



**COUNCIL OF
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NOTE

from: EU Counter-Terrorism Coordinator
to: Council/European Council

Subject: EU Counter-Terrorism Strategy - Discussion paper

Introduction

Recent events have shown that the terrorist threat continues to evolve rapidly. Analysis and response to attacks has been improving, but despite our increasingly good evaluations of the threat we are still short of practical measures to address the most worrying phenomena: “lone actor” terrorists and the emergence of “safe havens” outside the EU. The recent development in Yemen of a bomb designed to pass through security scanners is a perfect example of what we are now up against, and we are very fortunate that it was detected in time.

The last JHA Council already discussed the threat based on an analysis of the Mohamed Merah case, and agreed Conclusions¹ which address an important aspect of the internal threat: how to help extricate people from violent extremist groups. My paper on lone actor terrorism² makes a number of further proposals, highlighting the importance of better analysing travel by terrorists and would be terrorists – who are always most vulnerable when they move. PNR is an essential source of information, already under discussion in the Council. New communications technologies could provide opportunities for terrorists to avoid detection, but also for law enforcement to spot patterns of behaviour. We need to be thinking already about what this means for protecting privacy and at the same time protecting our citizens. The recent case linked to Yemen has shown that aviation security remains a challenge, and I also remain concerned that we are not doing enough to address potential vulnerabilities in land transport, and in our cyber security.

As an annex I have made a list of actions which I recommend to the Commission, the EEAS, coming Presidencies and the EU's international partners. The key issues which I want to raise in this paper are the role of the EU's specialised agencies in the fight against terrorism, information exchange, and the broad question of how we work with international partners to improve the security environment for all of us. I am concerned that the specialised agencies are not being used to their full potential. As one example (see below) how many investigators in EU Member States realise that Europol can request TFTP searches from the US Government? We are still not only failing to “connect the dots”, but too often hiding them from each other.

And we do not use all the tools we have to intervene effectively to relieve situations of insecurity that can be breeding grounds for terrorism, even when these situations have been predicted well in advance and lie on our own doorstep. The EU has congratulated itself on identifying Yemen and the Sahel as potential crisis situations with implications for the terrorist threat and had developed strategies for addressing them. But in both cases events have moved much faster than our strategies have been able to be implemented, and we are now faced with the real possibility of new terrorist sanctuaries being created ever close to the European Union.

¹ 8624/12

² 9090/12

The Role of the Agencies

The EU agencies (Europol, Eurojust, Frontex, ENISA) and bodies (IntCen) active in the field of internal security need to constantly adapt their work and methods to the evolving nature of the threat, maximize the potential of their legal basis and step up cooperation among themselves if they are to support effectively Member States prime responsibility to fight against terrorism. They also need to receive relevant input from Member States' competent authorities.

In addition to its support to Member States' terrorist investigations and its participation in joint investigation teams, Europol has developed or is in the process of developing a set of useful CT products/instruments including the TE-SAT report (supported by Eurojust), the explosive/CBRN databases, "check the web", the European Cybercrime Centre (by 2013), and the First Responders Network, used for the first time in the wake of the Breivik case in July 2011.

A total of 27 terrorism cases were opened at Eurojust in 2011, and Eurojust continues to organise relevant strategic and tactical meetings (in 2010 on the issue of VoIP technology for terrorist purposes, and in 2011 on the use of the Internet by Islamist extremists and Violent Single Issue Extremism/Terrorism). Since 2008 Eurojust has developed a regular Terrorism Convictions Monitor (TCM) as well as a Memorandum on Terrorism Financing which provide a regular overview of developments throughout the EU.

Frontex has not yet been involved directly in CT work but is associated with the border security aspects of the EU and UN Global CT strategies.

IntCen continues to provide Member States and EU institutions with many strategic assessments of the various aspects of the CT threat and routinely consults and collaborates with the EEAS, the Commission and the Office of the CTC.

