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signed by Ms Patricia BUGNOT, Director

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to: Mr Javier SOLANA, Secretary-General/High Representative

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**COMMISSION STAFF WORKING PAPER**

**European Security Strategy**

**FIGHT AGAINST TERRORISM**

## COMMISSION STAFF WORKING PAPER

### European Security Strategy

#### FIGHT AGAINST TERRORISM

In December 2003, the European Council asked the Presidency and SG/HR, in co-ordination with the Commission to present concrete proposals for the implementation of the European security strategy in four areas including the fight against terrorism (para. 85)

The Commission welcomes the opportunity to contribute to the further development of EU policy in the fight against terrorism, also in the light of the terrorist atrocities in Spain on 11 March 2004. As recognised in the ESS, terrorism is not a threat which can be tackled by purely military means. Other policies can and do have a role to play.

#### A - The Commission approach

The EU's basic objective in the fight against terrorism is to ensure that its citizens have the ability to live in freedom, peace and safety. To achieve this objective we must ensure a high level of security within the EU while at the same time promoting security, stability and prosperity in third countries.

Achieving this implies action, together with partner countries, to eliminate or reduce the threat of terrorist attack whether to citizens themselves, to essential services (such as water supplies, energy, transport and communications) or production systems (agro-food and process industries) as well as to establish mechanisms (surveillance, early warning, alert and response systems and procedures) to deal effectively and efficiently with the consequences of any attacks. Action must also be taken to address the root causes of insecurity and the factors which contribute to the emergence of terrorism. Steps aimed at enhancing security must be taken without prejudice to individual rights and freedoms and the openness and tolerance of our societies must be maintained. At the same time EU actions aim to strengthen governance, including the rule of law, and to encourage the development of sound institutions both within the Union and in third countries.

Terrorism:

- takes advantage of this era of more open borders and integrated economies;
- undermines the openness and tolerance of societies;
- poses challenges to the core EU objectives of the promotion of free movement of persons, goods, services and capital; and
- makes evident the intrinsic link between internal and external security.

The challenge is to benefit from the advantages of free movement, whilst minimising the security threats and to handle the fight against terrorism within a wider framework of action. Security within the EU cannot be achieved at the cost of creating an inward-looking Union. The EU approach is therefore to strengthen internal security in a co-ordinated and multi-disciplinary manner, and to promote stability and security beyond our borders whilst avoiding new dividing lines, particularly with the near neighbours.

Numerous EU policies contribute to the fight against terrorism, but have not been developed or designated specifically as counter-terrorism actions. This is also true for actions at the EU and Member State level. Many of the mechanisms and actions necessary to combat terrorism are the same as those needed to tackle other forms of serious and organised crime. Strengthened police, customs and judicial cooperation help combat organised criminal groups

as well as terrorists. Effective anti-money laundering measures help cut off funds to organised crime and terrorism. Mechanisms necessary to protect communications infrastructure against terrorist attacks are the same as those to protect against cyber-crime more generally. Health security procedures and alert mechanisms are as necessary for natural health pandemics as for bio-terrorism. The Community civil protection mechanism deals with the response to natural disasters as well as man-made ones such as terrorist attacks. Effective border controls are a defence against drug and human trafficking as well as against the illegal transport of WMD and nuclear devices or other terrorist activities. Using our external programmes for the promotion of good governance including institutional capacity building, fighting terrorism and corruption and improving transparency is essential for overall development and economic growth. But even if they were not designed with counter-terrorism as their primary objective, all these actions constitute a significant element of the EU's counter-terrorism activity. As indicated in the Communication on the next Financial Perspectives (COM(2004)101 final) the Commission expects work in these areas to be an increasingly important element of EU action in the years ahead.

The key to the effectiveness of the EU approach is for all of our actions to be implemented in a co-ordinated and comprehensive manner, within an agreed framework.

The fight against terrorism involves a plethora of players and many different instruments, both at national and EU level. The key to pulling all these strands together is effective coordination. For its part, the Commission intends to reinforce its internal coordinating mechanisms in order to manage the many crosscutting issues in a coherent manner.

## **B - Action under way**

The first responsibility for combating terrorism lies with the Member States. Action at the EU level, by the Community and/or by Member States collectively, has focused on those fields where it can provide added value to the efforts made by individual Member States. Examples of these actions are set out below.

