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COMMITTEE OF LEGAL ADVISERS ON PUBLIC INTERNATIONAL LAW
(CAHDI)

25th meeting
Strasbourg, 17-18 March 2003

**COUNCIL OF EUROPE DEVELOPMENTS CONCERNING THE FIGHT AGAINST
TERRORISM**

Secretariat memorandum prepared by
the Directorate General of Legal Affairs

828th meeting of the Committee of Ministers at Deputies' level, Strasbourg, 13 February 2003

10.1. Multidisciplinary Group on International Action against Terrorism (GMT)

a. Abridged report of the 6th meeting (Strasbourg, 11-13 December 2002) (CM(2003)7)

Decisions

The Deputies

1. adopted the specific terms of reference of the Committee of experts on terrorism (CODEXTER) as they appear at **Appendix II to document CM(2003)7** (attached hereafter);
2. took note of the opinion of the GMT on Parliamentary Assembly Recommendation 1550 (2002) on Combating Terrorism and Respect for Human Rights (**CM(2003)7 Appendix III** attached hereafter);
3. took note of the abridged report of the 6th meeting of the Multidisciplinary Group on International Action against Terrorism (GMT) (CM(2003)7) as a whole.

b. Draft Protocol amending the European Convention for the Suppression of Terrorism and its Explanatory Report

(CM(2003)7, CM(2002)149 revised 2 and Addendum, CM/Del/Dec(2002)816/1.5 and Parliamentary Assembly Opinion No. 242 (2003))

Decisions

The Deputies

1. took note of Opinion No. 242 of the Parliamentary Assembly on the draft Protocol amending the European Convention for the Suppression of Terrorism;
2. adopted the Protocol amending the European Convention for the Suppression of Terrorism as reproduced in **Appendix 7 to the present volume of Decisions** (attached hereafter);
3. took note of the explanatory report to the European Convention for the Suppression of Terrorism as revised by its amending Protocol, as it appears in document CM(2002)149 revised 2 addendum;
4. decided to open for signature the Protocol amending the European Convention for the Suppression of Terrorism;
5. agreed that the Protocol amending the European Convention for the Suppression of Terrorism would be opened for signature on 15 May 2003 on the occasion of the 112th Session of the Committee of Ministers.

Item 10.3

**European Committee on Crime Problems (CDPC) –
Priority actions in the fight against terrorism: Committee of experts on protection of witnesses and *pentiti* in relation to acts of terrorism (PC-PW) and Committee of experts on special investigation techniques in relation to acts of terrorism (PC-TI)
Draft terms of reference
(CM(2002)19)**

Decision

The Deputies approved the specific terms of reference of the following bodies:

- Committee of experts on the protection of witnesses and *pentiti* in relation to acts of terrorism
(PC-PW);
- Committee of experts on special investigation techniques in relation to acts of terrorism
(PC-TI),

as they appear at **Appendices 9 and 10 to the present volume of Decisions**. (attached hereafter)

Appendix II

SPECIFIC TERMS OF REFERENCE

1. Name of Committee: Committee of experts on terrorism (CODEXTER)

2. Type of committee: Ad hoc Committee of experts

3. Source of terms of reference: Committee of Ministers

4. Terms of reference:

Taking into account:

- the standards of the Council of Europe in the fields of Human Rights and the Rule of Law;
- the Declaration adopted by the Committee of Ministers on 12 September 2001 and its Decision of 21 September 2001;
- Resolution 1258 (2001) and Recommendation 1534 (2001), adopted by the Parliamentary Assembly on 26 September 2001;
- Resolution N° 1 adopted by the European Ministers of Justice at their 24th Conference (Moscow, 4-5 October 2001);
- the Final Declaration of the Inter-parliamentary forum on combating terrorism held in St Petersburg on 28 March 2002;
- Parliamentary Assembly Recommendation 1550 (2002) on Combating terrorism and respect for Human Rights;
- the Declaration and the conclusions and the final communiqué adopted by the Committee of Ministers respectively at its 110th and 111th Session (Vilnius, 3 May 2002 and Strasbourg, 7 November 2002);
- the Guidelines on Human Rights and the fight against Terrorism adopted by the Committee of Ministers on 11 July 2002;
- the reports of the Multidisciplinary Group on International Action against Terrorism (GMT);
- the work of the European Committee on Legal Co-operation (CDCJ), the European Committee on Crime Problems (CDPC) and the Steering Committee on Human Rights (CDDH) and in co-ordination with these Committees;
- the work of other international institutions active in this field including the European Union, the OSCE and the United Nations,

the Committee is called upon to make appropriate proposals to the Committee of Ministers, on the basis of a report on the implementation of the proposals contained in document CM(2002)148 and on the remaining proposals contained in the Progress Report (document CM(2002)57), for any new activities to intensify to Council of Europe's action in the field of the fight against terrorism, including preventive measures, while preserving and promoting Human Rights and fundamental freedoms.

5. Membership of the Committee:

a. States whose governments are entitled to appoint members: all member States. Desirable qualifications of persons serving on the Committee: experts with a detailed knowledge of legal or financial questions concerning terrorism.

b. One representative of each of the following: European Committee on Legal Co-operation (CDCJ), European Committee on Crime Problems (CDPC), Steering Committee for Human

Rights (CDDH) and the Committee of Experts on the Operation of European Conventions in the Penal Field (PC-OC).

c. The Council of Europe budget will bear the travelling and subsistence expenses of one participant from each member State and the representatives from the CDCJ, the CDPC, the CDDH and the PC-OC.

d. The European Commission and Secretariat General of the Council of the European Union may send representatives to the meetings of the Committee without the right to vote or defrayal of expenses.

e. The Observer States to the Council of Europe and applicant States for Council of Europe membership may send representatives to the meetings of the Committee without the right to vote or defrayal of expenses.

f. The following international organisations and bodies may send representatives to the meetings of the Committee without the right to vote or defrayal of expenses: OECD, UN, ICPO-Interpol, Europol, EBRD, OSCE, FATF.

6. Structures and working methods:

The CODEXTER shall hold one ordinary meeting. In addition, it may be convened on an extraordinary basis at the Secretary General's request.

In all cases, the CODEXTER will cease to exist in any event once the Amending Protocol to the Convention on the Suppression of Terrorism will enter into force.

