mandate to become a Human Rights Agency to that effect. The Commission intends to present a Communication in 2004. The specific mandate of the agency will be defined on the basis of the outcome of the debate which will follow from it.

The measures taken to protect democracy and the rule of law in Europe against all forms of criminality and against terrorism need to respect fundamental rights, the right to free movement, the respect of privacy and the rules related to data protection.

Thought must be given to the need for a **single overall framework**, which would take account of the specific features and requirements as regards protection of public order and public security and the fight against crime, and at the same time the need to provide for a high level of protection of private life. It will also have to reflect the prospect of rationalising the supervisory authorities that already exist at the European Union level for the protection of data used for the purposes of law enforcement, while respecting the competences of the independent supervisory body established under Article 286 of the EC Treaty. It will also be necessary be attentive to the relationship between Union action and the action undertaken by the national authorities, and to develop a partnership with the private sector and non-governmental organisations in devising and adopting rules.

2.2. Encourage initiatives as regards Union citizenship

The strengthening of Union citizenship must remain a major principle of our action. The draft Constitutional Treaty provides the possibility for a certain number of citizens to present a proposal calling on the Commission to give effect to a provision of the Constitution.

Democratic participation in elections to the European Parliament has to be encouraged. Many Union citizens complain about the loss of their **right to take part in certain national elections**[8] in their country of origin, which is not offset by the acquisition of a similar right in their host Member State. Consideration will have to be given to this point both in the Union and in the Member States.

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[8] Under the EC Treaty, Union citizens can in theory take part only in the municipal and European elections in the Member State in which they reside.

The right to freedom of movement, which Union citizens and their family members already enjoy, must be fully guaranteed by careful monitoring of the Member States' implementation of the recent Directive governing this issue. This will also make it possible to check whether further measures are needed.

2.3. Develop an integrated border management system and visa policy

In the short and medium term, close attention will have to be paid to establishing the conditions in which internal border checks can be abolished with the new Member States.

The establishment of an integrated external border management system is provided for by the draft Constitutional Treaty. Serious action has already been taken on it following the Seville and Thessaloniki European Councils. Action will have to continue both with new legislation and on the operational and financial fronts.

In this context, the smooth operation of the External Borders Agency must be ensured. The development of coordination mechanisms must be strengthened and supplemented with the long-term objective of establishing a European Corps of border guards to complement the national border guards[9]. To perform its tasks, the Agency should cooperate with other services engaged in border checks, in particular customs. The possibilities for synergies between the Agency and the customs and other services operating at borders should be kept under permanent review.

This Union policy and its implementation must be governed by the **principle of solidarity** and burden-sharing between the Member States, including financial burdens. The practical application of this principle will entail mobilisation of substantial funds.

Visa policy will have to address serious concerns regarding document security and allow for improved consular cooperation. The work started on biometric data in travel and identity documents, in particular passports, must also continue.

The Visa Information System (VIS) and the new Schengen Information System (SIS II) must actually come into operation and their full potential should be used.

Finally, there is a need for greater cooperation with neighbouring countries, and in particular countries with whom we share borders, consistent with the new Union neighbourhood policy.

2.4. Promote a genuine common policy of management of migratory flows

There must be a realistic approach taking account of economic and demographic needs, to facilitate the **legal admission of immigrants** to the Union, in accordance with a coherent policy respecting the principle of **fair treatment** of third-country nationals. It is clear that the right of Member States to set the actual numbers of third-country nationals admitted to work in an employed or self-employed capacity will have to be maintained, within an overall framework including the respect of

[9] Cooperation and coordination entail among other things the provision of common equipment, specific training and a risk analysis capacity.

Community preference. The interests of countries of origin should be taken into account.

Integration policy, of third country nationals, will have to be promoted and continued. In this perspective, the Union must put in place adequate measures in order to support the action of Member States.

The credibility of a positive and open common approach to immigration will also very much depend on the ability of the European Union to control **illegal immigration**. A stronger fight against **trafficking in human beings**, and the development of an **effective policy on returns and readmission**, will be facilitated by the future Constitutional Treaty. Here as elsewhere, the effectiveness of the action will depend largely on strong **solidarity**.

2.5. Develop a common European asylum policy on a fair basis

A better balance between the efforts made by the Member States in the reception of refugees and displaced persons will be achieved by means of the **principle of solidarity**. An approach based on partnership and cooperation with third countries of origin and of transit, countries of first asylum request and of destination, will have to be established.

The main objective of the common European asylum system will be to determine **a uniform asylum and subsidiary protection status, a common procedure** for granting and withdrawing this status, and a common system of temporary protection.

