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NOTE

from : Counter-terrorism Coordinator
to : COREPER/Council/European Council

Subject : Implementation of the Strategy and Action Plan to Combat Terrorism

1. This report responds to the European Council's request for a report every six months on the implementation of the Action Plan to combat terrorism adopted in June 2004¹. The report summarizes progress since June 2007 and indicates the state of play regarding ratification of the conventions and implementation of the legislative acts regarded as having priority, the details of which are set out in ADD 1.

¹ The latest version of the Action Plan to Combat Terrorism is contained in 7233/1/07 REV 1

2. In December 2005 the European Council adopted the European Counter-terrorism Strategy¹, which has provided the framework for EU activity in this field. The strategic commitment of the Union is to combat terrorism globally while respecting human rights and to make Europe safer, allowing its citizens to live in an area of freedom, security and justice. The Strategy groups all actions under four headings - PREVENT, PROTECT, PURSUE, RESPOND. The Revised Action Plan follows this pattern with the objective of setting out clearly what the EU is trying to achieve and the means by which it intends to do so. The present report covers progress on the individual actions within this same framework.

INTRODUCTION

3. To combat terrorism effectively all Member States must ensure that all their relevant national services coordinate their activities and operate on the basis of sufficient capabilities. With regard to this, the Council has launched a number of evaluation exercises over the last few years.
4. After the peer evaluation of national anti-terrorist arrangements yielded positive results, the Member States agreed to launch the next exercise focusing on preparedness and consequence management, covering three main topics: arrangements in the event of a terrorist attack, training/exercises for testing national crisis centres and communication systems in the event of a terrorist attack. The preparatory phase of the exercise has been completed and on-site visits will start at the beginning of 2008. The exercise should be completed and results presented by the end of 2009.
5. In order to succeed in fighting terrorism and organized crime, which are sometimes interconnected, a sufficient flow of information at national and international level has to be ensured. As one way of addressing this issue, the Council has completed the third round of mutual evaluations focusing on the 'Exchange of information and intelligence between Europol and the Member States and among the Member States respectively'. The final report² has been presented and includes a number of recommendations on strengthening national coordination in Member States and on intensifying cooperation with Europol.

¹ 14469/4/05 REV 4

² 13321/2/07 REV 2

6. This round of mutual evaluation has highlighted, however, that considerable deficiencies remain in sharing information at national level. Despite a general trend among the Member States in favour of a "multi-agency" approach, those deficiencies constitute one of the main obstacles to cooperation at European level. They relate chiefly to the lack of platforms bringing together the different agencies (police, customs, FIU, etc.) and to insufficient links between the agencies' databases.
7. Precise recommendations along these lines have been made to each Member State, taking account of its specific situation: 2008 should provide the opportunity for making an initial evaluation of the follow-up to those recommendations.

PREVENT

8. The first objective of the Counter-terrorism Strategy is to prevent people from turning to terrorism by tackling the factors or root causes which can lead to radicalisation and recruitment, in Europe and internationally. To attain this objective, in December 2005 the Council adopted a Strategy and an Action Plan to counter radicalisation and recruitment.
9. The Counter-terrorism Coordinator has separately reported on the implementation of the strategy on Radicalisation and Recruitment Strategy¹.
10. The internet has been identified as a key vector for the spread of terrorist propaganda and recruitment. Germany has launched an initiative ('Check the Web') to tackle terrorist incitement on the Internet. At the end of the German Presidency a handbook of "Check the Web" expert meetings was distributed to Member States giving a detailed overview of these meetings. An information portal was launched at Europol which serves as a technical platform for information exchange among Member States. This project is currently in its second phase, to be completed by the end of 2008, which will allow more data, including restricted materials, to be uploaded and access for more users.