### **1. JUSTICE AND HOME AFFAIRS**

**The objective in the area of Justice and Home Affairs is to establish an area of freedom, security and justice within the EU whilst sharing our capacities and values with third countries to strengthen global stability and security.** Galvanised by the events of 11 September 2001, a range of urgent measures were set out at the Justice and Home Affairs Council of 20 September 2001, covering: judicial cooperation; cooperation between police and intelligence services; financing of terrorism; measures at borders; and improved cooperation with the United States. However, it should be recalled that the EU was already mindful of the internal and external threat posed by terrorism. This was illustrated by references to the fight against terrorism in the Treaty of Amsterdam and other key documents. This enabled the Commission to present relevant proposals swiftly, such as the European Arrest Warrant. A number of additional measures as outlined below, both in the first and third pillar, have served to develop justice and home affairs policies whilst contributing to the fight against terrorism.

Prevention and fight against terrorism remains a top priority and requires increased efforts. Qualitative and quantitative improvement of the exchanges of information must be sought. It is essential, in the fight against terrorism, that the judicial authorities and law enforcement agencies concerned obtain the most complete and up-to-date information at any time of the procedure. The setting up of effective mechanisms for exchange of information on convictions and prohibitions will constitute a means for fighting against infiltration of terrorist groups. It represents a major element for avoiding infiltration of terrorist groups in legal activities in the objective to fight against the financing of terrorism.

In order to be fully effective in the fight against financing of terrorism, the links between terrorism and other forms of criminality need to be addressed and the fight against organised crime strengthened. The adoption of measures making it possible to identify the holders and true beneficiaries of bank accounts would be a valuable tool in the fight against the financing of terrorism. In general greater financial transparency constitutes a crucial means of fighting against terrorist financing. In this context, measures to address the use of illegal alternative remittance systems and cash carriers as well as the use of non profit organizations for financing acts of terrorism or terrorist groups are challenges for the future.

### **a) Border Security**

**Border and travel security is rapidly becoming one of the most important elements in the fight against terrorism, both at EU and multilateral level and in relations with the US. One of the primary tools that the EU is developing is the integrated border management strategy. The Union and the Member States have developed a wide range of measures including improved security features of visas and travel documents, and strengthened controls and surveillance of external borders through improved co-ordination and joint operations.**

#### **Border management**

Efficient control and surveillance of the external borders is a prerequisite for maintaining the internal security of Member States in an area in which internal border controls are lifted. In November 2003 the Commission presented a proposal for a Council Regulation establishing a European Agency for the Management of Operational Co-operation at the External Borders of the Member States of the European Union. The purpose of the Agency is to co-ordinate operational activities of Member States at the external borders (including, where relevant, with third countries) and facilitate the application of the Schengen acquis in order to ensure a high and uniform level of control of persons at and surveillance of the external borders. These efforts will be closely coordinated with those under way to establish a European coordinated policy and activity for Coast Guard services whose duties shall be to enforce the law of the sea and all relevant European legislation in EU territorial waters.

#### **Document Security**

The Thessaloniki European Council called for a coherent approach on **biometric identifiers** which would result in harmonised standards for documents for third country nationals and EU citizens' passports. Starting with visas, the Commission adopted two proposals, which aim to integrate biometric identifiers in the uniform format for visas and the uniform format for residence permits of third country nationals. Member States will be required to integrate two biometric identifiers into the visa and the residence permit for third country nationals.

The Commission has also presented a proposal on the harmonisation of security features, including biometrics, of the EU citizen's passport. This proposal covers improved security of the passport by harmonising and making legally binding common security features. This work also feeds into multilateral initiatives to spread best practice on document security such as those being developed within ICAO and G8.

#### **Information Systems**

As part of the 'Comprehensive Plan to Combat Illegal Migration and Trafficking of Human Beings' adopted by the JHA Council on 28 February 2002 on the basis of the Commission's Communication on illegal immigration of 15 November 2001, a European **Visa Information System** (VIS) was proposed. The primary objective of the VIS is to support the common visa and migration policy. However, it should also contribute towards internal security and to combating terrorism by enabling the instant verification of visas and identification of visa

holders. As advised by the Council it will also take over the function of the VISION network for consulting the central authorities, referred to in Article 17 (2) of the Schengen Convention, which is currently integrated in the present Schengen Information System. This network allows checking visa applications against national terrorist watchlists. Similarly the new version of the Schengen Information System, **SIS II**, will contribute to the fight against terrorism by supporting police and judicial cooperation.