At the same time there is a need for an integrated approach involving efficient administrative decision-making procedures on returns, reintegration schemes and entry procedures that deter unfounded requests and combat networks of people traffickers. This approach is all the more important as **the victims of abuses of the system are often genuine refugees**.

2.6. Establish a European judicial area respecting the legal traditions and systems of the Member States, and closely associating those working in relevant areas

The development of the European judicial area has neither the object nor the effect of challenging **the legal and judicial traditions of the Member States**. This approach, based on the proportionality and subsidiarity principles, is stated by the draft Constitutional Treaty. The principle of mutual recognition has been placed at the heart of European integration in this field.

However, mutual recognition requires a common basis of shared principles and minimum standards, in particular in order to strengthen mutual confidence. In order to ensure the effectiveness of the European policy on judicial matters it will remain necessary to maintain **a high degree of involvement of those working in this field**.

2.7. Establish a judicial area in civil and commercial matters to facilitate cooperation and access to justice

The development of judicial cooperation in civil matters must continue to make tangible improvements in the daily life of individuals and businesses by enabling them to assert their rights at Union level.

One of the first priorities will have to be **to continue and increase work provided for by the mutual recognition programme**. Efforts should concentrate on fields where there are as yet no Community rules on mutual recognition (for example, the consequences of separation of married and unmarried couples in property terms, or successions and wills). In addition, new mutual recognition instruments not appearing in the initial programme might be necessary. For example facilitating the recognition of various types of documents will become increasingly important. In certain fields such as successions, the practical problems faced by individuals more often concern this type of question than the traditional problem of the recognition of judgments. In addition, it might prove useful to facilitate mutual recognition in new fields such as the civil status of individuals, family or civil relations between individuals (partnerships) or paternity.

Another very important field concerns **the enforcement of judgments**. Only rapid and effective execution procedures will enable citizens and businesses to exercise their full legal rights. Further progress with mutual recognition depends on **greater mutual trust** between Member States, including the adoption of certain minimum procedural standards.

Importance will also have to be given to **the actual implementation of Community legislation that has been adopted**. The appropriate resources will have to be committed to attaining this objective, in particular by **developing the activities of the European Judicial Network in Civil Matters.** Turning to substantive law, the Commission is already engaged in drafting a Common Reference Framework to ensure greater consistency in the *acquis communautaire* and improve its quality in the field of contract law[10]. The work should be completed in 2008.

To meet these ambitious challenges for judicial cooperation in civil and commercial matters, it will be advisable to have adequate legal means. The Constitutional Treaty will provide them. But it will be necessary to avoid a situation where in each Member State there are two separate legal regimes, one relating to the disputes with a cross-border implication and the other to purely internal disputes[11].

2.8. Promote a coherent criminal justice policy

In the field of criminal justice, the Union should concentrate on four priorities:

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[10] This Common Reference Framework might serve in the longer term as the basis for an optional instrument on the law of contracts that the parties could freely choose to use as the law applicable to their contract, thus enhancing certainty as to the law in cross-border transactions.

[11] In the long term such a dual system duality could be inconsistent with the aim of a single area of justice for all and could raise questions of discrimination; it could in addition complicate legislation at the expense of the transparency which individuals, practitioners and companies need.

Continue mutual recognition: As in the civil field, the **principle of mutual recognition** must remain the *cornerstone* of judicial cooperation.

As regards mutual assistance, a **single instrument** based in particular on mutual recognition should gradually replace the entire current system of mutual legal assistance, in particular for all questions concerning obtaining **evidence.** This progress will have to be accompanied by measures to clarify the **allocation of jurisdiction** in order to prevent and solve conflicts of jurisdiction.

In the field of the **enforcement of judgments in criminal matters**, major work remains to be done. The system for the enforcement in one Member State of a sentence passed in another Member State will have to be defined, along with the conditions of mutual information on convictions given through a European register of convictions and disqualifications ("**European criminal record"**), and how account should be taken of convictions in other Member States, either to avoid new proceedings (the **ne bis in idem** rule) or to adjust the sentence passed (question of **recidivism**).

Strengthen mutual trust by assuring all European citizens of a high-quality system of justice based on common values: A series of measures to **ensure mutual trust between national judicial authorities** should cover: the definition of fundamental guarantees, the conditions for the admissibility of evidence and measures to strengthen the protection of victims. Improvements in the training of those working in the criminal justice systems and work on the evaluation of those systems will also help to strengthen mutual trust.

Give the Union a coherent crime policy to fight effectively against serious crime in all its forms: The actions undertaken to define and fix the minimum thresholds for penalties for certain offences will have to be deepened. As regards approximation of legislation it will be necessary to go further in certain areas. It will be vital to adopt the institutional mechanisms making it possible to monitor and ensure that Union instruments are properly implemented[12].