Based on their revised 2009 agreement, cooperation between Europol and Eurojust has significantly progressed¹. Europol attended 89 out of 204 Eurojust coordination meetings in 2011 (but according to the Joint Europol-Eurojust Annual Report the number of operational meetings where Eurojust is invited by Europol is still low in comparison). Eurojust is systematically invited to the Europol's High Level Experts Meetings on terrorism and Europol attends Eurojust's annual strategic meetings on terrorism. Europol is also invited, if relevant, to the Eurojust's tactical meetings on concrete terrorism issues. Despite the fact that it has been associated to 17 out of the 23 Analytical Work Files (AWF), Eurojust is not yet associated with the two AWF dealing with terrorism (Hydra and Dolphin). Cooperation between Europol and Frontex in CT is so far limited, but the entry into force of the amended Frontex regulation (1168/2011), which allows Frontex to process personal data, opens new avenues for operational cooperation, without prejudice to the leading role of Europol in CT. I therefore welcome the intention of both agencies to negotiate an operational agreement, which should include procedures for the exchange of personal data. In previous documents², I have called Europol to draft with the contribution of Frontex a report on the travel of would be terrorists to hot spots, looking at the routes, modus operandi, means of transport, facilitation network, travel hubs etc... Europol and IntCen are working more and more together, but more still needs to be done. When Europol responds to IntCen requests for information, the resultant products can only be shared with Europol after the agreement of all Member States, which causes delays. Furthermore, no joint strategic assessment reports, for example on the nexus between terrorism and organised crime, have so far been produced. In the 2011 and 2012 editions of the TE-SAT report, Europol identified isolated examples of links between organized crime networks and terrorist groups. Finally, Europol should reinforce its cooperation with ENISA in the field of cyber security.

¹ See Joint Europol-Eurojust Annual Report to the Council and Commission for 2012 and 2011, doc. 9045/12

² See discussion paper, November 2010, doc. 15894/1/10 and Preventing lone actor terrorism - Food for thought, doc. 9090/12

The effectiveness of the work of the EU agencies and bodies depends heavily on Member States willingness to provide them with relevant information and to involve them in concrete investigations and prosecutions, in particular through joint investigation teams (JITs). There is considerable room for improvement in this area. The 2005 Council Decision on the exchange of information and cooperation concerning terrorist offences (2005/671/JHA) is not being implemented as it should be. 27 cases were registered at Eurojust, yet according to the 2012 TE-SAT report there were 153 concluded court proceedings involving terrorist charges reported in 12 Member States in 2011. A number of Member States spontaneously contribute information related to terrorist offences, while others only share information that is related or relevant to cases they are directly involved in and in which they consider Europol's role to be of benefit to their investigation. One of the reason might be that the Council Decision puts an obligation on Member States to provide Europol and Eurojust systematically with information concerning investigations, prosecutions and convictions for terrorist offences "which affect or may affect two or more Member States". I share Europol's view that all terrorist incidents are of relevance to two or more Member States and that a narrow interpretation of this provision can lead to delays in the provision of information because the impact on other Member States may not be apparent in the immediate aftermath of an incident and can only be established in the course of the investigation. Furthermore, Member States could avail themselves more of the tools provided by Europol and Eurojust. Two examples: although 33 new JIT's have been set up in 2011 with Eurojust's assistance, only one JIT was set up in field of counter terrorism¹; Member States could also avail themselves more of Article 10 of the 2010 EU-US agreement on TFTP and launch requests for US TFTP searches through the Single Point of Contact of Europol.

¹ A second JIT, initiated in previous years, was still operational in 2001

Information Sharing

Information gathering, sharing and analysis remain the key factor in preventing and combating terrorism and other serious crime. Member States and the EU, together with relevant third parties, have developed over the years a number of useful instruments to collect, exchange and process data and have done so to the benefit of our citizens' security while respecting fundamental rights, in particular regarding data protection. Nonetheless, recent attacks have shown that more efforts are needed to connect the existing dots and ensure that available information is actually delivered and acted upon by the appropriate authorities at the appropriate moment. If we are to ask EU citizens to let us have more data on them, such as PNR or bank transfer data, we owe it to them to make sure that this data can actually be used.