### **b) Criminal Law Instruments**

**The aim is to put in place for the first time legal frameworks that provide Member States with EU instruments to create a common judicial area. These instruments establish minimum legal standards, denying safe havens, and simplify judicial cooperation through mutual recognition of judicial decisions based on mutual trust between national authorities.**

**Framework Decisions on combating terrorism and on the European Arrest Warrant** were adopted on 13 June 2002, as key elements to achieving the area of freedom, security and justice and to the EU's fight against terrorism. The **Framework Decision on Combating Terrorism** ensures that terrorists receive appropriate punishment in all Member States, avoiding safe havens, by establishing a common EU definition of a 'terrorist offence' and setting common minimum sentences. The European Arrest Warrant replaces classic extradition by an entirely judicial and simplified procedure, adopting the principle of mutual recognition of judicial decisions, based upon a high degree of mutual trust and cooperation. With the European Arrest Warrant, terrorists will no longer be able to abuse extradition procedures to avoid prosecution, as they can be swiftly arrested and surrendered no matter where they travel within the EU. Other mutual recognition instruments, such as **the Framework Decision on execution of orders Freezing Assets or Evidence**, will also help fight terrorism, for instance with freezing orders being executed without the delay inherent in traditional mutual assistance regimes.

### **c) Operational capacities**

**The EU has significantly developed its operational arm over the last few years. Europol and Eurojust are playing a key role in the fight against terrorism both by facilitating law enforcement cooperation and information exchange and developing new instruments at the EU level, such as joint threat assessments. This effort needs to be stepped up further.**

Every six months the Council assesses the terrorist threat and keeps an updated common list identifying the most significant terrorist organisations. The EU Police Chiefs Task Force and the heads of EU Counter Terrorism Units meet regularly in order to exchange intelligence and experiences in the fight against terrorism.

**Europol** has been given a central role in the fight against terrorism, following 11 September 2001, particularly through the establishment of its Counter-Terrorism Task Force which brought together experts from various law enforcement and intelligence services. Following the expiration of the CTF's mandate, Europol's Serious Crime Unit has taken on counter-terrorism work, including collecting, sharing and analysing information concerning the threat of international terrorism and the production of an annual "Situation and Trends Report on Terrorist Activity in the EU". EUROPOL and the Commission are planning EU Joint Training for Law Enforcement and Public Health Officials on Interaction of Criminal and Epidemiological Investigations beginning in April 2004 to strengthen the response to future terrorist attacks involving biological agents.

**The Commission is** developing ideas for an EU information and communication policy which will build on the Dublin Declaration of November 2003 that was endorsed by the

information JHA Council of January 2004. The aim is to set out markers for the establishment for intelligence-led law enforcement and to promote effective national criminal intelligence systems which are compatible at EU level and allow for the effective access, analysis, and use of data. This policy aims at facilitating the detection of threats to public order and security, to avert security risks, and to fight organised crime throughout the Union, including through enhanced access to data not produced for law enforcement purposes. It will be accompanied by a legislative initiative on the processing and protection of personal data used by law enforcement and will, furthermore, contribute to international efforts in the fight against terrorism and organised crime.

**Eurojust**, established in 2002 as an independent body composed of magistrates from EU Member States, aims to improve coordination and cooperation between investigators and prosecutors dealing with serious international crime including terrorism and has convened meetings on how to improve judicial cooperation to fight terrorism. Member States are obliged to designate a Eurojust national correspondent for terrorist matters, in order to enhance its counter-terrorist work.

**Joint Investigation Teams**, established by the Framework Decision of 13 June 2002 on combating terrorism, will provide enhanced cooperation in investigating cross-border crime, in particular terrorist offences involving any of the persons, groups or entities mentioned in the list annexed to Common Position 2001/931/CFSP. A Council Recommendation has also been adopted to set up Multi-national ad hoc teams for exchanging information on terrorists in the pre-criminal investigative phase.

#### **d) Co-operation with United States**

In the JHA field, particular attention has been paid to developing cooperation with the US. Unprecedented levels of law enforcement and judicial cooperation have been developed. A cooperation agreement and an agreement concerning data protection have been signed between Europol and US. In addition EU and US have concluded agreements on extradition and mutual legal assistance. US contacts with Eurojust have also been reinforced, and a range of other new areas of cooperation developed including with the Police Chiefs Task Force.

## **2. TERRORIST FINANCING**

**Terrorists need financial resources to operate. A key factor in the effectiveness of their operations is the ability to move money efficiently through the global financial system. One of the objectives of EU actions is therefore to make it impossible for terrorists to acquire and use funding for their activities.** At the EU level, a range of legislative and operational measures have been adopted, some of which aim to counter various criminal activities including terrorism and others of which are specifically aimed at combating the financing of terrorism. The EU has responded quickly both in supporting and implementing action connected with UN Security Council Resolutions inter alia by adopting Community Regulations ordering the freezing of all funds and assets of certain persons, groups and entities suspected of terrorism or financing of terrorism as well as prohibiting making funds and assets available to such persons, groups or entities. In order to facilitate the application of the freezing measures, the Commission and the European banking sector are establishing an electronic database of all targeted persons and entities. The EU has also improved its anti-money laundering measures by adopting a second anti-money laundering Directive and it was agreed that all offences linked to the financing of terrorism should be money laundering predicate offences. In addition, through its participation in relevant international organisations and fora, such as the Financial Action Task Force, the Commission supports global efforts to make the international financial system less vulnerable to abuse by terrorists.