7. Duration of terms of reference: 31 December 2003

Appendix III

OPINION OF THE MULTIDISCIPLINARY GROUP ON INTERNATIONAL ACTION AGAINST TERRORISM (GMT) CONCERNING PARLIAMENTARY ASSEMBLY RECOMMENDATION 1550 (2002) ON COMBATING TERRORISM AND RESPECT FOR HUMAN RIGHTS

1. The GMT welcomes the thrust of Parliamentary Assembly Recommendation 1550 (2002) on Combating terrorism and respect for human rights which has been duly taken into account by the GMT in discharging its tasks of updating Council of Europe instruments in the fight against terrorism – in particular the European Convention on the Suppression of Terrorism- and identifying new and better ways in which the Council of Europe could contribute within the limits of its scope to the international fight against terrorism.
2. The GMT shares the concern of the Parliamentary Assembly that the fight against terrorism should not prejudice respect for human rights. It stresses the importance of the priority areas for action by the Council of Europe identified by the Parliamentary Assembly including the fight against the financing of terrorism and the need to strengthen international co-operation.
3. The Parliamentary Assembly recommended to the Committee of Ministers, *inter alia*, that
 - i. the European Convention on the Suppression of Terrorism should be amended to include a provision according to which extradition may be refused in cases where there are no guarantees that the death penalty will not be sought for the accused person;
 - ii. international co-operation should be speeded up in respect of measures taken to combat laundering of the proceeds from crime, notably as regards financial investigations, and efforts to combat the financing of terrorism should be stepped up;
 - iii. the Multidisciplinary Group on International Action against Terrorism (GMT) should consider using the definition of terrorism adopted by the European Union (Council Common Position of 7 December 2001 on the application of specific measures to combat terrorism (2001/931/CFSP).
4. The GMT considered recommendations i. and iii. in the context of the preparation of a Protocol amending the European Convention on the Suppression of Terrorism (*the Convention*) (cf. document CM(2002)149rev.) and recommendation ii. in the context of the preparation of a report for the Committee of Ministers on the actions that the Council of Europe could usefully carry out in order to contribute to the international fight against terrorism (documents CM(2002)57 & 148). The resulting documents were examined and endorsed by the Committee of Ministers at its 111th ministerial session on 6-7 November 2002.
5. The GMT considered in particular **recommendation i.** in relation to Article 5 of the Convention which states grounds for refusal of extradition. In this connection, the GMT drew its inspiration from the Recommendation of the Parliamentary Assembly as well as the Guidelines on Human Rights and the Fight against Terrorism adopted by the Committee of Ministers on 11 July 2002.
6. As a result, the GMT proposed changes to this article which once amended by the Protocol should read (additions in relation to the original formulation in bold):

Article 5

1. Nothing in this Convention shall be interpreted as imposing an obligation to extradite if the requested State has substantial grounds for believing that the request for extradition for an offence mentioned in Article 1 or 2 has been made for the purpose of prosecuting or punishing a person on account of his race, religion, nationality or political opinion, or that that person's position may be prejudiced for any of these reasons.

2. Nothing in this Convention shall be interpreted as imposing an obligation to extradite if the person subject of the extradition request risks being exposed to torture.

3. Nothing in this Convention shall be interpreted either as imposing an obligation to extradite if the person subject of the extradition request risks being exposed to the death penalty or, where the law of the requested State does not allow for life imprisonment, to life imprisonment without the possibility of parole, unless under applicable extradition treaties the requested State is under the obligation to extradite if the requesting State gives such assurance as the requested State considers sufficient that the death penalty will not be imposed or, where imposed, will not be carried out, or that the person concerned will not be subject to life imprisonment without the possibility of parole.

7. The GMT considered in particular **recommendation iii.** in relation to Article 1 of the Convention which lists the offences which could not be considered as political offences for the purposes of refusing extradition and constitutes a key provision of the Convention.

8. The GMT agreed on the need to update and therefore enlarge the list of such offences. However, after careful consideration, the GMT decided not to use the definition contained in the EU text, for a number of reasons.

9. The EU definition contained in Council Common Position of 7 December 2001 on the application of specific measures to combat terrorism has been agreed for the purposes of the EU as this is clearly reflected in the text itself.

10. Moreover, it should be noted that the EU definition has been subsequently used for the purpose of the approximation of the laws of the member States of the EU in the Framework Decision of the Council of 13 June 2002 (2002/475/JAI, JO L 164 of 22.6.2002, p. 3).

11. This definition and the legal nature of the act which contains it, are very specific to the EU and not adaptable to another international frameworks such as that of the Council of Europe.

12. Indeed, the legislative process inside the EU is a specific one and will imply in the near future the review by the Court of Justice of the European Communities of the implementation by the member States of the framework decisions, particularly with regard to the EU Charter of Fundamental Rights. This of course makes it very difficult to extend the application of an EU definition to non-EU member States, which are members of the Council of Europe.

13. The Council of Europe Convention on the Suppression of terrorism is an instrument of depoliticisation for the purpose of extradition and not an "incriminating" Convention requiring Contracting States to criminalise certain behaviour.

14. When the GMT considered the possible updating of the Convention by means of an amending protocol, it agreed from the outset to preserve the nature of the Convention. Therefore, it did not consider it possible to make use of the EU definition which would necessary entail a change in that very nature.

15. The GMT attaches the utmost importance to negotiations underway in the United Nations for the drafting of international instruments against terrorism and call upon all member States to contribute to their success in as far as possible.

16. One of the reasons which moved the GMT to preserve the nature of the Convention was the fact that the drafting of an incriminating convention in the Council of Europe context would overlap with work underway in the United Nations.

17. It is however not excluded that, at the request of the member States, the Council of Europe could undertake to elaborate a new regional convention against terrorism which could, where appropriate, define terrorist offences and require States to criminalise certain behaviour.

18. **Recommendation ii.** has been followed and its content is appropriately reflected in the "Progress Report on the action which the Council of Europe could usefully carry out in the field of the fight against terrorism" document CM(2002)57 prepared by the GMT and submitted at the 110th Session of the Committee of Ministers (Vilnius, 3 May 2002) which identifies the "fight against the financing of terrorism" as one of the priority areas for Council of Europe action (see paragraphs 31-42 of the Progress Report). This priority has been stressed in the second report submitted by the GMT to the Committee of Ministers on the Follow-up to the 110th ministerial session (document CM(2002)148) which lists it amongst the six GMT proposals to be developed without delay by the Council of Europe.