The EU is currently reviewing its data protection regime notably to adapt it to "a global society characterised by rapid technological change where information exchange knows no borders"¹. Unfortunately, the exchange of information for the purposes of combating terrorism and other serious crime is still struggling to overcome a number of borders: not only national, but also bureaucratic. I am eager to see the Communication on a European Information Exchange Model, as requested from the Commission by the Stockholm Programme. I hope it will provide a candid and realistic policy view of the business needs of internal security actors as regards information sharing and analysis:

- it should start from the operational reality, not focus on specific instruments
- it should set out coherent policy options for existing needs, not follow historically defined legislative avenues
- it should challenge the "silo mentality" whereby authorities work separately in isolation
- it should provide ideas and recommendations for Member States to ensure a better cross-disciplinary information exchange, which should be limited but also focused by the user needs while respecting necessary restrictions including data protection
- it should also address these issues at EU level and critically assess the legislation on JHA agencies, drawing up guidelines for future legislation and/or implementing agreements to go beyond the authority-based approach and move to a business needs approach

¹ Quote from the explanatory memorandum of the draft Directive on data protection

I rely on the Commission to present a paper that challenges historically grown anomalies and gaps and to submit proposals for a coherent, multi-disciplinary model of information exchange for internal security in its broadest sense, including personal data protection and data security.

The International Dimension - Review of the UN CT Strategy

The end of June 2012 will see the fourth review of the UN Global Strategy on Counter-Terrorism. The international consensus which has been maintained behind the Global Strategy is an important symbol of the international community's rejection of terrorism (even if a precise definition is still elusive) and the review is a good opportunity to reflect on how the EU can improve the security of its own citizens by helping to make the wider world more secure, and also on what experience the EU has which can help make the UN itself more effective.

There has already been discussion within the EU, and in the EEAS led Political Dialogue with the relevant UN agencies, from which a number of points have been clear. Firstly that within the EU no-one wants to go through the exhausting process of negotiating a revision of the UN strategy, but that we need to make the UN strategy more effective and its implementation more balanced. The appointment of a UN system wide coordinator on CT would be an effective way to give a central focus and higher visibility to CT efforts within the UN, which otherwise tend to be pulled apart by the diverging objectives of the large number of interested agencies. But in addition to organisational changes, there is also a need for the UN system to go beyond legal instruments and law enforcement and do more in terms of addressing "conditions conducive to the spread of terrorism". The EU has much to offer in this regard, in particular on preventing and countering violent radicalisation and ensuring that reality is given to the notion that effective CT and the promotion and protection of human rights are mutually reinforcing concepts.

Preventing and Countering Radicalisation

In my past discussion papers I have encouraged the EU and Member States not only to pursue prevent work internally, but also to use this expertise in preventing and countering radicalisation and recruitment in third countries. Today, I see that the internal-external gap in this area remains considerable and that the EU is still doing little on "Prevent" in third countries whose security matters to us.

Current EU programming in the Horn of Africa, Pakistan and the Sahel contains several elements that aim to address radicalisation and recruitment, but not in a comprehensive and structured manner. The inter-dependence between security and development is still not fully recognised (see below). To be effective from a prevent perspective, development programs need to concentrate on specific geographic areas and on communities which are vulnerable to the appeal of violent extremists. Counter-radicalisation experts can help identifying how the most vulnerable individuals can be reached. Involving these experts in programming discussions and the relevant funding committees is crucial. As a good practice of how to mainstream prevent work into development programmes, I would like to mention a vocational training project in Pakistan. This project was initiated in order to improve socio-economic conditions, create jobs and alleviate poverty, but due to its geographical focus on Punjab - where radicalisation is becoming increasingly worrisome - it has been extremely relevant from a prevent perspective.

