



**COUNCIL OF
THE EUROPEAN UNION**

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LIMITE

**PESC 353
FIN 378**

NOTE

from :	Presidency
to :	Permanent Representatives Committee
No. prev. doc.:	6391/99 PESC 44 FIN 56
Subject :	Sources of financing within the budget for the attainment of a CFSP objective— – Progress report on: = Examination of the contribution by the Council Legal Service (11027/99) = Revision of the "1995 General Approach" (8521/95)

1. At its meetings on 24 September, 1 and 12 October 1999 the Working Party of CFSP Counsellors held a preliminary discussion on the contribution by the Council Legal Service concerning Community and CFSP powers in the field of democracy and human rights (11027/99).

As requested by Coreper on 30 June 1999 the Legal Service's contribution focused on the demarcation between Union action under the CFSP and Community action further to the entry into force of Regulations (EC) Nos 975/99 and 976/99. The Working Party pointed out that the issue of demarcation between Community action and Union action and the definition of sources of financing was relevant not only for these two Regulations but for other Community instruments as well.

Emphasis was also placed on the evolutive nature of Community powers.

2. At this stage the Working Party highlighted the importance of the following principles laid down in the Legal Service's contribution:
 - Charging to the budget according to competence. Union powers are supplementary to those of the Community. Priority must be given to Community action (Article 47 TEU).
 - In grey areas expediency prevails. Indicative criteria must be established on the basis of objective factors such as the aim and content of the act.
 - CFSP funds should not be used to finance an action on the grounds that Community procedures are slow. This would constitute a misuse of procedure.
3. In the light of the contribution from the Legal Service the Working Party held an exchange of views on updating the "1995 General Approach" (6391/99 and the CFSP Handbook) and indicative criteria in accordance with its mandate from Coreper of 3 March 1999.
4. The Working Party considered the possibilities for improving the procedure for preparing CFSP actions so as to better define the sources of financing. The Legal Service recommended a procedure under which the application of criteria, assessment of expediency and coordination with the Commission would be centralised within the Working Party of CFSP Counsellors.

Another alternative would be to enhance coordination at working party level, which would involve consulting the Working Party of CFSP Counsellors on the financing possibilities before a working party finalised a draft. The Working Party stressed the importance of prior coordination with the Commission since decisions on implementing Community actions were not, on the whole, examined by Council working parties.

It was pointed out that the implementation of CFSP activities required sufficiently rapid and flexible decision-making procedures.

Moreover, the procedures for preparing CFSP instruments could possibly be reviewed once the new CFSP structures were in place (High Representative and Policy Planning and Early Warning Unit).

5. Coreper is invited to note the progress report from the Presidency and, if appropriate, give guidance for the Working Party's further work.