19. The GMT further proposed ways and means to develop this priority action and the relevant Council of Europe bodies (respectively paragraphs 14 and 20-22 of document CM(2002)148) by:

*a. **Strengthening further the work of the Select Committee of Experts on the evaluation of anti-money laundering measures (MONEYVAL) in order to enable it to give high priority in particular to the evaluation of the measures taken by States to comply with the Special FATF Recommendation on the financing of terrorism,***

*b. **Consider[ing] further these issues in the framework of the discussions on the possible updating of the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (ETS N° 41)***

*c. **Call[ing] on States which have not yet done so to sign, ratify and implement the 1999 International Convention for the Suppression of the financing of terrorism.***

Appendix 7 to the volume of Decisions
(item 10.1b)

Protocol amending the European Convention for the Suppression of Terrorism

*(Adopted by the Committee of Ministers on 13 February 2003
at the 828th meeting of the Ministers' Deputies)*

The member States of the Council of Europe, signatory to this Protocol,

Bearing in mind the Committee of Ministers of the Council of Europe's Declaration of 12 September 2001 and its Decision of 21 September 2001 on the Fight against International Terrorism, and the Vilnius Declaration on Regional Co-operation and the Consolidation of Democratic Stability in Greater Europe adopted by the Committee of Ministers at its 110th Session in Vilnius on 3 May 2002;

Bearing in mind the Parliamentary Assembly of the Council of Europe's Recommendation 1550 (2002) on Combating terrorism and respect for human rights;

Bearing in mind the General Assembly of the United Nations Resolution [A/RES/51/210](#) on measures to eliminate international terrorism and the annexed Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism, and its Resolution [A/RES/49/60](#) on measures to eliminate international terrorism and the Declaration on Measures to Eliminate International Terrorism annexed thereto;

Wishing to strengthen the fight against terrorism while respecting human rights, and mindful of the Guidelines on human rights and the fight against terrorism adopted by the Committee of Ministers of the Council of Europe on 11 July 2002;

Considering for that purpose that it would be appropriate to amend the European Convention on the Suppression of Terrorism (ETS No. 90) opened for signature in Strasbourg on 27 January 1977, hereinafter referred to as "the Convention";

Considering that it would be appropriate to update the list of international conventions in Article 1 of the Convention and to provide for a simplified procedure to subsequently update it as required;

Considering that it would be appropriate to strengthen the follow-up of the implementation of the Convention;

Considering that it would be appropriate to review the reservation regime;

Considering that it would be appropriate to open the Convention to the signature of all interested States,

Have agreed as follows:

Article 1

1. The introductory paragraph to Article 1 of the Convention shall become paragraph 1 of this article. In sub-paragraph b of this paragraph, the term "signed" shall be replaced by the term "concluded" and sub-paragraphs c, d, e and f of this paragraph shall be replaced by the following sub-paragraphs:

“c. an offence within the scope of the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents, adopted at New York on 14 December 1973;

d. an offence within the scope of the International Convention Against the Taking of Hostages, adopted at New York on 17 December 1979;

e. an offence within the scope of the Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 3 March 1980;

f. an offence within the scope of the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, done at Montreal on 24 February 1988;”.

2. Paragraph 1 of Article 1 of the Convention shall be supplemented by the following four sub-paragraphs:

“g. an offence within the scope of the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, done at Rome on 10 March 1988;

h. an offence within the scope of the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988;

i. an offence within the scope of the International Convention for the Suppression of Terrorist Bombings, adopted at New York on 15 December 1997;

j. an offence within the scope of the International Convention for the Suppression of the Financing of Terrorism, adopted at New York on 9 December 1999.”.

3. The text of Article 1 of the Convention shall be supplemented by the following paragraph:

“2. Insofar as they are not covered by the conventions listed under paragraph 1, the same shall apply, for the purpose of extradition between Contracting States, not only to the commission of those principal offences as a perpetrator but also to:

a. the attempt to commit any of these principal offences;

b. the participation as an accomplice in the perpetration of any of these principal offences or in an attempt to commit any of them;

c. organising the perpetration of, or directing others to commit or attempt to commit, any of these principal offences.”.

Article 2

Paragraph 3 of Article 2 of the Convention shall be amended to read as follows:

“3. The same shall apply to:

a. the attempt to commit any of the foregoing offences;

- b. the participation as an accomplice in any of the foregoing offences or in an attempt to commit any such offence;
- c. organising the perpetration of, or directing others to commit or attempt to commit, any of the foregoing offences.”.

Article 3

1. The text of Article 4 of the Convention shall become paragraph 1 of this article and a new sentence shall be added at the end of this paragraph as follows: “Contracting States undertake to consider such offences as extraditable offences in every extradition treaty subsequently concluded between them.”.

2. The text of Article 4 of the Convention shall be supplemented by the following paragraph:

“2. When a Contracting State which makes extradition conditional on the existence of a treaty receives a request for extradition from another Contracting State with which it has no extradition treaty, the requested Contracting State may, at its discretion, consider this Convention as a legal basis for extradition in relation to any of the offences mentioned in Articles 1 or 2.”.

Article 4

1. The text of Article 5 of the Convention shall become paragraph 1 of this article.

2. The text of Article 5 of the Convention shall be supplemented by the following paragraphs:

“2. Nothing in this Convention shall be interpreted as imposing on the requested State an obligation to extradite if the person subject of the extradition request risks being exposed to torture.

3. Nothing in this Convention shall be interpreted either as imposing on the requested State an obligation to extradite if the person subject of the extradition request risks being exposed to the death penalty or, where the law of the requested State does not allow for life imprisonment, to life imprisonment without the possibility of parole, unless under applicable extradition treaties the requested State is under the obligation to extradite if the requesting State gives such assurance as the requested State considers sufficient that the death penalty will not be imposed or, where imposed, will not be carried out, or that the person concerned will not be subject to life imprisonment without the possibility of parole.”.

Article 5

A new article shall be inserted after Article 8 of the Convention and shall read as follows:

“Article 9

The Contracting States may conclude between themselves bilateral or multilateral agreements in order to supplement the provisions of this Convention or to facilitate the application of the principles contained therein”.

Article 6

1. Article 9 of the Convention shall become Article 10.

2. Paragraph 1 of new Article 10 shall be amended to read as follows:

“The European Committee on Crime Problems (CDPC) is responsible for following the application of the Convention. The CDPC:

- a. shall be kept informed regarding the application of the Convention;
- b. shall make proposals with a view to facilitating or improving the application of the Convention;
- c. shall make recommendations to the Committee of Ministers concerning the proposals for amendments to the Convention, and shall give its opinion on any proposals for amendments to the Convention submitted by a Contracting State in accordance with Articles 12 and 13;
- d. shall, at the request of a Contracting State, express an opinion on any question concerning the application of the Convention;
- e. shall do whatever is necessary to facilitate a friendly settlement of any difficulty which may arise out of the execution of the Convention;
- f. shall make recommendations to the Committee of Ministers concerning non-member States of the Council of Europe to be invited to accede to the Convention in accordance with Article 14, paragraph 3;
- g. shall submit every year to the Committee of Ministers of the Council of Europe a report on the follow-up given to this article in the application of the Convention.”.

3. Paragraph 2 of new Article 10 shall be deleted.

Article 7

1. Article 10 of the Convention shall become Article 11.

2. In the first sentence of paragraph 1 of new Article 11, the terms “Article 9, paragraph 2” shall be replaced by the terms “Article 10.e, or by negotiation”. In the second sentence of this paragraph, the term “two” shall be deleted. The remaining sentences of this paragraph shall be deleted.

