NOTE

from: Secretary

dated: 20 July 1995

to: Budget Council on 24 July 1995

Subject: Adoption in the official languages of the Communities of a Directive 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

1. On 20 February 1995 the Council, acting in accordance with the procedure referred to in Article 189b of the Treaty, adopted a common position with a view to adopting the above Directive.

2. On 15 June 1995 the European Parliament delivered its Opinion at a second reading of this Directive, proposing seven amendments to the Council common position (see PE 192.036).

3. On 19 July 1995, on the basis of the Commission's opinion (see 9171/95 ECO 137), Coreper took the view that all the Parliament's amendments were acceptable, and therefore agreed to suggest that at its meeting on 24 July 1995, the Council:
– adopt (¹), in accordance with Article 189b(3), the Directive as set out in 12003/4/94 REV 4 ECO 291 CODEC 92 + COR 1 (text drawn up by the Legal/Linguistic Experts);

– enter in the minutes of the meeting the statements annexed, and those annexed to 4730/95 ECO 20.

4. The Committee also suggests that the Council decide to make public the statement of the Council and of the Commission on the application of the principles of the Directive to processing carried out by European Union institutions and bodies (statement No 1, page 3 of the above document).

However, the DK delegation asked that the other statements also be made public; apart from the NL and S delegations, all the other delegations opposed this request.

(¹) The UK delegation stated that it would abstain.
"Article 8(2)(c) makes it possible to derogate from the principle of prohibiting the processing of sensitive data where the safeguarding of an individual's vital interests so require. According to this provision therefore, vital interests outweigh the interests of data protection. However, the fact that the ability of the person concerned to give his consent is taken into account clearly shows that this does not represent an absolute exception to the principle of the freedom of the individual to decide as regards the personal information which concerns him, but is rather a flexible solution in the context of which the consent of the individual concerned should, as far as possible, be sought. This presupposes, however, because of the basic primacy and the nature of the "vital interests" that, in certain cases, the yardstick of vital interests can also be used where the individual's consent cannot be obtained. Consequently, this exception to the ban on processing sensitive data will require an assessment of the interests at stake in each case."

Statement by the United Kingdom delegation

"The United Kingdom recalls the Commission's assurance that the European Parliament's amendment No 4 (to Article 3(2)) does not in any way affect the Article's exclusion from the provisions of the Directive of processing operations relating to activities carried out by or on behalf of the intelligence and security agencies in any of the examples (relating to the economic well-being of the State) cited by the United Kingdom authorities, i.e. the defence of a currency and supplies of a country's vital raw materials."
RESULTATS DES TRAVAUX

du : Groupe des questions économiques (Protection des données)
en date du : 26 octobre 1995

Objet : coordination communautaire concernant les travaux menés sous les auspices du Conseil de l'Europe en matière de protection des données à caractère personnel

1. Le Groupe a consacré la première partie de la réunion à tenir un débat de caractère général sur l'organisation de la coordination communautaire à mener dans ce domaine.

Ce débat s'est basé sur les propositions contenues dans un document de travail de la Commission - repris en annexe - prévoyant notamment

- la réunion périodique du Groupe "Protection des données" du Conseil (un fois par semestre par exemple) qui, sur base d'un document de travail des services de la Commission, examinerait l'évolution des travaux du Conseil de l'Europe et établirait la position communautaire ;

- au besoin, une coordination communautaire sur place à Strasbourg en marge des travaux du Conseil de l'Europe ;

- la présentation des positions communautaires, dans les enceintes concernées du Conseil dé l'Europe, par la Commission.