Targeted counter-radicalisation interventions are also needed, but they are sensitive and have to be carefully designed. They could include programs to stop people being recruited in prisons, train law enforcement officers in the early detection of radicalisation, raise awareness in government agencies of what radicalisation is and how to best counter it, etc. Lessons learned can be drawn from relevant projects in Member States and from the Radicalisation Awareness Network (RAN). At the same time, it is important to keep in mind that the dynamics of radicalisation are usually context specific and that there is no simple check-list for 'what works'.

To be effective, the EU first of all needs to develop a clear vision how the prevention of radicalisation in third countries fits in as part of the EU's external assistance. This requires a strategic framework that considers the nexus between security and development and outlines how Political Dialogues, CT and Human Rights dialogues and programming discussions can best be used from a prevent perspective. It should also set out the overall objectives and the general strands for EU action in the field of prevention, such as challenging the ideologies that underpin radicalisation and recruitment, increasing resilience of local communities, supporting mainstream voices, etc. The strategic framework should also help ensure that programming and project implementation are fully in line with the set objectives. Today, this is not always the case. Mauretania, for instance, is so far the only Sahel country in which counter-radicalisation projects are being developed in spite of the Strategy's overall focus on prevention.

The EU should systematically consider launching field studies in order to map out the local dynamics. Such a study is about to be launched in Nigeria to fill the knowledge gap on Boko Haram, its origins, evolving nature and scope. Only with such field research can the EU determine reliably where and how is radicalisation occurring, which groups of people could be most vulnerable, what are the main drivers of radicalisation, and therefore, which are the main entry points for EU intervention. Based on the recommendations of these studies, targeted projects can be developed with the help of project writing experts; this is the point where project management expertise and counter-radicalisation expertise needs to be brought together.

Field studies can also help identify local partners on the ground. Evidence-based knowledge of local dynamics is crucial in choosing grassroots partners that have a demonstrable record of condemning radical ideologies and know how to counter them. Involving and empowering these partners will make the programs far more effective and sustainable over the long term. Our ultimate goal should be to reinforce their efforts, not duplicate them. The Instrument for Stability (IfS) offers considerable flexibility to make direct cooperation easier with civil society actors and local public authorities, and this is possible under other instruments as well (see below).

Another key ingredient to success is to develop partnerships with individuals and civil society groups in our own countries that have particular connections to regions of concern. Their socio-economic and political ties to their countries of origin can help us to better make the link between domestic and overseas prevent work and to act more effectively. New areas of cooperation need to be explored in order to benefit to the utmost from their knowledge and experience. Follow-up opportunities to the EU - US seminars on Somali and Pakistani Diaspora need to be identified.

For the EU to be complementary and reinforcing, it is also essential to map out existing counter-radicalisation efforts of Member States in third countries. COTER and TWG should be used as the natural internal-external fora where Member States' expertise can feed into joint EU-Member States prevent programming and project implementation. A closer involvement of Member States would be extremely useful to help increase the EU's visibility and enhance the ties between the recipient country and the Member States. EU prevent efforts also need to be - as much as possible - in line with the priorities of the concerned countries. A good example is Nigeria, where a security committee was set-up in order to jointly discuss the security challenges and to ensure that EU efforts fit into the priorities of the Nigerian authorities.

Last but not least, it is important to evaluate our work. Very little evaluation has been done so far and as such it remains unclear how effective our interventions are. Developing a body of knowledge on 'what works' is needed. Hence, the importance of Member States, EEAS and the Commission sharing their evaluations - however limited these may be - in COTER/TWG. The Global Counter Terrorism Forum (GCTF) evaluation work stream could also be particularly relevant in this field.

CT and Human Rights

A key facet of making the implementation of the UN Strategy more balanced is a renewed emphasis on the promotion and protection of human rights, which is essential for effective long term success in the fight against terrorism. Too often the counter-terrorism and human rights communities do not work together enough and do not end up with integrated policy strategies and dialogues.