3. Paragraph 2 of new Article 11 shall become paragraph 6 of this article. The sentence “Where a majority cannot be reached, the referee shall have a casting vote” shall be added after the second sentence and in the last sentence the terms “Its award” shall be replaced by the terms “The tribunal’s judgement”.

4. The text of new Article 11 shall be supplemented by the following paragraphs:

“2. In the case of disputes involving Parties which are member States of the Council of Europe, where a Party fails to nominate its arbitrator in pursuance of paragraph 1 of this article within three months following the request for arbitration, an arbitrator shall be

nominated by the President of the European Court of Human Rights at the request of the other Party.

3. In the case of disputes involving any Party which is not a member of the Council of Europe, where a Party fails to nominate its arbitrator in pursuance of paragraph 1 of this article within three months following the request for arbitration, an arbitrator shall be nominated by the President of the International Court of Justice at the request of the other Party.

4. In the cases covered by paragraphs 2 and 3 of this article, where the President of the Court concerned is a national of one of the Parties to the dispute, this duty shall be carried out by the Vice-President of the

Court, or if the Vice-President is a national of one of the Parties to the dispute, by the most senior judge of the Court who is not a national of one of the Parties to the dispute.

5. The procedures referred to in paragraphs 2 or 3 and 4 above apply, *mutatis mutandis*, where the arbitrators fail to agree on the nomination of a referee in accordance with paragraph 1 of this article.”.

Article 8

A new article shall be introduced after new Article 11 and shall read as follows:

“Article 12

1. Amendments to this Convention may be proposed by any Contracting State, or by the Committee of Ministers. Proposals for amendment shall be communicated by the Secretary General of the Council of Europe to the Contracting States.

2. After having consulted the non-member Contracting States and, if necessary, the CDPC, the Committee of Ministers may adopt the amendment in accordance with the majority provided for in Article 20.d of the Statute of the Council of Europe. The Secretary General of the Council of Europe shall submit any amendments adopted to the Contracting States for acceptance.

3. Any amendment adopted in accordance with the above paragraph shall enter into force on the thirtieth day following notification by all the Parties to the Secretary General of their acceptance thereof.”.

Article 9

A new article shall be introduced after new Article 12 and shall read as follows:

“Article 13

1. In order to update the list of treaties in Article 1, paragraph 1, amendments may be proposed by any Contracting State or by the Committee of Ministers. These proposals for amendment shall only concern treaties concluded within the United Nations Organisation dealing specifically with international terrorism and having entered into force. They shall be communicated by the Secretary General of the Council of Europe to the Contracting States.

2. After having consulted the non-member Contracting States and, if necessary the CDPC, the Committee of Ministers may adopt a proposed amendment by the majority provided for in Article 20.d of the Statute of the Council of Europe. The amendment shall enter into force following the expiry of a period of one year after the date on which it has been forwarded to the Contracting States. During this period, any Contracting State may notify the Secretary General of any objection to the entry into force of the amendment in its respect.

3. If one-third of the Contracting States notifies the Secretary General of an objection to the entry into force of the amendment, the amendment shall not enter into force.

4. If less than one-third of the Contracting States notifies an objection, the amendment shall enter into force for those Contracting States which have not notified an objection.

5. Once an amendment has entered into force in accordance with paragraph 2 of this article and a Contracting State has notified an objection to it, this amendment shall come into force in respect of the Contracting State concerned on the first day of the month following the date on which it has notified the Secretary General of the Council of Europe of its acceptance.”.

Article 10

1. Article 11 of the Convention shall become Article 14.

2. In the first sentence of paragraph 1 of new Article 14 the terms “member States of the Council of Europe” shall be replaced by the terms “member States of and Observer States to the Council of Europe” and in the second and third sentences, the terms “or approval” shall be replaced by the terms “, approval or accession”.

3. The text of new Article 14 shall be supplemented by the following paragraph:

“3. The Committee of Ministers of the Council of Europe, after consulting the CDPC, may invite any State not a member of the Council of Europe, other than those referred to under paragraph 1 of this article, to accede to the Convention. The decision shall be taken by the majority provided for in Article 20.d of the Statute of the Council of Europe and by the unanimous vote of the representatives of the Contracting States entitled to sit on the Committee of Ministers.”.

4. Paragraph 3 of new Article 14 shall become paragraph 4 of this article, and the terms “or approving” and “or approval” shall be replaced respectively by the terms “, approving or acceding” and “, approval or accession”.

Article 11

1. Article 12 of the Convention shall become Article 15.

2. In the first sentence of paragraph 1 of new Article 15, the terms “or approval” shall be replaced by the terms “, approval or accession”.

3. In the first sentence of paragraph 2 of new Article 15, the terms “or approval” are replaced by the terms “, approval or accession”.

Article 12

1. Reservations to the Convention made prior to the opening for signature of the present Protocol shall not be applicable to the Convention as amended by the present Protocol.

2. Article 13 of the Convention shall become Article 16.

3. In the first sentence of paragraph 1 of new Article 16 the terms "Party to the Convention on [date of the opening to signature of the Protocol amending the Convention]" shall be added before the term "may" and the terms "of the Protocol amending the Convention" shall be added after the term "approval". A second sentence shall be added after the terms "political motives" and shall read: "The Contracting State undertake to apply this reservation on a case-by-case basis, through a duly reasoned decision and taking into due consideration, when evaluating the character of the offence, any particularly serious aspects of the offence, including:". The remainder of the first sentence shall be deleted, with the exception of sub-paragraphs a, b and c.

4. The text of new Article 16 shall be supplemented by the following paragraph:

"2. When applying paragraph 1 of this article, a Contracting State shall indicate the offences to which its reservation applies."

5. Paragraph 2 of new Article 16 shall become paragraph 3 of this article. In the first sentence of this paragraph, the term "Contracting" shall be added before the term "State" and the terms "the foregoing paragraph" shall be replaced by the terms "paragraph 1."

6. Paragraph 3 of new Article 16 shall become paragraph 4 of this article. In the first sentence of this paragraph, the term "Contracting" shall be added before the term "State".

7. The text of new Article 16 shall be supplemented by the following paragraphs:

"5. The reservations referred to in paragraph 1 of this article shall be valid for a period of three years from the day of the entry into force of this Convention in respect of the State concerned. However, such reservations may be renewed for periods of the same duration.