Customs also contributes to the fight against money laundering. As the provisions of the money laundering directive begin to bite, criminals and terrorists are likely to turn to cash as an easier way of moving funds around. The adoption by the Council of the Commission proposal to introduce controls on cash movements by customs at the external frontier would transform the present fragmented approach into a common, simple and rapid first defence mechanism.

Terrorist financing, however, cannot be addressed in isolation. There is growing evidence of the links between terrorism and other forms of organised crime. We therefore need to develop our understanding of these links as well as policies to address them.

## **3. TRANSPORT SECURITY**

In both the maritime and aviation sectors EU regulations have been enacted which make mandatory a number of security measures on aircrafts and ships and in airports and harbours. The aviation regulation has been in force since July 2003 while the maritime measures will have to be implemented in all ports and ships worldwide by July 2004. Two new European Commission inspectorates will investigate the implementation of those measures in all the EU Member States. Close cooperation has been maintained with a number of trading partner countries, including the USA with whom regular coordination meetings take place. A cooperation group has recently initiated discussion on research projects in this area. In addition, new legislation on security in ports has been presented for approval by the Commission to the other EU institutions.

Beyond these security measures dealing with ground side of transportation great attention is being paid to the threat of using civil aircraft as a weapon or unlawful vehicle. Implementation of the Single European Sky rules will develop civil-military cooperation in managing airspace and controlling air traffic flow. It provides a strong impetus to develop additional measures combining civil and military actions to prevent and react efficiently to this sort of threat.

The Commission has also issued a Directive to allow Member States to issue motor vehicle registration documents under the format of smart cards as an alternative to paper documents; this will help to considerably reduce fraud. Further, the Commission has proposed that



provisions aimed at increasing security (covering staff training, safe storage, design of safety plans, and identity documents for staff) be introduced in international regulations governing the transport of dangerous goods by rail, road and waterways. After adoption, these provisions will become Community law.

A public consultation document has been launched concerning future proposal expected later this year, on multi-modal security to secure and make more transparent the transport of cargo between the factory gate and the consumer or the export point. This subject is of primary interest to the transport and energy sector, and many new initiatives covering a number of subjects of key security importance such as urban transport and orphan nuclear sources are also being studied.

#### **4. CRITICAL INFRASTRUCTURE PROTECTION**

**With the rapid development of an increasingly networked world, protection of information infrastructures is crucial to the correct functioning of modern society.** The impact of possible terrorist attacks on these infrastructures will have devastating affects for all economic sectors e.g. energy, communications, transportation and water supplies. The EU is developing a multi-faceted approach, enhancing the legal framework (electronic communications legal instruments such as the ‘telecom package’.); developing policies on cyber-crime (Framework Decision on attacks against information systems) and improving prevention mechanisms.

The electricity and gas markets are increasingly being opened to competition in the same way as communication services are. Energy is considered to be a special product, of which the security of supply is a political priority. Nuclear installations and other key industries are other examples of infrastructures requiring a high level of security.

Though networks can be, and often are, owned by the private sector, all Member States regulate the economic behaviour of the sector. Currently the security and safety of energy distribution networks is overseen by Member States mostly in accordance with local rules and regulations. Given the increasing interdependence of European national energy markets, the EU dimension of security and safety in energy transfer should be strengthened substantially.

As a first concrete step in this area the Commission has launched preparations of common guidelines for managing safety and operation standards in European electricity network operation, as proposed by the Florence Forum of electricity network regulators in their 10<sup>th</sup> meeting. A coordination of European Security services and of European Transport authorities is necessary to develop a coordination framework in order to harmonise standards and levels of protection of the key energy and transport infrastructures.

#### **5. CUSTOMS/TRADE ISSUES**

Effective means are needed to control the flow of potentially harmful goods across our frontiers without unduly hampering legitimate trade. To secure the traffic coming towards the EU and to enable a pro-active approach in protecting EU citizens, close co-operation with partner customs administrations world-wide is an essential element in securing the global supply chain. The U.S. Container Security Initiative is one example of how customs administrations can co-operate to improve security in logistical processes. This exercise however needs to be extended to all exporting ports in order to be meaningful. Following the initialling of an EC-US Agreement to ensure co-operation on CSI and related matters, discussions are continuing with other third countries (e.g. India, China, Hong Kong, Canada, and New Zealand). The aim would be to secure the logistical supply chain by expanding existing or future customs co-operation agreements to cover transport security.