It is in the EU's interest that our own and third countries' counter-terrorism efforts comply with human rights and the rule of law. Not only because it is essential to prevent radicalization and recruitment (counter-terrorism policies which are perceived as unfair or discriminatory serve as a recruitment tool for terrorists and may create more terrorists than they incapacitate), but also because it facilitates law enforcement cooperation. International criminal justice cooperation is crucial because terrorists operate globally. Given our own human rights obligations, a high level of human rights compliance in third countries is thus a pre-condition for this cooperation.

Promotion and protection of human rights are important to all parts of the UN Strategy, which expresses the shared view of the international community that “effective counter-terrorism measures and the protection of human rights are not conflicting goals, but complementary and mutually reinforcing”. We have to show that this commitment is not just rhetoric. The principle of respecting human rights and the rule of law needs to be a vital component of counter-terrorism assistance internationally. An international conference organised on 12 March this year by the Danish Presidency began the process of identifying how best counter-terrorism measures and capacity-building efforts can be grounded in human rights and the rule of law. The outcomes of the conference will be useful input to the UN review.

Capacity building in human rights compliant counter-terrorism work is important across the whole criminal justice chain. In the EU we have developed a broad range of experience, and we also support the capacity building work done by UNODC and initiatives by UNCTED, such as the informal counter-terrorism prosecutors network.

The EU promotes a criminal justice approach to the fight against terrorism. Human rights law, in particular the Convention against Torture and the International Covenant on Civil and Political Rights, has to be respected in the criminal prosecution of terrorists. These concepts are often abstract. It is therefore important to develop good practices and guidelines that show how effective counter-terrorism investigations and prosecutions that respect human rights can be done in practice. The guidelines by the Danish Institute on Human Rights are an excellent starting point as they identify the human rights challenges of different phases of the criminal justice response to terrorism and offer solutions. The EU Guidelines on Torture offer best practices as to how best to avoid torture and ill-treatment in detention and interrogation. However, while the EU is trying to promote a regional approach modelled on the EU experience, we have to be careful. For example, in the absence of human rights guarantees, an obligation to fast track and automatic extradition of terrorist suspects, on the lines of the European Arrest Warrant, risks violating non-refoulement obligations and making human rights violations worse.

Security and Development

In recent years the understanding of security has also been evolving, away from purely military security, which dominated the debate during the Cold War, towards human security, the security and well-being of the individual. In 2007 the Council recognised in Conclusions on Security and Development that security and development are linked, and that one is not possible without the other. It stressed the importance of increasing coherence between security and development, of transparency and that the nexus between development and security should inform EU strategies and policies. I welcome the Commission's "Agenda for Change", which recognizes that the objectives of development, democracy, human rights, good governance and security are intertwined and suggests

a stronger focus on human rights, democracy and the rule of law, anti-corruption, civil society, the development and security nexus, and economic growth. It states that the "EU must intensify its joined-up approach to security and poverty, where necessary adapting its legal bases and procedures. The EU's development, foreign and security policy initiatives should be linked so as to create a more coherent approach to peace, state-building, poverty reduction and the underlying causes of conflict". The European Consensus on Development states that "insecurity and violent conflict are amongst the biggest obstacles to achieving the MDG's". The World Bank has also worked on this issue and in its 2011 report "Conflict, Security, and Development" highlights for example the importance of restoring confidence and transforming the institutions that provide citizen security, justice, and jobs.

In spite of the growing recognition of the importance of addressing security issues in the context of development, and in order to respond to the need of coherent policy and joint strategies between the various players, the EU is not yet using its full potential in this area. The Instrument for Stability, which explicitly allows capacity building in the fight against terrorism and assistance related to other security challenges, as well as the instrument for the promotion of democracy and human rights worldwide, which can provide oversight and accountability of security and justice sectors, still have very limited funding compared to traditional development instruments.