¹ 15443/07

11. The Commission has addressed the issue of the Internet in its proposal for a revised Framework Decision on Combating Terrorism in the three main areas: bomb making instructions on the Internet, incitement to terrorism and law enforcement requirements for more technologies, training and language equipment to monitor the Internet. The proposal¹ was presented by the Commission in November 2007.
12. During the Portuguese Presidency a number of seminars have been held in cooperation with the European Commission and the Member States, mainly addressing the radicalisation of youth. On the basis of these discussions the Action Plan on combating Radicalisation and Recruitment will be revised.
13. The Commission has set up an expert group on violent radicalisation and intends to present a report on the state of play of research in the field by the end of this year. Based on the outcome of these initiatives, among others, the Commission plans to issue a communication on violent radicalisation in the course of 2008.
14. A Media Communication Strategy, approved by the Council in July 2006, aims to challenge inaccurate depictions of EU policies and to undermine terrorist propaganda which distorts conflicts around the world as supposed proof of a clash between the West and Islam. The Counter-terrorism Coordinator has separately reported on the implementation of the Media Communication Strategy².
15. A strategic cooperation agreement between the European Police College (CEPOL) and Europol has been signed. The purpose of this agreement is to enhance cooperation between Europol and CEPOL in strengthening the training of senior police officers, in particular by organising courses, seminars and conferences and developing and implementing common curricula and course material.

¹ 14960/07

² 15445/07 RESTREINT UE

16. In external relations, the EU has continued to engage with international partners on radicalisation and recruitment. Sharing experience and best practices is an important part of tackling this global phenomenon. Examples of this can be found in the context of Euromed, Asean Regional Forum and ASEM. In addition, the EU has worked to reinforce the international consensus on respect for human rights in the fight against terrorism and has continued its efforts to address the international conflicts which facilitate radicalisation and recruitment into terrorism.

PROTECT

17. The second objective of the Counter-terrorism Strategy is to protect citizens and infrastructure and reduce vulnerability to attacks, *inter alia* through improved security of borders, transport and critical infrastructure.
18. With the adoption of the Council Decision on the establishment, operation and use of the second generation Schengen Information System (SIS II), the legal basis for the SIS II has been completed. The Commission has confirmed that the technical part of the SIS II project should be finalised by December 2008.
- Following the extension of the current SIS (SISone4all project) and the successful evaluation of nine Member States that joined the EU in 2004, the abolition of border checks (land and sea borders) for the new Schengen Members will take place in December 2007 and the abolition of air borders in March 2008.
19. A Council Decision concerning access to the Visa Information System (VIS) by designated authorities and Europol for the purposes of the prevention, detection and investigation of terrorist offences and of other serious criminal offences was agreed by the Council in June 2007¹.

¹ doc. 11077/1/07 REV 1

20. Following the conclusion of the EU-US Agreement on the processing and transfer of passenger name record (PNR) data by air carriers to the US department of Homeland Security, the Commission has prepared a draft Framework Decision on the use of PNR data for law enforcement purposes¹, the so called EU PNR, which forms part of the counter-terrorism measures presented by the Commission in November 2007.
21. Following the submission by the Commission of the first elements of the European Programme on Critical Infrastructure Protection (EPCIP) policy package, the Council has started examination of the proposal for a Directive of the Council on the identification and designation of European Critical Infrastructures and an assessment of the need to improve their protection.
22. One of the difficulties within the negotiations appears to be that some Member States would prefer there to be no legal obligation for the owners/operators of European Critical Infrastructures to establish Operator Security Plans and to identify Security Liaison Officers. It was also agreed that the cross-cutting and sector-specific criteria should be annexed to the proposed Directive to clarify the impact of the Directive. The Commission has already presented its ideas on cross-cutting as well as on the sector specific criteria for the energy, transport, and information and technology sectors.
23. In the absence of an agreed EU position on EPCIP, formal cooperation with third countries has not yet been initiated. However, the Presidency, together with the Commission, has invited delegations from the EFTA countries, Russia, the United States and Canada to an informal update on the state of play of EU work on EPCIP. The practice will continue in the future.

¹ 14922/07

24. With regard to security research and enhanced public-private partnership, the European Security Research and Innovation Forum (ESRIF) has recently been set up. It brings together EU stakeholders in security research and has as its main task the design of the Joint Security Research Agenda and the monitoring of its implementation. This ensures higher visibility of security research in the EU as well as greater dissemination of relevant information.

PURSUE

25. The third objective of the European strategy against terrorism is to pursue and investigate terrorists across EU borders as well as globally; to impede planning, travel and communications; to disrupt support networks; to cut off funding and access to attack materials and to bring terrorists to justice.