At the end of July 2003, the Commission presented a package, consisting of a Communication on the role of customs in the integrated management of external borders and the consequent proposed change of the Community Customs Code to introduce a common approach to risk management, introducing security aspects in customs controls. Work already underway to implement these security measures should be accelerated.

As well as ensuring adequate control of goods coming into the EU, action is required in parallel to ensure that nothing is exported which might be used to commit terrorist attacks. Regulation 1334/2000 set up the EU regime for the control of exports of dual-use items and technology. It also introduces controls on intangible transfers of technology for exports outside the European Union. The regulation's scope is limited to licensing and the modalities of dual-use exports from the EU. It does not address most of the issues related to enforcement of export controls which rests with Member States.

## **6. HEALTH SECURITY**

The bio-terrorist attacks in the US in the autumn of 2001 and Belgium in January 2003, as well as evidence from law enforcement operations (e.g. the London ricin seizure) demonstrate that the risk of attack from biological and chemical agents is a very real one. In response to this threat, the Commission has undertaken a series of actions in a range of policy areas. A Health Security Committee was established in November 2001; a programme of co-operation in the EU on preparedness and response to biological and chemical agent attacks (health security) was drawn up in December 2001 and a Task force on health security was set up with seconded national experts in May 2002. A communication (COM (2003) 320) on progress with the implementation of the health security programme was published on 2 June 2003.

The health security programme aims to ensure an EU-wide capability for the timely detection and identification of biological and chemical agents in laboratories, the rapid and reliable determination and diagnosis of relevant human disease cases, the availability of medicines, co-ordination of emergency plans and the drafting and dissemination of rules and guidance on facing-up to attacks from the health point of view. Examples of actions with MS, in co-ordination with other EU actions, and involving international initiatives include: the co-ordination and evaluation of MS' smallpox plans; modelling of outbreaks and data for simulations; the establishment of a secure 24 hour/7 day-a-week rapid alert system (RAS-BICHAT) for deliberate releases of biological and chemical agents which links the members of the Health Security Committee and permanent contact points in all the Member States with the Commission and connects to other EU alert systems; monitoring of Web-based information to provide advance warning of suspicious circumstances or outbreaks; the establishment of a network of high security laboratories; the development of a framework for an Expert Directory with information on relevant expertise in the different MS and the development of strategies for securing adequate supplies of vaccines and anti-virals.

In parallel, the Commission is participating in international health security initiatives such as the Global Health Security Action Initiative agreed by the G7 and Mexican Health Ministers and Commissioner Byrne in November 2001 which has similar goals to those of the EU co-operation (collaboration on smallpox emergency plans and training, laboratory detection techniques, risk management and communication, chemical incident preparedness, patient isolation techniques). The WHO is fully associated in these activities.

## **7. CIVIL PROTECTION**

Following the request made in December 2001 by the European Council, the programme to improve co-operation in the EU for preventing and limiting the consequences of chemical, biological, radiological or nuclear terrorist threats (the CBRN programme) was adopted by the Commission on 21 November 2002 and by the Council on 20 December 2002. This

programme sets out the strategic objectives that need to be addressed in order to improve the protection of the population, the environment, the food chain and property against CBRN threats and attacks and describes where there is a need for further action. In December 2003 the first annual report on the programme was presented to the Council. This report includes, for each of the strategic objectives of the programme, the new initiatives and measures taken by the Commission as well as those that are planned. On civil protection, the report covers in particular the work done in the context of the implementation of the Community civil protection mechanism established under Council Decision 2001/792/EC, Euratom adopted on 23 October 2001. This includes the organisation of several CBRN exercises.

## **8. EXTERNAL ACTION**

The Commission considers the main objective of EU external action in the fight against terrorism to be to promote the implementation of international norms and legal instruments relevant to the fight against terrorism, through targeted political dialogue and technical assistance as well as through co-operation in international and regional organisations. This requires making use of all the policies and instruments of the EU's external action in a holistic and coherent way whilst also fully respecting other external policy objectives.

The fight against terrorism continues to be an important element in the EU's **relations with third countries**. The EC has an extensive track record in the provision of **technical assistance** relevant to the fight against terrorism (e.g., customs law and practice, immigration law and practice, police and law enforcement, financial law and practice, judicial capacity building – all areas identified in UNSCR 1373 as essential areas for an effective defence against terrorism) notably through assistance projects on Justice and Home Affairs. These programmes, initially developed to help bring the acceding countries up to EU standards are now a major part of the CARDS and TACIS programmes and are also of growing importance within the MEDA programme where, at the request of the countries concerned, counter-terrorism training for police and judiciary is an important part of the MEDA regional JHA programme. In addition, the EU has initiated a number of specific, more targeted counter-terrorism projects initially in the Philippines and Indonesia, as well as ASEAN at the regional level, where Rapid Reaction Mechanism (RRM) funds have been used to kick-start projects in the areas of terrorist financing and border management. Follow-up actions will be funded in the longer term under the normal country or regional programmes. Similar actions are under preparation for Pakistan. RRM funds have also been used to fund police reform and border management projects in Central Asia (the former in co-operation with the OSCE), both with an important counter-terrorism element. Further use of RRM funds for counter-terrorism projects remains under consideration.