If the EU wants to promote really integrated strategies to help the countries address instability and insecurity, it needs to mobilize development money. This is often resisted on the grounds that this would not be a proper use of Official Development Assistance (ODA). This is wrong for two reasons: first, a lot of what would need to be done in relation to counter-terrorism and security is in fact possible under the definition of ODA; and second, for projects which cannot be so defined, EU financial instruments such as the Development Cooperation Instrument specifically allow for up to 10 % of spending which does not fall under the definition of ODA. Over the past decade, in particular the OECD and its Development Assistance Committee (DAC) have carried out enormous work in this field. The DAC Reference Document "A Development Co-operation Lens on

Terrorism Prevention" of 2003 states that "terrorism is a form of violent conflict and conflict prevention is an integral part of the quest to reduce poverty". While "development cooperation cannot and should not target individual terrorists nor combat their networks", it "does have an important role to play in helping to deprive terrorists of popular support and addressing the conditions that terrorist leaders feed on and exploit". The guidelines sets out a wide variety of measures related to prevent that qualify as Official Development Assistance (ODA), both general CT relevant actions and CT counter-radicalization specific actions: bolstering long term structural stability, including respect for human rights and the rule of law, representative political structures, including accountable security systems; developing shared analyses of grievances; promoting advocacy and public dialogue; supporting public education, information, outreach campaigns; supporting voices such as victims, and religious leaders; addressing exclusion; supporting civil society that promotes peaceful change, media (journalists education); helping build bridges, promote inter-ethnic and inter-faith dialogue; avoiding disenfranchised youth (employment, education, including reflection on education systems and the content and purpose of curricula, better understanding the connections between moderate forms of religion and education, encouragement of charity and religious schools that promote practical skills knowledge and tolerance); access to basic services; making political systems more responsive; strengthening the rule of law (including support systems to deal with legal, judicial, and law enforcement issues relevant to international terrorism, addressing corruption, strengthening capacity of law enforcement agents and judicial systems, in accordance with human rights); and improving the security system as part of governance and public sector reform, in particular the prison system. The DAC Guidelines "Security Sector Reform (SSR) and Governance" promote a global, comprehensive vision in a whole-of-government framework, which would draw on both ODA and non-ODA resources. They argue that SSR should be mainstreamed into development work. The DAC Guidelines "Helping Prevent Violent Conflict" set out numerous measures that are also relevant in the context of prevention of terrorism. In addition to prevent activities as outlined above, ODA can finance police training (with the exception of intelligence gathering on terrorism).

Activities recognized as ODA have included support of peace-keeping missions, DDR, activities targeting the reform of security services, and activities targeting police reform. Therefore, despite the limitation on some specific counter-terrorism and military activities, development cooperation could be mobilized to address to a large extent issues relevant to the fight against terrorism. It might be worth further clarifying the exact limits of ODA in this regard.

Another question, as raised by the Commission's "Agenda for Change", is whether the EU needs to adapt the legal basis for its cooperation instruments, to allow for counter-terrorism assistance (even if it does not qualify as ODA). In the "Philippines" case (C-403-05), the European Court of Justice declared a Commission project illegal because Member States had specifically rejected the introduction of counter-terrorism as one of the objectives of cooperation and hence it was not enumerated in the regulation. In the ECOWAS case (C-91-05), the rights of the Commission were infringed by the Council, because prevention of small arms proliferation could be addressed under the community development competence. Hence, there is no ruling that would generally prohibit the Commission to act in these areas. The AMISOM operation is in fact financed by the EDF.