6. Twelve months before the date of expiry of the reservation, the Secretariat General of the Council of Europe shall give notice of that expiry to the Contracting State concerned. No later than three months before expiry, the Contracting State shall notify the Secretary General of the Council of Europe that it is upholding, amending or withdrawing its reservation. Where a Contracting State notifies the Secretary General of the Council of Europe that it is upholding its reservation, it shall provide an explanation of the grounds justifying its continuance. In the absence of notification by the Contracting State concerned, the Secretary General of the Council of Europe shall inform that Contracting State that its reservation is considered to have been extended automatically for a period of six months. Failure by the Contracting State concerned to notify its intention to uphold or modify its reservation before the expiry of that period shall cause the reservation to lapse.

7. Where a Contracting State does not extradite a person, in application of a reservation made in accordance with paragraph 1 of this article, after receiving a request for extradition from another Contracting State, it shall submit the case, without exception whatsoever and without undue delay, to its competent authorities for the purpose of prosecution, unless the requesting State and the requested State otherwise agree. The competent authorities, for the purpose of prosecution in the requested State, shall take their decision in the same manner as in the case of any offence of a serious nature under the law of that State. The requested State shall communicate, without undue delay, the final outcome of the

proceedings to the requesting State and to the Secretary General of the Council of Europe, who shall forward it to the Conference provided in Article 17.

8. The decision to refuse the extradition request, on the basis of a reservation made in accordance with paragraph 1 of this article, shall be forwarded promptly to the requesting State. If within a reasonable time no judicial decision on the merits has been taken in the requested State according to paragraph 7, the requesting State may communicate this fact to the Secretary General of the Council of Europe, who shall submit the matter to the Conference provided in Article 17. This Conference shall consider the matter and issue an opinion on the conformity of the refusal with the Convention and shall submit it to the Committee of Ministers for the purpose of issuing a declaration thereon. When performing its functions under this paragraph, the Committee of Ministers shall meet in its composition restricted to the Contracting States.”.

Article 13

A new article shall be introduced after new Article 16 of the Convention, and shall read as follows:

“Article 17

1. Without prejudice to the application of Article 10, there shall be a Conference of States Parties against Terrorism (hereinafter referred to as the “COSTER”) responsible for ensuring:

a. the effective use and operation of this Convention including the identification of any problems therein, in close contact with the CDPC;

b. the examination of reservations made in accordance with Article 16 and in particular the procedure provided in Article 16, paragraph 8;

c. the exchange of information on significant legal and policy developments pertaining to the fight against terrorism;

d. the examination, at the request of the Committee of Ministers, of measures adopted within the Council of Europe in the field of the fight against terrorism and, where appropriate, the elaboration of proposals for additional measures necessary to improve international co-operation in the area of the fight against terrorism and, where co-operation in criminal matters is concerned, in consultation with the CDPC;

e. the preparation of opinions in the area of the fight against terrorism and the execution of the terms of reference given by the Committee of Ministers.

2. The COSTER shall be composed of one expert appointed by each of the Contracting States. It will meet once a year on a regular basis, and on an extraordinary basis at the request of the Secretary General of the Council of Europe or of at least one-third of the Contracting States.

3. The COSTER will adopt its own Rules of Procedure. The expenses for the participation of Contracting States which are member States of the Council of Europe shall be borne by the Council of Europe. The Secretariat of the Council of Europe will assist the COSTER in carrying out its functions pursuant to this article.

4. The CDPC shall be kept periodically informed about the work of the COSTER.”.

Article 14

Article 14 of the Convention shall become Article 18.

Article 15

Article 15 of the Convention shall be deleted.

Article 16

1. Article 16 of the Convention shall become Article 19.
2. In the introductory sentence of new Article 19, the terms "member States of the Council" shall be replaced by the terms "Contracting States".
3. In paragraph b of new Article 19, the terms "or approval" shall be replaced by the terms ", approval or accession".
4. In paragraph c of new Article 19, the number "11" shall read "14".
5. In paragraph d of new Article 19, the number "12" shall read "15".
6. Paragraphs e and f of new Article 19 shall be deleted.
7. Paragraph g of new Article 19 shall become paragraph e of this article and the number "14" shall read "18".
8. Paragraph h of new Article 19 shall be deleted.

Article 17

1. This Protocol shall be open for signature by member States of the Council of Europe signatories to the Convention, which may express their consent to be bound by:
 - a. signature without reservation as to ratification, acceptance or approval; or
 - b. signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval.
2. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

Article 18

This Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date on which all Parties to the Convention have expressed their consent to be bound by the Protocol, in accordance with the provisions of Article 17.

Article 19

The Secretary General of the Council of Europe shall notify the member States of the Council of Europe of:

- a. any signature;
- b. the deposit of any instrument of ratification, acceptance or approval;
- c. the date of entry into force of this Protocol, in accordance with Article 18;
- d. any other act, notification or communication relating to this Protocol.

In witness whereof, the undersigned, being duly authorised thereto, have signed this Protocol.

Done at Strasbourg, this day of, in English and in French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each of the signatory States.

Appendix

Consolidated version of the European Convention for the Suppression of Terrorism as amended by the Protocol (changes to the Convention are in bold)

The member States of the Council of Europe, signatory hereto,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members;

Aware of the growing concern caused by the increase in acts of terrorism;

Wishing to take effective measures to ensure that the perpetrators of such acts do not escape prosecution and punishment;

Convinced that extradition is a particularly effective measure for achieving this result,

Have agreed as follows:

Article 1

1. For the purposes of extradition between Contracting States, none of the following offences shall be regarded as a political offence or as an offence connected with a political offence or as an offence inspired by political motives:

a. an offence within the scope of the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970;

b. an offence within the scope of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, **concluded** at Montreal on 23 September 1971;

c. an offence within the scope of the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents, adopted at New York on 14 December 1973;

d. an offence within the scope of the International Convention Against the Taking of Hostages, adopted at New York on 17 December 1979;

e. an offence within the scope of the Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 3 March 1980;

f. an offence within the scope of the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, done at Montreal on 24 February 1988;

g. an offence within the scope of the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, done at Rome on 10 March 1988;

h. an offence within the scope of the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988;

i. an offence within the scope of the International Convention for the Suppression of Terrorist Bombings, adopted at New York on 15 December 1997;

j. an offence within the scope of the International Convention for the Suppression of the Financing of Terrorism, adopted at New York on 9 December 1999.

2. In so far as they are not covered by the conventions listed under paragraph 1, the same shall apply, for the purpose of extradition between Contracting States, not only to the commission of those principal offences as a perpetrator but also to:

a. the attempt to commit any of these principal offences;

b. the participation as an accomplice in the perpetration of any of these principal offences or in an attempt to commit any of them;

c. organising the perpetration of, or directing others to commit or attempt to commit, any of these principal offences.

Article 2

1. For the purpose of extradition between Contracting States, a Contracting State may decide not to regard as a political offence or as an offence connected with a political offence or as an offence inspired by political motives a serious offence involving an act of violence, other than one covered by Article 1, against the life, physical integrity or liberty of a person.