**EC /EU Partnership and Co-operation Agreements with third countries** provide valuable frameworks for comprehensive strategies that can help address the root causes of insecurity and which may contribute to the emergence of terrorism. The Cotonou Partnership Agreement provides a good example of an effective and integrated framework through which the EU can address not only poverty reduction, corruption and human rights but also peace-building, security, and root causes of conflict in the political dialogue with partner countries. These comprehensive partnership and co-operation agreements also provide the framework for specific technical assistance to assist third countries in the implementation of UNSCR 1373.

**Development assistance** has an impact on the environment that terrorist groups can exploit. It can erode the support base for terrorist networks and movements (through its focus on poverty reduction, land reform, governance, fight against corruption, the promotion of participatory development processes). **Governance** is a key component of policies and reform for poverty reduction, democratization and global security. Governance failures with roots in poverty and inequality are in many cases key factors contributing to terrorism. **Fighting corruption** and

**improving transparency** are also crucial elements in a strategy to fight terrorism. Corruption undermines the government's credibility and the legitimacy of democracy. The EU is actively supporting interventions contributing to good governance and increased transparency in partner countries.

**Anti-terrorism clauses in EU agreements with third countries** are another important element of the EU's external action in the fight against terrorism. Such clauses have been included in agreements concluded with Algeria, Lebanon, Chile, Croatia, FYROM, Andean Community and the San Jose countries and are under negotiation in agreements with MERCOSUR, Iran, Syria and the GCC. In the forthcoming revision of the Cotonou Partnership Agreement, the EU is proposing the introduction of specific new provisions on co-operation in the field of counter-terrorism. This is intended to contribute to country owned agendas on security and counter terrorism, and to the effectiveness of the fight against terrorism at the national, regional and global levels.

## **9. SAFEGUARDING INDIVIDUAL RIGHTS AND FREEDOMS AND COMBATING RACISM**

The EU is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms and the rule of law. The right to equality before the law and the protection of all persons from discrimination, together with the respect and promotion of the rights of minorities is essential to the proper functioning of democratic societies. We must therefore ensure that vulnerable minority communities within the EU are protected and their individual rights respected in the context of implementation of counter-terrorism policies.

After the terrorist attacks on 11 September 2001, the European Monitoring Centre on Racism and Xenophobia (EUMC), drew attention to the finding that Islamic communities and other vulnerable groups had become the targets of increased hostility.

The Centre's Islamophobia report is an important vehicle for drawing attention to the potential impact of counter-terrorism action on human rights, social and community cohesion and the successful integration of minority communities. The Centre has also outlined action at the local level to integrate Islamic communities under a community cohesion and social inclusion framework in three areas - employment, education and access to public services. In addition, the Centre works with the media in an effort to encourage balanced reporting and to avoid stoking up prejudices and/or fuelling tension within communities.

## **C - Priorities for future action**

Since September 11<sup>th</sup> the EU has developed an impressive range of policies and instruments which contribute to the fight against terrorism, as indicated in the EU Action Plan against terrorism and the “anti-terrorism roadmap”. Much has already been done, as mandated in the initial Action Plan. The key priority now is to ensure full implementation of what has already been decided and to consider possible new initiatives so as to fill any gaps in the Union’s counter-terrorism toolbox. The Commission is determined to contribute effectively to this endeavour in the areas of its competence. Progress is needed in particular in the following areas.

### **JHA**

Future policy and operational developments already envisaged in a number of JHA fields will contribute further to the fight against terrorism; we must take full advantage of the potential contribution of these and existing instruments.

