



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 6 December 2005

15446/05

**JAI 488
RELEX 741**

"A" ITEM NOTE

from : Presidency

to : Council

No. prev. doc. : 14366/3/05 REV 3 JAI 417 RELEX 628

Subject : A Strategy for the External Dimension of JHA : Global Freedom, Security and
Justice

On 1 December 2005 the Justice and Home Affairs Council endorsed the strategy and decided to forward it to the General Affairs Council for adoption.

I – The challenge: key thematic priorities

1. In order to meet the expectations of its citizens the European Union must respond to the security threats of terrorism, organised crime, corruption and drugs and to the challenge of managing migration flows. If the EU is to be effective in doing so it needs to work with countries outside the EU. In an increasingly interconnected world this will become ever more important. The EU should therefore make JHA a central priority in its external relations and ensure a co-ordinated and coherent approach. The development of the area of freedom, security and justice can only be successful if it is underpinned by a partnership with third countries on these issues which includes strengthening the rule of law, and promoting the respect for human rights and international obligations.
2. Recent terrorist atrocities in Bali, Madrid, London, and Amman underline the fact that it is no longer useful to distinguish between the security of citizens inside the European Union and those outside, and that terrorism is increasingly international in nature. International co-operation to fight terrorism is an element of the Union's external relations. However the changing nature of the threat indicates that the Union should pursue all the objectives of its counter-terrorism strategy – from preventing radicalisation to improving our response to attacks - both inside and outside its borders. It is also essential to improve the exchange of information with all countries to identify terrorists, disrupt their activities and to bring them to justice. Working through international organisations and with third countries will be a cross-cutting feature of the EU's counter-terrorism strategy.
3. Organised and serious crime increasingly acts across borders of the EU exploiting the global flows of people, goods and money. This results in a terrible cost for individuals. Europol estimates that 100,000 women are victims of trafficking in the EU annually and the trafficking of drugs from outside the European Union causes serious social, health and crime problems. At the same time, many countries are often locked into a cycle of poverty, organised crime,

corruption and instability. In particular in drug producing countries, steps are needed to develop the capacity and commitment to stop the trafficking of drugs and to combat drug production. As such the EU has to work effectively with third countries to stop the criminals, disrupt their organisations and their finances, and provide access to justice for their victims. At the same time the EU must tackle the underlying factors that enable organised criminality to exploit and operate across the EU's external borders, including by removing obstacles to judicial co-operation in criminal and, as appropriate, civil matters.

4. Increased global migration, including the problem of illegal immigration, presents particular challenges. The EU's economic and social fabric relies on the global flow of people, for travel, work and study. When managed effectively migration can have a substantial positive impact both for host and source countries and for migrants, and in this context the EU's work on economic migration is relevant. However, it is essential to tackle the problem of illegal migration and the trafficking of human beings, and protect the human rights of migrants. The deaths of migrants every year, lost at sea seeking to cross the Mediterranean, or suffocating in lorries at the hands of traffickers, shows the tragic face of irregular migration into the EU. The plight of refugees in countries of origin and transit outside the EU are even greater in scale. Neither should the pressures caused by illegal immigration on communities inside the EU be underestimated. Better management of migration flows is therefore a priority for Member States.
5. We cannot deal with these issues in the EU alone. The EU should take steps to maximise the benefit of legal migration and, where appropriate, take early action to promote and improve the integration of migrants. This should include measures to promote safer, easier and cheaper transfer of remittances and enhance their developmental impact; to facilitate the role of diasporas as agents of development in their home countries; to explore options for temporary and circular migration; and to mitigate the impact of skills losses in vulnerable sectors. The EU must pursue in close co-operation with third countries both short- and long-term action to tackle irregular flows and their underlying causes. This should include efforts to strengthen border controls, improve travel document security and combat people smuggling and trafficking. These

must be accompanied by readmission agreements that assure returns of illegal immigrants, with priority being accorded to concluding planned agreements and implementing existing ones. The EU should promote such co-operation through its policies, reflecting the central importance of these issues for the EU and its Member States. There should also be steps to enhance protection and durable solutions for refugees in regions of origin and transit. The EU must also work for more effective policy coherence between migration and development co-operation to address the structural causes (including conflicts) of the mobility of people, and there also needs to be engagement with relevant international organisations including the UN. Work is ongoing in this direction, as set out in the Council Conclusions on Migration and External Relations.