2. The same shall apply to a serious offence involving an act against property, other than one covered by Article 1, if the act created a collective danger for persons.

3. The same shall apply to:

a. the attempt to commit any of the foregoing offences;

b. the participation as an accomplice in any of the foregoing offences or in an attempt to commit any such offence;

c. organising the perpetration of, or directing others to commit or attempt to commit, any of the foregoing offences.

Article 3

The provisions of all extradition treaties and arrangements applicable between Contracting States, including the European Convention on Extradition, are modified as between Contracting States to the extent that they are incompatible with this Convention.

Article 4

1. For the purpose of this Convention and to the extent that any offence mentioned in Article 1 or 2 is not listed as an extraditable offence in any extradition convention or treaty existing between Contracting States, it shall be deemed to be included as such therein. **Contracting States undertake to consider such offences as extraditable offences in every extradition treaty subsequently concluded between them.**

2. When a Contracting State which makes extradition conditional on the existence of a treaty receives a request for extradition from another Contracting State with which it has no extradition treaty, the requested Contracting State may, at its discretion, consider this Convention as a legal basis for extradition in relation to any of the offences mentioned in Articles 1 or 2.

Article 5

1. Nothing in this Convention shall be interpreted as imposing an obligation to extradite if the requested State has substantial grounds for believing that the request for extradition for an offence mentioned in Article 1 or 2 has been made for the purpose of prosecuting or punishing a person on account of his race, religion, nationality or political opinion, or that that person's position may be prejudiced for any of these reasons.

2. Nothing in this Convention shall be interpreted as imposing on the requested State an obligation to extradite if the person subject of the extradition request risks being exposed to torture.

3. Nothing in this Convention shall be interpreted either as imposing on the requested State an obligation to extradite if the person subject of the extradition request risks being exposed to the death penalty or, where the law of the requested State does not allow for life imprisonment, to life imprisonment without the possibility of parole, unless under applicable extradition treaties the requested State is under the obligation to extradite if the requesting State gives such assurance as the requested State considers sufficient that the death penalty will not be imposed or, where imposed, will not be carried out, or that the person concerned will not be subject to life imprisonment without the possibility of parole.

Article 6

1. Each Contracting State shall take such measures as may be necessary to establish its jurisdiction over an offence mentioned in Article 1 in the case where the suspected offender is present in its territory and it does not extradite him after receiving a request for extradition from a Contracting State whose jurisdiction is based on a rule of jurisdiction existing equally in the law of the requested State.

2. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

Article 7

A Contracting State in whose territory a person suspected to have committed an offence mentioned in Article 1 is found and which has received a request for extradition under the conditions mentioned in Article 6, paragraph 1, shall, if it does not extradite that person, submit the case, without exception whatsoever and without undue delay, to its competent authorities for the purpose of prosecution. Those authorities shall take their decision in the same manner as in the case of any offence of a serious nature under the law of that State.

Article 8

1. Contracting States shall afford one another the widest measure of mutual assistance in criminal matters in connection with proceedings brought in respect of the offences mentioned in Article 1 or 2. The law of the requested State concerning mutual assistance in criminal matters shall apply in all cases. Nevertheless this assistance may not be refused on

the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.

2. Nothing in this Convention shall be interpreted as imposing an obligation to afford mutual assistance if the requested State has substantial grounds for believing that the request for mutual assistance in respect of an offence mentioned in Article 1 or 2 has been made for the purpose of prosecuting or punishing a person on account of his race, religion, nationality or political opinion or that that person's position may be prejudiced for any of these reasons.

3. The provisions of all treaties and arrangements concerning mutual assistance in criminal matters applicable between Contracting States, including the European Convention on Mutual Assistance in Criminal Matters, are modified as between Contracting States to the extent that they are incompatible with this Convention.

Article 9

The Contracting States may conclude between themselves bilateral or multilateral agreements in order to supplement the provisions of this Convention or to facilitate the application of the principles contained therein.

Article 10

The European Committee on Crime Problems (CDPC) is responsible for following the application of the Convention. The CDPC:

- a. shall be kept informed regarding the application of the Convention;**
- b. shall make proposals with a view to facilitating or improving the application of the Convention;**
- c. shall make recommendations to the Committee of Ministers concerning the proposals for amendments to the Convention, and shall give its opinion on any proposals for amendments to the Convention submitted by a Contracting State in accordance with Articles 12 and 13;**
- d. shall, at the request of a Contracting State, express an opinion on any question concerning the application of the Convention;**
- e. shall do whatever is necessary to facilitate a friendly settlement of any difficulty which may arise out of the execution of the Convention;**
- f. shall make recommendations to the Committee of Ministers concerning non-member States of the Council of Europe to be invited to accede to the Convention in accordance with Article 14, paragraph 3;**
- g. shall submit every year to the Committee of Ministers of the Council of Europe a report on the follow-up given to this article in the application of the Convention.**

Article 11

1. Any dispute between Contracting States concerning the interpretation or application of this Convention, which has not been settled **either in the framework of Article 10.e or by**

negotiation, shall, at the request of any Party to the dispute, be referred to arbitration. Each Party shall nominate an arbitrator and the arbitrators shall nominate a referee.

2. In the case of disputes involving Parties which are member States of the Council of Europe, where a Party fails to nominate its arbitrator in pursuance of paragraph 1 of this article within three months following the request for arbitration, an arbitrator shall be nominated by the President of the European Court of Human Rights at the request of the other Party.

3. In the case of disputes involving any Party which is not a member of the Council of Europe, where a Party fails to nominate its arbitrator in pursuance of paragraph 1 of this article within three months following the request for arbitration, an arbitrator shall be nominated by the President of the International Court of Justice at the request of the other Party.

4. In the cases covered by paragraphs 2 and 3 of this article, where the President of the Court concerned is a national of one of the Parties to the dispute, this duty shall be carried out by the Vice-President of the Court, or if the Vice-President is a national of one of the Parties to the dispute, by the most senior judge of the Court who is not a national of one of the Parties to the dispute.

5. The procedures referred to in paragraphs 2 or 3 and 4 above apply, *mutatis mutandis*, where the arbitrators fail to agree on the nomination of a referee in accordance with paragraph 1 of this article.

6. The arbitration tribunal shall lay down its own procedure. Its decisions shall be taken by majority vote. Where a majority cannot be reached, the referee shall have a casting vote. The tribunal's judgment shall be final.

Article 12

1. Amendments to this Convention may be proposed by any Contracting State, or by the Committee of Ministers. Proposals for amendment shall be communicated by the Secretary General of the Council of Europe to the Contracting States.

2. After having consulted the non-member Contracting States and, if necessary, the CDPC, the Committee of Ministers may adopt the amendment in accordance with the majority provided for in Article 20.d of the Statute of the Council of Europe. The Secretary General of the Council of Europe shall submit any amendments adopted to the Contracting States for acceptance.