Therefore, it is wrong to suggest that development assistance excludes security *per se*. Instead, the EU should explore how best development money could be used to provide integrated, comprehensive security sector reform, rule of law, justice, human rights and prevent strategies, in line with the OECD-DAC suggestions. In the context of the Multiannual Financial Framework, the Commission has tabled proposals for revised instruments such as the Development Cooperation Instrument¹ and the European Neighbourhood Policy Instrument². So far, while emphasizing the security and development nexus, in contrast to the OECD-DAC recommendations, neither of the two draft instruments, which will determine to a large extent EU development assistance until 2020, contains satisfactory language regarding the prevention of terrorism, and security sector reform, nor

¹ Proposal for a regulation of the European Parliament and of the Council establishing a financing instrument for development cooperation, COM (2011) 840 final

² Proposal for a regulation of the European Parliament and of the Council establishing a European Neighbourhood Instrument, COM (2011) 839 final

on counter-terrorism. This should be addressed. In fact, while counter-terrorism is mentioned in the current ENPI, it is no longer included in the new draft. When specifying the security and development nexus, the draft DCI only refers to drugs, border management and corruption, not terrorism. While the fight against corruption and organised crime are mentioned as specific objectives in the draft Instrument for Pre-accession Assistance (IPA II), counter-terrorism has not been included in the draft. A strategic debate on our future approach is needed, and counter-terrorism and security experts should involve themselves into the debate.

One problem that the EU has in practice is that there is rarely a strategic debate with all relevant players about the kind of development approach which should be taken, neither in view of the updating of the EU instruments, nor towards a particular country. Member States are usually informed in specific Committees about projects without regional or security expertise at the table.

There is no history of strategic debate, for example, in the EDF Committee. I welcome the initiative for “joint programming” of Member State and EU assistance, and I hope that this can be the foundation for the kind of broader strategic approach I have described above.

Africa

Nowhere is integrated security and development more needed than in Africa. The situations in the Sahel and the Horn of Africa are continuing to deteriorate, to the point where they impact directly on EU security, are spreading to other countries and are combining with each other. The Foreign Affairs Council adopted in March last year an integrated European Strategy for Security and Development in the Sahel which identified the key vulnerabilities of the countries of the Sahel and the toxic cocktail of threats they faced, but unfortunately the EU was unable to deliver action on the ground in time to stop Mali being almost overwhelmed. We are now faced with an ungoverned space in the North of Mali in which the local Al Qaeda franchise, AQIM, as well as other groups like Ançar-ed-Dine and MUJAO enjoy a safe haven and control cities. Kidnappings have already increased, and are becoming increasingly violent, which will make foreign investment and development work increasingly difficult. A terrorist safe haven in Mali would also pose an increased threat to Algeria, and the rest of the Maghreb, and also in other directions (e.g. Senegal).

The success of AQIM seems to have encouraged at least one strand of the radical Boko Haram movement in Nigeria both by example and practical assistance. There is also evidence of development of connections across the Sahel with Al Shabaab, whose leadership has also now been explicitly welcomed into the Al Qaeda fold. The example of Yemen already shows how an AQ franchise can develop into an independent threat to the EU. We need to move more quickly and more decisively to help the countries of the region to resist the spread of terrorism, but to do so in a way which does not make the problem worse, for example by excessive repression or inflaming ethnic tensions. What happened to Mali shows that the urgency of the situation cannot be underestimated. In this context, the planned CSDP Mission Niger assumes an even greater importance in ensuring that the crisis does not spread more widely and I would urge those involved to keep up the rapid pace of work to get this Mission active on the ground.

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Recommendations for Action

The Role of the Agencies

- Eurojust should be invited to attend more operational meetings at Europol and be allowed to participate in the focal groups set up in the context of the Analytical Work Files dealing with terrorism
- Eurojust is invited to start posting liaison magistrates to third States where terrorism raises a serious threat for the internal security of the EU, as foreseen by Article 27 a of the Eurojust Decision
- Europol is invited to conclude as soon as possible an operational agreement with Frontex. Europol is invited to draft with the contribution of Frontex and IntCen a report on the travel of European Jihadists to and from training camps located outside the EU. The Internal Security Committee (COSI) is invited to define the contribution of border control in counter terrorism
- Europol and IntCen should provide the Council with a joint report on terrorism and organised crime. Member States and IntCen are invited to speed up the procedure for sharing with Europol IntCen reports to which Europol contributed
- Europol is invited to finalize the negotiation of its MOU with ENISA
- Member States are invited to implement more systematically the Council Decision on the exchange of information and cooperation concerning terrorist offences (2005/671/JHA) and consider that all terrorist incidents in the EU should be recognised as affecting or likely to affect two or more Member States
- Member States are invited to set up more JIT's in the field of terrorism and to involve more often Europol and Eurojust in these JIT's. The Commission is invited to explore the possibility to continue providing financial support for the setting up of JIT's in CT when the current financing ends in 2013