- We should **monitor and support the comprehensive and effective implementation of existing legislative instruments**, namely: Framework Decision on combating terrorism; European Arrest Warrant; and Framework Decision on execution of orders freezing assets or evidence;
- There will be opportunities **to explore new initiatives to improve co-operation in light of the results of the evaluation of Member States’ legal systems and their implementation at national level in the fight against terrorism**;
- We need to further **explore the potential of new tools** with a dual or multiple character such as the Visa Information System to contribute towards combating terrorism;
- We need to support full potential being made of capacities already provided for, such as **the establishment of joint investigation teams** in the area of police co-operation.
- We should develop **markers** for the establishment of intelligence-led law enforcement and promote effective national criminal intelligence systems which are compatible at EU level and allow for the effective access to, analysis and use of data.
- We should **develop cooperation with the private sector, through the establishment of public-private partnerships**, to improve protection of information infrastructures.
- In order to enhance the effectiveness of **Eurojust’s work**, all Member States should implement the Eurojust Decision. In addition, all Member States should designate a Eurojust national correspondent for terrorist matters.
- we should agree new instruments such as the Commission’s proposal for a **European Evidence Warrant** to make cross-border obtaining of evidence clearer, faster and with appropriate safeguards. In due course the EU should create a comprehensive system, based on mutual recognition, for obtaining and using evidence.

## **Fight against Terrorism Financing**

In order to develop further a comprehensive approach to prevent the financing of terrorism and the abuse of the financial system by terrorists, as well as addressing the linkages between financing of terrorism and organised crime, we should:

- Implement the relevant **FATF recommendations**, including in particular those aimed at preventing the use of informal financial remittance systems and of charities and other non-profit organizations for the purposes of the financing of terrorism;
- Adopt measures making it possible to **identify the holders and true beneficiaries of bank accounts** as a tool in the fight against the financing of terrorism and money laundering. This information should be accessible to judicial authorities and law enforcement agencies; and
- Create effective mechanisms to address the use of **cash movements** by terrorists to avoid controls on electronic financial transactions.

## **Customs**

- Foster co-operation with neighbouring states and major trading partners to identify and address **high risk areas**.
- Promote **co-operation and information sharing** with other agencies, particularly those acting at the border, (police, immigration, veterinary, transport etc.) to help identify and deal with high risk movements.
- Promote consistent and effective **security arrangements** for goods at all points of the external borders of the Union. This will require more resources; both human and technical (risk management systems, radiation detectors, non-intrusive inspection equipment etc.).
- Ensure suitable **crisis planning** is in place for handling consignments suspected of being linked to terrorism (WMD, explosives, biological devices etc.).

## **Health Security**

The Health Security strategy aims at strengthening preparedness and response capacity in the Member States and co-ordination of counter-measures in the European Union. To achieve this, priority will be given to:

- the further implementation of the Council and Parliament Decision 2119/98/EC establishing a Community Network for the **epidemiological surveillance and control of communicable** disease in the Community (24/09/1998), to install an effective a system of prior information and consultation between the Member States about countermeasures to be taken in case of public health threats; and
- **the adoption of a Community Generic Preparedness and Response plan for Public Health threats and events of EU concern, as requested by the Health Council on 6 May and again on 2 June 2003 following the SARS outbreak.**

## Transport and energy security

Activities already under way will be maintained, reinforced and structured with the aim of **ensuring appropriate security in each transport and energy mode**. The Corps of Inspectors in the nuclear, aviation and maritime sector will guarantee the enforcement of the legislation adopted in these fields; adoption of further security related legislation may require additional enforcement/inspection mechanisms. We expect to see extensive recourse to satellite technology (positioning and telecommunications) in order to assist the enforcement agencies and organisations in better targeting their inspections, using in addition comparisons between transport data made available by operators and the intelligence gained by the inspectors through their own experience or as a result of coordination with trading partners' agencies. The same technology will assist users in moving faster with less controls and more comfort. Research will be needed to develop new tools to be put at the disposal of both users and enforcement agencies; thematic networks will need to be established in order to compare notes between Member States operators of public services and to develop common reflexes and attitudes in the pursuit of greater security.

## Use of passenger travel data

The Commission will pursue as a matter of priority the discussions that have been started with Member States and other relevant parties, e.g. Europol, with a view to making a first proposal by the middle of 2004 outlining an EU approach to the use of travellers' data for border and aviation security and other law enforcement purposes. Such a policy framework will need to strike a balance between security concerns on the one hand and data protection and other civil liberties on the other.

## Civil Protection

Activities in this field are essentially based on the Civil Protection Community Mechanism established under Council decision 792/2001 of 23 October 2001. In this context, work on strengthening preparedness at EU level to deal with the consequences of potential CBRN threats will continue to be a priority. It will include in particular:

- The full integration of the content of the **database of military assets and capabilities** into the Community Mechanism, as agreed by the GAERC Council in its 8 December 2003 Conclusions;
- Further development of the EU work on **CBRN threats**, including the organisation of specific full-scale exercises and other appropriate initiatives in order to test and further improve the level of preparedness and interoperability of available capabilities.