3. Any amendment adopted in accordance with the above paragraph shall enter into force on the thirtieth day following notification by all the Parties to the Secretary General of their acceptance thereof.

Article 13

1. In order to update the list of treaties in Article 1, paragraph 1 amendments may be proposed by any Contracting State or by the Committee of Ministers. These proposals for amendment shall only concern treaties concluded within the United Nations Organisation dealing specifically with international terrorism and having entered into force. They shall be communicated by the Secretary General of the Council of Europe to the Contracting States.

2. After having consulted the non-member Contracting States and, if necessary the CDPC, the Committee of Ministers may adopt a proposed amendment by the majority provided for in Article 20.d of the Statute of the Council of Europe. The amendment shall enter into force following the expiry of a period of one year after the date on which it has been forwarded to the Contracting States. During this period, any Contracting State may notify the Secretary General of any objection to the entry into force of the amendment in its respect.

3. If one-third of the Contracting States notifies the Secretary General of an objection to the entry into force of the amendment, the amendment shall not enter into force.

4. If less than one-third of the Contracting States notifies an objection, the amendment shall enter into force for those Contracting States which have not notified an objection.

5. Once an amendment has entered into force in accordance with paragraph 2 of this article and a Contracting State has notified an objection to it, this amendment shall come into force in respect of the Contracting State concerned on the first day of the month following the date on which it has notified the Secretary General of the Council of Europe of its acceptance.

Article 14

1 This Convention shall be open to signature by the member States of **and observer States** to the Council of Europe. It shall be subject to ratification, acceptance, **approval or accession**. Instruments of ratification, acceptance, **approval or accession** shall be deposited with the Secretary General of the Council of Europe.

2 The Convention shall enter into force three months after the date of the deposit of the third instrument of ratification, acceptance or approval.

3. The Committee of Ministers of the Council of Europe, after consulting the CDPC, may invite any State not a member of the Council of Europe, other than those referred to under paragraph 1 of this article, to accede to the Convention. The decision shall be taken by the majority provided for in Article 20.d of the Statute of the Council of Europe and by the unanimous vote of the representatives of the Contracting States entitled to sit on the Committee of Ministers.

4. In respect of a signatory State ratifying, accepting, approving **or acceding** subsequently, the Convention shall come into force three months after the date of the deposit of its instrument of ratification, acceptance, approval **or accession**.

Article 15

1. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval **or accession**, specify the territory or territories to which this Convention shall apply.

2. Any State may, when depositing its instrument of ratification, acceptance, approval **or accession** or at any later date, by declaration addressed to the Secretary General of the Council of Europe, extend this Convention to any other territory or territories specified in the declaration and for whose international relations it is responsible or on whose behalf it is authorised to give undertakings.

3. Any declaration made in pursuance of the preceding paragraph may, in respect of any territory mentioned in such declaration, be withdrawn by means of a notification addressed to the Secretary General of the Council of Europe. Such withdrawal shall take effect immediately or at such later date as may be specified in the notification.

Article 16

1. Any State **Party to the Convention on [date of the opening to signature of the Protocol amending the Convention]** may, at the time of signature or when depositing its instrument of ratification, acceptance or approval **of the Protocol amending the Convention**, declare that it reserves the right to refuse extradition in respect of any offence mentioned in Article 1 which it considers to be a political offence, an offence connected with a political offence or an offence inspired by political motives. **The Contracting State undertakes to apply this reservation on a case-by-case basis, through a duly reasoned decision and taking into due consideration, when evaluating the character of the offence, any particularly serious aspects of the offence, including:**

- a. that it created a collective danger to the life, physical integrity or liberty of persons; or
- b. that it affected persons foreign to the motives behind it; or
- c. that cruel or vicious means have been used in the commission of the offence.

2. When applying paragraph 1 of this article, a Contracting State shall indicate the offences to which its reservation applies.

3. Any **Contracting** State may wholly or partly withdraw a reservation it has made in accordance with paragraph 1 by means of a declaration addressed to the Secretary General of the Council of Europe which shall become effective as from the date of its receipt.

4. A **Contracting** State which has made a reservation in accordance with paragraph 1 of this article may not claim the application of Article 1 by any other State; it may, however, if its reservation is partial or conditional, claim the application of that article in so far as it has itself accepted it.

5. The reservations referred to in paragraph 1 of this article shall be valid for a period of three years from the day of the entry into force of this Convention as amended in respect of the State concerned. However, such reservations may be renewed for periods of the same duration.

6. Twelve months before the date of expiry of the reservation, the Secretariat General of the Council of Europe shall give notice of that expiry to the Contracting State concerned. No later than three months before expiry, the Contracting State shall notify the Secretary General

of the Council of Europe that it is upholding, amending or withdrawing its reservation. Where a Contracting State notifies the Secretary General of the Council of Europe that it is upholding its reservation, it shall provide an explanation of the grounds justifying its continuance. In the absence of notification by the Contracting State concerned, the Secretary General of the Council of Europe shall inform that Contracting State that its reservation is considered to have been extended automatically for a period of six months. Failure by the Contracting State concerned to notify its intention to uphold or

modify its reservation before the expiry of that period shall cause the reservation to lapse.

7. Where a Contracting State does not extradite a person, in application of a reservation made in accordance with paragraph 1 of this article, after receiving a request for extradition from another Contracting State, it shall submit the case, without exception whatsoever and without undue delay, to its competent authorities for the purpose of prosecution, unless the requesting State and the requested State otherwise agree. The competent authorities, for the purpose of prosecution in the requested State, shall take their decision in the same manner as in the case of any offence of a serious nature under the law of that State. The requested State shall communicate, without undue delay, the final outcome of the proceedings to the requesting State and to the Secretary General of the Council of Europe, who shall forward it to Conference provided in Article 17.

8. The decision to refuse the extradition request, on the basis of paragraph 1 of this article, shall be forwarded promptly to the requesting State. If within a reasonable time no judicial decision on the merits has been taken in the requested State according to paragraph 7, the requesting State may communicate this fact to the Secretary General of the Council of Europe, who shall submit the matter to the Conference provided in Article 17. This Conference shall consider the matter and issue an opinion on the conformity of the refusal with the Convention and shall submit it to the Committee of Ministers for the purpose of issuing a declaration thereon. When performing its functions under this paragraph, the Committee of Ministers shall meet in its composition restricted to the Contracting States.