Terrorist Financing

26. The Counter-terrorism Coordinator reported separately on the implementation of the strategy against terrorist financing in October 2007¹.
27. Progress has continued in transposing the nine FATF Special Recommendations into Community law and the main instruments will be finalised in 2007. The *Payment Services Directive* completing the implementation of FATF Special Recommendation VI on alternative remittances has been adopted and is expected to enter into force before the end of 2007.
28. The Commission envisages issuing a report on the implementation of the *Framework Decision on confiscation of crime-related proceeds, instrumentalities and property* (deadline for transposition 15.3.2007) by the end of 2007.
- It is envisaged that the Council will adopt a Council Decision on cooperation between Asset Recovery Offices before the end of 2007.

¹ 11948/2/07 REV 2

29. Development of the European network of *Financial Intelligence Units* is still incomplete. All Member States need to be connected operationally and FIUs need to use the platform in order to establish the FIU.NET as a viable EU-wide network. The informal FIU Platform has continued its activities. This platform was established by the Commission to provide EU FIUs with a forum for discussing practical issues affecting their activities, with a view to the implementation of the third Anti-Money Laundering Directive and to ensure its uniform implementation. Key issues have been selected for ad-hoc analysis, in order to identify practical problems and solutions to be incorporated in reports.
30. The Commission has also begun its evaluation of the implementation by EU Member States of the Council Decision of 17 October 2000 concerning arrangements for cooperation between FIUs. A report is expected by the end of 2007.
31. There has still not been much progress on the abuse of the non-profit sector by terrorist financiers. At the current stage of discussions, it appears that there are significant differences between practices in the Member States, allowing limited scope for comprehensive EU level legislation in this area. However, while implementing their own rules individually according to the FATF criteria, Member States could continue to explore further the scope for a common EU approach to certain aspects of reducing NPO vulnerabilities to criminal (terrorist) infiltration. The five principles, decided by the JHA Council in December 2005, could function as a general guideline for this. Building on the Communication of November 2005 [COM (2005) 620], the Commission has launched a study assessing the extent of the abuse of non-profit organisations for criminal, including terrorist financing purposes at EU level. Results are to be presented at a meeting of experts hosted by the Commission in the first half of 2008.

32. Given the fact that several recommendations of the current Strategy have been implemented and on other recommendations progress has been made, decisions on a follow-up to the Strategy are necessary. Countering terrorist financing is an evolving process. Terrorist financing typologies are constantly changing, as are the methods and tools for countering them. Two years after the adoption of the strategy, this would be the right time to update and, where appropriate, revise the strategy on the basis of proposals made jointly by the Secretary General/High Representative and the Commission. EU policies and practices must be kept under constant scrutiny to ensure that they continue to be appropriate in the face of current terrorist financing trends.
33. An exchange of views with the Member States will start in December 2007 and a final decision is expected in the first half of 2008. In the interim and until this decision has been taken, a proposal will be made to transform the current strategy into an implementation plan, focusing on those elements that have not yet been implemented. This implementation plan needs to set out specific target dates and indications of responsibility for taking action.

Operational cooperation

34. At the end of the German Presidency the Council reached political agreement on a Decision on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime¹. This Decision contains provisions based on the essential parts of the Prüm Treaty (originally signed by 7 Member States in 2005) and is designed to improve the exchange of information between authorities responsible for the prevention and investigation of criminal offences. The Council reached agreement on a general approach on the implementation of the relevant Decision² in November.