Moreover, prospects for cooperation on civil protection with relevant international organisations and third countries will continue to be explored

## Research and technological development

In an increasingly technological and knowledge-based world, the EU needs **excellence in research and technological development** in order to tackle effectively the new security challenges and in particular terrorism. The Commission is developing a long-term vision and strategic agenda in security-related research and is preparing the way for a full-fledged European Security Research Programme after 2006. Therefore the Commission has launched in 2004 a Preparatory Action entitled "Enhancement of the European industrial potential in the field of security research" with funding of €65 million foreseen over three years (2004-2006) to support projects through open calls. One of five priority missions to be addressed is the protection against terrorism, including biological and chemical attacks. Other priority missions are: surveillance of EU borders and technologies to tag, track and trace goods; optimising security and protection of networked systems such as electricity and

communication networks from attacks; coordination between emergency services and getting emergency services' equipment to work together; and enhancing crisis management.

### **External action**

The EU needs to **engage more effectively with third countries**, especially those countries of particular significance to the fight against terrorism (those where we have evidence of a terrorist threat or of specific terrorist activity such as recruitment or training, those who are direct or indirect sources of terrorist financing etc). We need to use the information we already have, whether from threat assessments from various sources or the more general EU Crisis Prevention Watch List exercise to identify countries representing a potential threat and target our political dialogue accordingly. The anti-terrorism clauses in agreements with third countries should be followed up and the related provisions on co-operation implemented, underpinned by technical assistance as appropriate.

The need for assistance to help third countries meet international counter-terrorism standards remains immense. The EU should be prepared to **offer more and better targeted technical assistance** in co-operation with the UNCTC and other relevant international and regional organisations. The EU can provide valuable support by more effectively taking into consideration counter-terrorism as an integral part of the programming cycle of its assistance to the countries affected. This must be done in partnership with the countries concerned, since ownership and shared responsibility are keys to successful co-operation. The implementation of UNSCR 1373 should be systematically taken into account in the dialogue with countries which request such assistance. The objective would be to enable a more flexible response to identified needs. The possibility of launching further CFSP Joint Actions to provide direct assistance in the field of counter-terrorism could also be considered (as was done in the context of the EU Special Adviser on Security Issues to the Palestinian Authority).

**Better co-ordination of EU and Member States' assistance programmes** in this area is also essential, including at local level in accordance with existing guidelines. Better information is needed not just on assistance already being provided by Member States but also on what is being planned in order to avoid duplication. There is also a need for more exchange of information, analysis and **more effective cooperation with other donors** regarding approaches to difficult partnerships and action to address the root causes of terrorism. It is important not to leave these partners behind but to find alternative approaches to cooperation, given the potentially negative consequences for security of isolating a country and leaving extremism and terrorism growing in so-called failed states. Better sequencing of governance, peace and security, linking relief, rehabilitation and development (LRRD) interventions on the basis of a holistic approach to both policy implementation and policy development would make a more effective contribution to increased short and medium term security and the prevention of terrorism.

More action is needed to **foster greater inter-cultural understanding**, especially between the EU and regions in the world where terrorism has a particular resonance. Inter-cultural dialogue, organised within the framework of the Asia-Europe Foundation (ASEF), the envisaged Euro-Med Foundation for the dialogue of culture and civilisations and beyond, could contribute to a climate of dialogue and, if possible, increased mutual understanding on sensitive issues such as the definition of terrorism, violence, "right of resistance", Jihad etc. Initiatives should be considered targeting, for example, selected academic multipliers, think-tanks, and religious leaders who are deemed to be able to influence public opinion in the countries. Such action could also be conducive to an enhanced dialogue with Islamic countries in the context of the ongoing negotiations at the UN for a comprehensive Convention against terrorism.



This might be complemented by specific **bilateral dialogues** with countries representing and/or being linked to an important part of the population in the EU (for example: Northern Africa, Bosnia and Herzegovina etc). Such bilateral dialogue would equally include topics related to racism, xenophobia or other problems ethnic or national minorities are often confronted with, including within the EU.

### **Safeguarding individual rights and freedoms and combating racism**

Greater priority needs to be given to the adoption of the **Framework Decision on combating racism and xenophobia** and its importance in the context of a balanced approach to countering terrorism and protecting vulnerable minority communities from the interplay between race and terrorism. Further action is needed to promote inclusiveness and protect minorities within the EU who might be unjustifiably targeted by counter-terrorist policies or at risk from a backlash in the event of a major terrorist incident. This might include exchange of information and best practices in educational and social policies, policing and anti-discrimination policies as well as on approaches for integrating minority communities, and dealing with individuals or groups whose aim is to promote racism, xenophobia or religious hatred within the EU. The EU also needs to continue its support for inter-community dialogue. The EU has initiated action in many of these fields in different contexts. These need to be drawn together in a concerted way and their benefits in a counter terrorism framework acknowledged.