6. Addressing weak governance and state failure in third countries are key to breaking the vicious cycle of conflict, poverty and instability. There is as such an important relationship between JHA and the CFSP, ESDP and Development policies of the EU. For example EU police and judicial expertise is essential to the rebuilding and transformation of weak law enforcement institutions and courts systems. It is also important that European Crisis Management Operations, and in particular Civilian Crisis Management Operations, tackle issues such as organised criminality and corruption.
7. Developing further the EU's external dimension to take into account the objectives of the area of freedom, security and justice is coherent with and contributes to the goals of the European Security Strategy¹. In an increasingly global economy, effective co-operation with third countries on JHA issues also supports the EU's economic and trade objectives, by providing a political and legal environment conducive to economic development and the development of international commercial links.

¹ Doc 15895/03

II- Underlying principles

8. The EU's objective in engaging with third countries on JHA issues is to respond to the needs of its citizens and takes as its starting point the creation of an area of freedom, security and justice. In pursuing that objective the EU benefits from engaging to tackle problems at source through actions to build capacity in third countries and supporting a more secure global, rules-based environment.
9. In pursuing its JHA objectives the European Union should build on experience to date and adopt the following principles:
 - EU action is most effective where it is based on a partnership with third countries to tackle common problems and meet shared policy objectives.
 - The EU should use its significant relationship with third countries as an incentive for them to adopt and implement relevant international standards and obligations on JHA issues. Countries should be aware that the nature of their relationship with the EU will be positively affected by their level of co-operation, given the central importance of these issues for the EU and its Member States.
 - The EU must take a differentiated and flexible approach to individual third countries and regions, including a multi-disciplinary assessment of need, which recognises the importance of working with the EU's neighbours given their proximity.
 - Priorities for future engagement should be informed by both the EU's internal and external policy objectives. The broad range of instruments at the EU's disposal should be co-ordinated across the pillars (Community, CFSP, ESDP, JHA) to deliver a tailored and coherent response.
 - Member States should mobilise their significant political, financial and operational resources where appropriate alongside the Community and Union to work towards common objectives. Member States and the Commission should ensure full co-ordination and complementarity of their activities and assistance programmes to avoid duplication. The Commission has a key role to play in areas of its competence.
 - All actions should be properly monitored and evaluated.

III – Delivery mechanisms and tools

10. There are a number of mechanisms which the EU can use to deliver an effective response to the broad challenge described above. These are governed by the nature of the relationship of the EU to the country or region in question, and will evolve with time:

- The prospect of enlargement is an effective way to align with EU standards in justice and home affairs in candidate countries and those with a European perspective, both through the adoption and implementation of the *acquis* and through improvements in operational contacts and co-operation.
- The European Neighbourhood Policy offers a coherent arena for co-operation with those countries which share our borders. The Action plans with individual countries have significant JHA components, where implementation should be a political priority.
- The strategic partnership with the US and wider Transatlantic Dialogue has broken new ground since September 11 2001, with a substantial and growing agenda of security co-operation which is well set to continue.
- Co-operation with Russia has led to the establishment of a Common Space of Freedom, Security and Justice, which sets out an ambitious agenda for co-operation in the next 5 years.

11. In addition, there are many examples of JHA issues where the EU needs to take a problem solving approach and engage more closely with wider world, such as counter-terrorism with North Africa, the Middle East, Gulf countries and South East Asia, counter narcotics co-operation with Afghanistan and its neighbours or with Latin America and the Caribbean, or migration and refugee protection in sub-Saharan Africa and other regions.

