Further to the very broad agreement reached by the Internal Market Council on the above proposal, the following amendments are to be made to the consolidated text of the draft Directive (11099/94).

1. **Sounds and images (Article 2(a))**

   (i) the four recitals on page 2 of 11581/94 are to be incorporated;

   (ii) in the second line of the fourth paragraph of Recital 11b, the words "in particular in the audiovisual field," are to be inserted after "literary or artistic expression is concerned,"; these words are also to be added to the second line of Recital No 18 as amended on page 6 of 11581/94.
(iii) the following joint statement on Article 2(a) is to be entered in the Council minutes:

"The Council and the Commission confirm that processing of sound and image data carried out for public security purposes will continue to be excluded from the scope of the Directive irrespective of how developments occur in information technology."

(iv) Article 36 to be amended as follows:

"The Commission shall report to the Council and the European Parliament at regular intervals, starting not later than three years after the date referred to in Article 35(1), on the implementation of this Directive, attaching to its report, if necessary, suitable proposals for amendments. The report shall be made public.

The Commission shall examine, in particular, the application of this Directive to the processing of sound and image data relating to natural persons and shall submit any appropriate proposals which prove to be necessary, taking account of developments in information technology and in the light of work on the information society."

2. Manual filing systems (Article 2(c))

(i) "Fichier" to be translated in Article 2(c) by "filing system" instead of "file".

(ii) Text of Article 35(2) to be incorporated as it appears on page 3 of 11581/94 but with "10 years" replaced by "12 years".

(iii) Recital No 33 to keep the idea of gradual implementation (see last phrase), and "ten years" to be replaced by "twelve years".

3. Sensitive data (Article 8)

(i) Following statement to be entered in the Council minutes:
"The Council and the Commission consider that the term "labour law obligations" also includes all kinds of agreements between the parties on the labour market."

(ii) Paragraph 2(ab) to be amended as follows:

"processing is necessary to protect the vital interests of the data subject of another person where the data subject is not in a position to give his or her consent; or".

4. **Press (Article 9)**

   (i) Second sentence of Article 9 to be deleted.

   (ii) Recital No 18 to be maintained as on page 6 of 11581/94 (with the addition referred to in 1(ii) above).

   (iii) The statement concerning Article 9 on the same page of that document is to be deleted (1).

5. **Research/Statistics**

   (i) Article 14(2) to be amended as follows:

   "Subject to adequate legal guarantees, in particular that the data are not used for taking measures or decisions regarding any particular individual data subject, Member States may restrict by a legislative measure the rights provided for in Article 13 when data are processed solely for purposes of scientific research or are kept in the form of personal data for no longer than is necessary for the sole purpose of creating statistics."

---

(1) F said it would present a unilateral statement on Article 9.
(ii) The following statement is to be entered in the Council minutes:

"The Council and the Commission consider that, in deciding whether the provision of information involves a disproportionate effort within the meaning of Article 12(2), the importance of the public interest for which the data are processed must be taken into account."

(iii) The second statement for the Council minutes in footnote 2 to page 31 is to be deleted.

(iv) The following (new) recital is to be added:

"Whereas the Member States are entitled to implement the protection of individuals both by general laws on the protection of individuals against data-processing of a personal nature and by sectoral laws such as those relating for example to statistical institutes."

6. **Prior checking** (Article 19a)

Beginning of paragraph 1 to be amended as follows:

"Member States shall specify the processing operations potentially involving particular risks to the rights and freedoms of data subjects and shall ensure that such operations will be checked before being implemented."

7. **Electoral canvassing** (Article 8(3))

Recital No 17c (new) on page 5 of 11581/94 is to be incorporated.

8. **Miscellaneous**

Texts need to be finalized with regard to:

- the **UK** request that processing operations concerning "the Member State's economic well-being" be added to Article 3(2);

- the **NL** request that it should be specified that the Directive also applies to the Institutions of the Union.
CORRIGENDUM

Subject: Directive 94/ /EC of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data

Page 17, second recital

This recital shall read as allows:

"Whereas, with regard to the transfer of data to third countries, the application of this Directive calls for the conferment of powers of implementation on the Commission and the establishment of a procedure in accordance with the procedures laid down in Council Decision 37/373/EEC (1);".

Page 47

Article 31 shall be deleted and Articles 32, 33, 34 and 35 and references to those Articles shall become respectively Articles 31, 32, 33 and 34.

Page 48, Article 31(2), last subparagraph

The words: "save where the Council has decided against the said measures by a simple majority." shall be deleted.