The new Treaty should guarantee the possibility **of building a coherent criminal justice policy,** whether it be in response to specific criminal phenomena or the extension of an existing Community policy[13].

*Put **Eurojust** at the centre of European criminal policy:* As the draft Constitutional Treaty states, the mission of **Eurojust** must be to support and strengthen coordination and cooperation between the national authorities responsible for prosecutions relating to serious crime affecting several Member States. Eurojust should therefore be the natural means for national authorities to extend their activities in the cross-border cases. Subject to review by the Court of Justice,

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12 The draft Constitutional Treaty, by incorporating judicial cooperation in criminal matters in the Community framework, abolishes the specific instruments that are specific to the current third pillar and replaces them by European laws and framework laws, restores complete judicial review and reinstates the Commission's full role as guardian of the Treaties.

13 The draft Treaty provides for a single legal basis to govern the approximation of the definitions of offences and penalties regardless of the policy involved.

Eurojust should be able to guide the criminal response to offences that threaten the Union's activities and policies.

A **European Public Prosecutor's Office** with specific responsibility for offences to the detriment of the Union's financial interests, **should be able to be created from Eurojust**.

These ambitious objectives can be achieved only if Europe has an institutional and legal framework in the criminal field that matches the issues at stake in the enlarged Europe. The **reintroduction** of the **unanimity rule** for provisions that the draft Constitutional Treaty envisaged to be subject to qualified majority voting would be a **retrograde step** which could only reduce the Union's capacity to meet the challenges of the fight against organised crime and terrorism.

2.9. Strengthen the efficacy of police and customs action

In order to strengthen police and customs cooperation in the Union, the Commission has identified the need to take measures simultaneously at three levels: operational, decisional and legislative[14].

Experience has shown the need to increase the **operational capacities** of cooperation between the Member States' enforcement authorities, through better use of the cooperation instruments and mechanisms already in place. At Union level, thought must be given in particular to **supplying information to and strengthening the role of Europol.**

To show that there is a real commitment to the fight against organised crime and terrorism, bilateral cooperation between Member States must be continued but multilateral exchanges must also be built up. This exchange must include intelligence services.

It is also necessary to **simplify decision-making mechanisms** by encouraging qualified majority voting. The draft Constitutional Treaty makes provision for this, subject only to measures concerning operational cooperation.

One of main innovations in the draft Constitutional Treaty is the establishment of a Standing Committee within the Council to promote and strengthen operational cooperation on internal security. Accordingly, the role of the Police Chiefs' Task Force might be reviewed, revitalized and developed in view of its privileged position in operational coordination. All the other actors here, particularly Europol, will also have to be associated.

Similarly, care must be taken to encourage consistency between the operational and legislative aspects of Union action. And it seems indispensable:

- to **establish a legal framework to improve information exchanges** between the Member States' enforcement services and to control their access to the various sources of information;

[14] Communication "Stronger police and customs cooperation in the European Union".

- to give thought to the **legal framework of Europol**, to make it truly operational and convert it into a Union agency, financed from the Community budget. There will have to be greater democratic and judicial control of its activities to correspond to this greater effectiveness;

- to pay great attention to the **training of police officers**. **CEPOL** must guarantee the European dimension of the programmes at national training institutes and promote cooperation between them.

To ensure the effectiveness of the measures adopted, the draft Constitutional Treaty makes it possible to establish the procedures for an evaluation of the implementation of this policy. Thought should be given to setting up "performance agreements" between the main authorities concerned.

Attention must also be paid to upgrading international cooperation with all actors involved, such as for example Interpol.

With regard more specifically to **customs cooperation**, the ratification and implementation of the Naples II Convention and the Convention on the Customs Information System (CIS) by all the Member States remain priorities.. Generally, it is important to implement the **work programme concerning the customs cooperation strategy** currently based on Title VI of the Union Treaty, adopted by the JHA Council on 30 March 2004[15].

2.10. Strengthen action to prevent and combat terrorism and specific forms of crime

Prevention and the fight against **terrorism** will unfortunately have to retain their priority status. The main lines of action identified by the European Council on 25 and 26 March 2004 will have to be implemented.

It is crucial to create a European framework to control the threat that serious crime and terrorism pose for society. In order to coordinate and exchange strategic and operational information efficiently, The Union should set up a new information exchange mechanism – **an information exchange centre –** as proposed by the Commission at the European Council of 25 and 26 March 2004, with which Europol and Eurojust should be fully associated.

Exchanges between national criminal intelligence systems should also be promoted. **A policy on intelligence for preventive and enforcement purposes should be devised for the Union**. This action must be accompanied by a legislative initiative on the treatment and protection of personal data used by police services.