12. The effectiveness of delivery needs to be enhanced and the EU should take some specific steps in particular the EU should:

- ensure that its political engagement with countries seeking closer partnership covers the full range of freedom, security and justice issues (eg counter-terrorism, organised crime, corruption, drugs, managed migration, human rights, access to justice).
- work with established regional groupings (eg Euromed, Western Balkans, African Union, Latin America & Caribbean, South East Asia, Gulf Co-operation Council, Black Sea) recognising that JHA issues are often regional in nature, and also with groups of countries along established routes, for instance countries of origin and transit for migrants, or countries of production and trafficking for drugs.
- engage with international organisations, particularly the United Nations and the Council of Europe, to contribute to effective multilateralism and the promotion of international standards, as for example in developing an EC input into endeavours in the UN system on global governance of migration issues, in current work on refugee protection with UNHCR, or on counter-terrorism with UN CTED.
- develop its technical capacity to engage effectively with third countries to conclude and implement practical agreements, for example for readmission of illegal immigrants.
- EU agencies such as Europol, Eurojust, and Frontex, as well as Member States' liaison officer networks, should be tasked to enhance appropriate operational co-operation with priority countries.
- Subject to wider discussions of the financial perspectives, the appropriate external relations instruments should contain adequate and specific funding for JHA priorities, including a thematic programme on migration and asylum co-operation, and should be flexible enough to disburse funding quickly in case of serious need. EU funding and expertise provide important support for institutional and capacity building in third countries across a range of JHA areas, from law enforcement to border control: this should continue under new country action plans and future regional partnership initiatives.

IV - EU structures and processes

13. As building an area of freedom, security and justice is high on political agenda of the EU Member States there is a need to ensure a commensurate priority is given to JHA issues in the EU's external action. This requires a co-ordinated and coherent response in the EU's relations with third countries. At present JHA issues are not dealt with as consistently as they might be. Although good results have been achieved in some fields, in others key issues are not progressed. In order to improve this situation three measures need to be taken:

- The Commission and Council Secretariat will systematically monitor the progress of JHA external activity and report to the JHA Council and GAERC every 18 months, with the first report due by December 2006. This regular report will provide Ministers with: i) an overall assessment of the effectiveness of political, technical and operational co-operation with third countries on JHA issues in the previous period; ii) specific suggestions for geographical and/or thematic priorities for forward action; and iii) options for measures, whether political or technical, to improve co-operation with specific countries and regions. The report should draw on other established reporting arrangements.
- To supplement the overall assessment process, and based on the specific priorities identified in the 18 month report and agreed by the Council as such, the Council will agree a limited number of action oriented papers covering specific priority countries, regions or themes. These papers should include: i) an analysis of the issue and the EU's objectives, drawing on relevant information from the EU's institutions (eg Commission, Europol, Eurojust, Sitcen, Frontex) and from the Member States; ii) a summary of current action being carried out by both the Commission and by Member States; and iii) identification of what needs to be done at the political, technical and operational levels in order to meet EU objectives. These action oriented papers will be produced by the Presidency working with the Council Secretariat and Commission, and supported in particular by groups of interested Member States, with input by the relevant functional and geographical working groups and committees. The conclusions of these papers should be fed into the EU's external relations policy with third countries and regions, and complemented by action by the Member States and appropriate EU bodies. Wherever appropriate, conclusions recommending action to be taken should be agreed in partnership with the countries or regions concerned.

- While acknowledging that there is important ongoing work on other important geographic and thematic issues, during 2005 / 2006, and ahead of the first overall 18 month report, the EU should take forward work on action oriented papers on the following specific issues:
 - strengthening counter-terrorism co-operation with North Africa (while noting that work with other priority third countries on terrorism should continue);
 - improving co-operation, on organised crime, corruption, illegal immigration and counter-terrorism, between the EU, Western Balkans and relevant ENP countries;
 - increasing EU support to combating drug production in and trafficking from Afghanistan, including transit routes, building on the Council Conclusions and matrix of EU assistance to be submitted to the December 2005 JHA Council (while noting the importance of continued co-operation on drugs issues with Latin America and the Caribbean);
 - increasing and enhancing dialogue and co-operation on migration issues with countries of origin and transit in Africa (as discussed at the Hampton Court summit, with a paper due to be submitted to the December 2005 Council);
 - implementing with Russia the Common Space of freedom, security and justice.

14. Coreper will remain the body with cross-pillar responsibility for ensuring coherence across Council work in this area. The geographical and functional working groups and committees which cover JHA and external relations issues will be consulted in a timely way on issues relevant to them, will co-ordinate between themselves, if appropriate meeting jointly on an ad hoc basis to cover important issues such as work on the specific priorities identified above.