Article 17

1. Without prejudice to the application of Article 10, there shall be a Conference of States Parties against Terrorism (hereinafter referred to as the "COSTER") responsible for ensuring:

- a. the effective use and operation of this Convention including the identification of any problems therein, in close contact with the CDPC;
- b. the examination of reservations made in accordance with Article 16 and in particular the procedure provided in Article 16, paragraph 8;
- c. the exchange of information on significant legal and policy developments pertaining to the fight against terrorism;
- d. the examination, at the request of the Committee of Ministers, of measures adopted within the Council of Europe in the field of the fight against terrorism and, where appropriate, the elaboration of proposals for additional measures necessary to improve international co-operation in the area of the fight against terrorism and, where co-operation in criminal matters is concerned, in consultation with the CDPC ;
- e. the preparation of opinions in the area of the fight against terrorism and the execution of the terms of reference given by the Committee of Ministers.

2. The COSTER shall be composed of one expert appointed by each of the Contracting States. It will meet once a year on a regular basis, and on an extraordinary basis at the request of the Secretary General of the Council of Europe or of at least one-third of the Contracting States.

3. The COSTER will adopt its own Rules of Procedure. The expenses for the participation of Contracting States which are member States of the Council of Europe shall be borne by the Council of Europe. The Secretariat of the Council of Europe will assist the COSTER in carrying out its functions pursuant to this article.

4. The CDPC shall be kept periodically informed about the work of the COSTER.

Article 18

Any Contracting State may denounce this Convention by means of a written notification addressed to the Secretary General of the Council of Europe. Any such denunciation shall take effect immediately or at such later date as may be specified in the notification.

Article 19

The Secretary General of the Council of Europe shall notify the **Contracting States** of:

- a. any signature;
- b. any deposit of an instrument of ratification, acceptance, approval **or accession**;
- c. any date of entry into force of this Convention in accordance with Article 14 thereof;
- d. any declaration or notification received in pursuance of the provisions of Article 15;
- e. any notification received in pursuance of Article 18 and the date on which denunciation takes effect.

Appendix 9 to volume of Decisions (item 10.3)

Specific terms of reference

1. Name of committee:

Committee of Experts on the protection of witnesses and *pentiti* in relation to acts of terrorism (PC-PW)

2. Type of committee:

Committee of Experts

3. Source of terms of reference:

European Committee on Crime Problems (CDPC)

4. Terms of reference:

Pursuant to

- the decisions taken by the Committee of Ministers at its 111th Session (6-7 November 2002); and
- the decisions taken by the Committee of Ministers at the 816th meeting of their Deputies (13 November 2002, item 1.5);

taking into account

- Recommendation No. R(97)13 concerning the intimidation of witnesses and the rights of the defence;
- Recommendation No. Rec(2001)11 concerning guiding principles on the fight against organised crime;
- Article 23 of the 2nd Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters;
- The reports of the Multidisciplinary Group on International Action against Terrorism (GMT) (documents CM(2002)57 and 148); and
- The Guidelines on Human Rights and Terrorism adopted by the Committee of Ministers on 11 July 2002;

study the means for strengthening the protection of witnesses and *pentiti* in relation to acts of terrorism, including those at international level, and to make proposals as to the feasibility of preparing an appropriate instrument, bearing in mind the links with other related criminal activities.

5. Membership of the committee

a. States whose governments are entitled to appoint members: all member states.

b. Desirable qualifications of persons serving on the Committee: experts on criminal law, criminal procedure, individual rights and guarantees and international co-operation in criminal matters.

c. Two scientific experts to be appointed by the Secretary General.

d. One representative each of the Steering Committee for Human Rights (CDDH) and the European Committee on Legal Co-operation (CDCJ).

e. The Council of Europe budget will bear the travelling and subsistence expenses of:

i) one expert from each of the following member states:

Bulgaria, Czech Republic, Finland, Georgia, Germany, Greece, Hungary, Italy, Netherlands, Poland, Portugal, Slovakia, Spain, "the former Yugoslav Republic of Macedonia"

ii) the two scientific experts appointed by the Secretary General

iii) the representatives of the CDDH and the CDCJ.

f. The European Commission and the Secretariat General of the Council of the European Union may send representatives to the meetings of the Committee, without the right to vote or defrayal of expenses.

g. The Bureau of the CDPC may authorise the admission of observers to the Committee.

6. Structures and working methods:

The Committee may set up working parties and conduct hearings of experts.

7. Duration:

These terms of reference will expire on 31 December 2003.

Appendix 10 to the volume of Decisions
(item 10.3)

Specific terms of reference

1. Name of committee:

Committee of Experts on special investigation techniques in relation to acts of terrorism (PC-TI)

2. Type of committee:

Committee of Experts

3. Source of terms of reference:

European Committee on Crime Problems (CDPC)

4. Terms of reference:

Pursuant to

- the decisions taken by the Committee of Ministers at its 111th Session (6-7 November 2002); and
- the decisions taken by the Committee of Ministers at the 816th meeting of their Deputies (13 November 2002, item 1.5);

Taking into account

- Recommendation No. R(97)13 concerning the intimidation of witnesses and the rights of the defence;
- Recommendation No. Rec(2001)11 concerning guiding principles on the fight against organised crime;
- Articles 17-20 of the 2nd Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters;
- Articles 19-21 of the Convention on Cybercrime (ETS no. 185);
- Article 4 of the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime;
- the reports of the Multidisciplinary Group on International Action against Terrorism (GMT) (documents CM(2002)57 and 148); and
- the Guidelines on Human Rights and Terrorism adopted by the Committee of Ministers on 11 July 2002;

to study the use of special investigation techniques respective of European criminal justice and human rights standards, with a view to facilitating the prosecution of terrorist offences and increasing the effectiveness of law enforcement, and to make proposals as to the feasibility of preparing an appropriate instrument in this field.

5. Membership of the committee:

- a. States whose governments are entitled to appoint members: all member states.

b. Desirable qualifications of persons serving on the Committee: experts on criminal law, criminal procedure, individual rights and guarantees and international co-operation in criminal matters.

c. Two scientific experts to be appointed by the Secretary General.

d. One representative each of the Steering Committee for Human Rights (CDDH) and the European Committee on Legal Co-operation (CDCJ).

e. The Council of Europe budget will bear the travelling and subsistence expenses of:

i) one expert from each of the following member states:

Albania, Austria, Bulgaria, Cyprus, Czech Republic, Denmark, France, Germany, Greece, Hungary, Ireland, Latvia, Portugal, Russian Federation, Switzerland, United Kingdom

ii) the two scientific experts appointed by the Secretary General
iii) the representatives of the CDDH and the CDCJ.

f. The European Commission and the Secretariat General of the Council of the European Union may send representatives to the meetings of the Committee, without the right to vote or defrayal of expenses.

g. The Bureau of the CDPC may authorise the admission of observers to the Committee.

6. Structures and working methods:

The Committee may set up working parties and conduct hearings of experts.

7. Duration:

These terms of reference will expire on 31 December 2003.