



Council of the European Union
General Secretariat

**Interinstitutional files:
2018/0105(COD)**

Brussels, 12 November 2018

WK 13708/2018 INIT

LIMITE

ENFOPOL

JAI

EF

CODEC

WORKING PAPER

This is a paper intended for a specific community of recipients. Handling and further distribution are under the sole responsibility of community members.

MEETING DOCUMENT

From:	Presidency
To:	JHA Counsellors (All)

Subject:	Draft DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL laying down rules facilitating the use of financial and other information for the prevention, detection, investigation or prosecution of certain criminal offences and repealing Council Decision 2000/642/JHA
----------	--

Delegations will find attached a Presidency compromise suggestion concerning Article 17 of the above draft Directive, to be discussed at the informal meeting of JHA Counsellors on 13 November 2018.

During the discussions concerning Article 17 of the draft Directive, some delegations requested to also provide for the possibility to conclude new agreements on exchange of information or mutual legal assistance in the future, both between Member States and with third countries.

Until now, the wording of Article 17 only allowed for existing agreements to remain in application, provided they are compatible with the draft Directive and Union law in general. This would however prevent any future development of some well established forms of cooperation, such as the Nordic one, in the area covered by the scope of the Directive.

Consequently, the Presidency is submitting a draft compromise wording to address this issue along the lines of some existing examples in EU legislation, such as in Article 14 of Directive 2012/34/EU.

The aim of this proposed change is to allow for future developments in specific, e.g. regional types of cooperation, while ensuring strict consistency with EU law and the division of competence between the Union and the Member States. Consequently, the Presidency is proposing that Article 17 of the draft Directive reads as follows:

1. **This Directive shall not preclude Member States from maintaining or concluding** bilateral or multilateral agreements or arrangements between themselves on the exchange of information between competent authorities **or on mutual legal assistance (...)**, in so far as such agreements or arrangements are compatible with **Union law, in particular** this Directive.
2. This Directive is without prejudice to any obligations and commitments of Member States or of the Union by virtue of **existing** bilateral or multilateral agreements with third countries.

Without prejudice to the division of competence between the Union and the Member States, Member States may also conclude new bilateral or multilateral agreements with third countries, provided that the Commission has verified that they are compatible with Union law and has authorised their conclusion by a decision adopted in accordance with the advisory procedure.

Delegations are invited to discuss and endorse the above wording with a view of including it in the next revised version of the draft Directive, as currently set out in 11014/4/18 REV 4.