Under the European Security Strategy, it will be necessary to implement the action called for by the European Council on 25 and 26 March 2004 and to develop a multidisciplinary approach, providing a coherent interface between the internal and external dimensions of the various Union policies.

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[15] The strategy and the work programme follow on from the Council Resolution of 2.10.2003 on a strategy for customs cooperation (OJ C 247, 15.10.203).

Moreover, it will be essential to monitor and support the proper implementation of existing legislative instruments,. In addition, new initiatives could be drawn up.With full respect for fundamental rights and data protection, the potential of the **new large-scale computer systems** should be explored to contribute in particular to fighting terrorism.

The existing legal possibilities, such as joint investigation teams, and the work of Europol, in particular as regards information analysis, must be fully used.

If it is to be completely effective, the fight against terrorism must be handled in conjunction with other forms of crime, and in particular organised crime. A broad-based approach is necessary to improve the fight against these phenomena, in particular by combating any form of **financing of terrorism.** There is a particular need for greater transparency and traceability of financial transactions, the **fight against financial crime** remaining a priority.

The fight against serious crime also involves two tracks which require the Union's involvement:

- First, the development of **public-private partnership** should aim to combine the expertise, resources and information available to the private sector and to police services in order to fight more effectively against, for example, counterfeiting, piracy, cyber-crime and corruption.

- Secondly, **statistical work** and the collection of information on the development of crime and public perceptions of the level of security, should be improved, in particular through a harmonised information collection system which is structured and regular.

With regard to **trafficking in human beings**, particularly women and children, preventive and enforcement action must continue to be combined.

2.11. Stronger action for crime prevention

As regards **crime prevention**, efforts must be made to make goods and services less vulnerable to crime. The *crime-proofing* of legislation must be an integral part of this effort.

As regards the **prevention of general crime,** five fields of action will have to be prioritised: a more precise definition of the priority forms of crime; an inventory of good practice; a common methodology to implement and evaluate practical actions and allow standardised comparison between the States; and stronger monitoring and evaluation, and better comparability of statistics. Crime prevention should continue and be supported by a **financial instrument**.

2.12. Develop multidisciplinary mobilisation to combat drugs

Demand reduction must be favoured and there must be a tighter link between the external dimension of the fight against drug trafficking and justice and home affairs policies.

The time has come to make changes in this field on the basis of experience gained with the 2000-2004 Action Plan. The policy to combat drugs must seek to provide the public with a practical response.

2.13. Resolute external action

Assessment of achievements since Tampere and the initial thinking on future priorities reveal that the Union's external action must take into account the justice and home affaires dimension and that general Union activity must be better coordinated. To ensure that the Union can speak with one voice without undermining our common priorities, it will be necessary that Member States support Union activity and observe more solidarity and discipline in their bilateral relations.

3. CONCLUSIONS

Considerable work has been done since the Tampere European Council, even if much still remains to be done to complete the area of freedom, security and justice. In a rapidly-changing world, the aspirations of citizens for full freedom of movement and action and their legitimate calls for strict respect of fundamental rights combine with substantial demands to live in an environment that ensures their security. In an **enlarged European Union**, the final adoption of the **Constitutional Treaty** and its rapid entry into force are becoming essential, in order to meet these expectations.

Similarly, the new Treaty will fulfil the essential requirements for transparency and democratic control both because the role of the **European Parliament** as co-legislator is to be expanded and because of the increased role of **national parliaments**. The latter will be particularly attentive to the subsidiarity principle and will be able to play an effective role in the evaluation of the activities of Europol and Eurojust. Moreover, being informed systematically of work at European level, they will be able to take account of it in their national parliamentary activity.

Union action must continue and take practical form in a **second European programme for the area of freedom, security and justice, with detailed priorities** and a precise timetable. The working method followed at Tampere is good and should be preserved. The Commission can already undertake to continue in the future with its follow-up work through the regular Scoreboard.

In addition the Commission intends to present an additional Communication within the context of the **new financial perspective**. The future financial instruments will be of a significant total amount- and will complement the existing and future legal instruments, notably by strengthening **the operational aspect** of the policies in the field of freedom, security and justice.

The European Council must preserve its essential guiding role in the definition of strategic guidelines and the planning of future action on justice and home affairs. This role will have to take shape in particular when the new programme comes up for adoption and then for **mid-term review**. The future programme must make it possible to guarantee all the benefits that go with the new area that the enlarged Union constitutes. It will be important to achieve a political consensus on this programme with Parliament and the Council, during the second half of 2004.

There must be a **public debate** on subjects which cover fundamental questions for our societies and closely affect citizens' daily life. The establishment of the area of freedom, security and justice is a major political objective and one of the most important challenges that we have to take on together. The Union must continue to show the same degree of ambition and determination as it did for the completion of the internal market.