¹ 11896/07

² 14611/07

35. In November the Council also reached agreement on a general approach on the Draft Council Decision on the improvement of cooperation between the special intervention units of the Member States of the European Union in crisis situations¹. This Decision lays down general rules and conditions to allow for special intervention units of one Member State to provide assistance and/or operate on the territory of another Member State in cases where they have been invited by the latter Member State and have agreed to do so in order to deal with a crisis situation.
36. The Council has continued its discussions on replacing the Europol Convention by a Council Decision. A general approach has been reached on Chapters I, II and III of the draft Council Decision establishing the European Police Office (Europol). An implementation plan for the draft Council Decision was endorsed by the JHA Council at its meeting on 8 and 9 November 2007. The draft Council Decision is expected to be finalised by June 2008.
37. The Commission issued a communication² on the role of Eurojust and the European Judicial Network in the fight against organised crime and terrorism, proposing steps which would enable Eurojust to develop its potential for cooperation and to establish itself further as a vital player in the fight against organised crime and terrorism in Europe.
38. During the Portuguese Presidency, work in the area of explosives has been taken forward. The Commission adopted Communication on enhancing the security of explosives on 6 November 2007, which contains an EU Action Plan for Enhancing the Security of Explosives. Further to this communication, Council conclusions will be agreed on 6 and 7 December 2007 adopting Strategic Orientations and Priorities on the security enhancement of explosives. The Priorities include the establishment of an Early Warning System, of a network of EOD units, of a Standing Committee on precursors and of a European bomb database. Negotiations with a view to adopting a full EU Action Plan for Enhancing the Security of Explosives will continue under the Slovenian Presidency and will *inter alia* cover issues such as public security, precursors to explosives, storage, transport, traceability and detection of explosives.

¹ 14312/07

² 14253/07

39. SitCen has continued to provide the Council and the Commission with regular analyses of developments in relation to the terrorist threat. Joint analyses with Europol have also been presented.

Legislative agenda

40. The Council reached agreement on a general approach on the Framework Decision on taking into account convictions in the course of new criminal proceedings last year. However, there are parliamentary reservations outstanding.
41. According to The Hague Programme, the Framework Decision on the European Evidence Warrant should have been adopted by the Council at the end of 2005. The Council reached political agreement in June 2006. However, since several parliamentary scrutiny reservations remain, the text will probably not be formally adopted by the end of 2007. The issue of parliamentary reservations from some Member States is continuing to slow down the adoption of instruments in the Third Pillar.
42. Discussions about the Framework Decision on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters have continued. As the scope of the Draft Framework Decision has been limited to cross-border data, a general approach was reached in November 2007.
43. The draft Framework Decision on organisation and content of the exchange of information extracted from criminal records between Member States is nearly finalised in the Council and the European Parliament. It became apparent, however, that a new instrument will have to be created before it can become operational. A pilot project is on-going between 12 MS and the Commission is expected to come forward with a new proposal for a second instrument in the first semester of 2008.

44. In the Hague Programme (item 3.3) the European Council called for the adoption of a Framework Decision on certain procedural rights in criminal proceedings by the end of 2005. After long discussions, the Council has noted that no agreement can be found among the Member States.

International cooperation

45. In its political dialogue with international partners, the EU continued to promote the role of the UN in the fight against terrorism. In particular, the EU played a key role in supporting the implementation of the UN Counter-terrorism Strategy which reflects the priorities of the EU's own strategy. Dialogue with the US and Russia was maintained in several fora. A high-level political dialogue on counter-terrorism took place with Pakistan. In its dialogue with partners, bilaterally and multilaterally, the EU has continued to emphasize that the fight against terrorism must be conducted in full respect of the rule of law and human rights.
46. In line with UNSCR 1373 (2001), the EU has continued to offer technical assistance to many countries so as to enhance their counter-terrorism capacity . Special cooperation and assistance programmes in the area of counter-terrorism are in place with Morocco and Algeria. The EU has convened ad hoc troika meetings with Algeria in order to assess cooperation to date and exchange views on a possible next phase. Cooperation has also been launched with Indonesia. The EU's support for the Jakarta Centre for Law Enforcement (JCLEC) has yielded practical results and assistance to the African Union Counter-terrorism Centre in Algiers is under consideration. The lack of appropriate funding has been a major obstacle on the EU side. The EU should therefore continue to make sure that existing funds, such as the Stability Instrument or the CFSP budget, are used efficiently for counter-terrorism cooperation. The lack of availability of experts for carrying out concrete projects is also a matter of concern.

47. In bilateral and multilateral meetings, the EU continues to raise the issue of ratification and full implementation of the 16 counter-terrorism UN Conventions and Protocols. With regard to the implementation of the UN Global CT Strategy, the EU is conducting a stocktaking exercise in order to assess its own achievements so far. The EU will also examine further possibilities to develop its activities in this respect, to cooperate with relevant UN agencies and to share its experience and best practices with partners. The EU has also continued its diplomatic efforts to achieve an international consensus on the Comprehensive Convention on International terrorism.

RESPOND

48. The fourth priority of the EU's Counter-terrorism strategy is to prepare the EU, in a spirit of solidarity, to manage and minimize the consequences of a terrorist attack, by improving capabilities to deal with the aftermath, the coordination of the response, and the needs of victims.

49. In November, the Council adopted the Decision establishing a Community Civil Protection Mechanism (recast). The Mechanism itself is a system for preparedness, mutual assistance and coordination in the response to disasters. The recast will make the Mechanism more robust, especially by the use of a "modular approach" which will enhance interoperability among EU teams. It will also make the Monitoring and Information Centre more proactive, mainly in the areas of assessment of the situation and of the provision of transport for civil protection interventions. Account has also been taken of the immediate sharing of medical resources in the event of disasters such as CBRN attacks.

50. In parallel, the Council adopted, in June 2007, conclusions on enhancing the coordination capacity of the Civil Protection Monitoring and Information Centre (MIC), which invites the Commission to develop that Centre as a user-friendly platform for information, communication, analysis, advice and practical assistance.

51. Also in June the Council adopted conclusions on preparedness for the decontamination of casualties following chemical, biological, radiological and nuclear incidents (CBRN) which advocate, in the framework of the Financial Instrument and the Mechanism, precautionary measures to avoid primary or secondary contamination, exercises, training and the spread of best practices¹.
52. The Commission submitted to the Council in July a Green Paper on Bio-Preparedness² that started a wide consultation among the Institutions, industry, Member States and third countries about ways and means to protect populations, life and the environment against all biological hazards such as diseases, accidents, crimes and terrorism, in particular in the event of multiple incidents.
53. The Green Paper suggested the creation of a pro-active safety culture in a public-private partnership, using the existing Community tools such as the many EU rapid alert systems (RAS) and the EU strategy and programme on weapons of mass destruction. Elements for special attention could be controls on the dissemination of bio-agents and of relevant information, the creation of a network of experts, the listing of bio-agents, the analysis and classification of bio-risks, vaccine-banks, improved surveillance, detection, laboratory capacity and expertise.
54. For its part, the Council is likely to adopt in December 2007, in reaction to the Green Paper, conclusions on addressing Chemical, Biological, Radiological and Nuclear Risks and on Bio-preparedness, which aim at improving the quality and interoperability of threat assessments, detection, preparedness and response in the EU, using the existing Community Programmes, Strategies and instruments, as well as public-private partnerships.

¹ 10015/07

² 11951/07

55. Following approval of the Emergency and Crisis Coordination Arrangements in Brussels by the Council in 2006, the Council in cooperation with the Commission and the Member States, held, in September, a second crisis exercise. The scenario envisaged a near-simultaneous terrorist attack using a biological agent¹.

ESDP

56. Work continued on the Headline Goal 2010, where the terrorist threat was included in all relevant scenarios in 2005 in the framework of the definition of military requirements leading to completion of the Progress Catalogue 2007. Required military capabilities include Command and Control, Intelligence, Survivability, Readiness, Deployability, Force and Mission Protection, and CBRN Defence. The key military tasks to be investigated include preventive measures such as Embargo Operations, Secure Lines of Communications, Fight against the Proliferation of WMD, and protective/reactive measures such as Consequence Management.

57. The database of military assets and capabilities (originally created for dealing with the consequences of terrorist attacks) is under expansion to cover all natural and man-made disasters. The database is a compilation of voluntary contributions from Member States.

58. Helping citizens in an emergency situation requires rapid and effective delivery of assistance. Military means may be essential to complement civilian capabilities. Detailed procedures concerning military-owned and military-chartered transportation have been developed with the Member States, the relevant Commission departments (DG ENV-MIC and DG ECHO), and the Multi-National Movement Coordination Centres in Athens and Eindhoven. A tabletop exercise with the Commission's department for humanitarian aid (ECHO) to test transport procedures took place in May 2007. A similar event with the Monitoring and Information Centre (MIC) is also scheduled to take place by the end of 2007. The framework for military support for EU disaster response developed in 2006 will be revised in the light of experience gained.

¹ report in 14650/1/07 REV 1