- Member States are invited to avail themselves more of Article 10 of the EU/US TFTP agreement by launching requests for TFTP searches through the Single Point of Contact of Europol

Preventing and Countering Radicalisation

- The EU should develop a strategic framework on how to do prevent work in third countries.
- CT experts should be involved in the programming discussions and relevant funding committees.
- EEAS, FPI and DG DEVCO should systematically consider to launch field studies as the starting point of any prevent intervention .
- CION and its Radicalisation Awareness Network should explore the possibilities to share good practices between the EU and third countries in relation to counter-radicalisation efforts. What works well internally could be useful for planning external actions and vice versa, especially where there are established cultural ties. This could be explored at the Ministerial Conference planned by the Commission in October 2012.
- EEAS and CION should disseminate the appropriate information in TWG/COTER to allow the necessary involvement of MS in both concrete projects and relevant policy decisions.
- The EU should create incentives for MS counter-radicalisation experts to engage also externally in the delivery of projects - draft a roster of experts for capacity building assistance to third countries.
- EEAS should reinforce EU Delegations' capacities with counter-radicalisation experts in priority countries - more input from the delegations in the project programming
- EEAS should ensure that EU Delegations in priority countries hold regular coordination meetings with EU MS to identify areas of synergy and overlap
- MS, EEAS and CION should share project evaluations in COTER/TWG in order to develop a body of knowledge on measuring the effectiveness of prevent projects.
- The EU should ensure adequate funding and use all available financial instruments - short-term interventions should have a sustainable follow-up.

- The EU should engage credible local partners in delivering projects - it will help build confidence and capacity.
- There should be follow up to the EU-US seminars on Diaspora.

Counter-Terrorism and Human Rights

- The EU should strategically look at how best to integrate counter-terrorism and human rights and rule of law aspects in its Political Dialogues with third countries. With some third countries, we should have a joint dialogue, in other countries, we should at least strongly include the human rights and rule of law aspects and expertise in the CT dialogue.
- Human rights aspects should also figure prominently in the Commission's dialogues on justice, freedom and security with third countries. The Commission should develop an action plan to integrate human rights into the external aspects of security and justice, as tasked by the Stockholm Programme.
- The EU should systematically look into how human rights and rule of law compliant practices and policies can become an important part of counter-terrorism capacity building projects. Human rights considerations should be mainstreamed from the planning phase, as foreseen for example in the UK's human rights guidance for overseas security and justice. Given that not only political will, but also skills and knowledge are needed for human rights compliant and effective counter-terrorism action, specific substantive guidelines would assist in the creation of the legal framework, oversight mechanisms, policies and practice. The EU and others should try to learn from the UK best practice and the Danish guidelines and develop human rights guidelines for EU CT projects. It would also good to develop such guidelines internationally, for example in the context of the UNODC or the GCTF rule of law group, complementing GCTF draft best practices (Rabat Memorandum) by providing detailed human rights guidance, in accordance with the GCTF rule of law group's mandate.
- The approach taken by the United Nations, which is, with the participation of EU Member States, developing capacity-building modules on lawful interrogation, so that States can learn about effective interrogation methods and other sophisticated possibilities to gather evidence, should be used in other areas as well.

- The EU should help partner countries to implement a criminal justice and law enforcement based approach to counter-terrorism, which in itself brings human rights protections. This should not exclude the military where circumstances dictate that law enforcement tasks are carried out by military or paramilitary entities. While the EU should help to increase the role of civilian law enforcement agencies, we should work with all relevant players, basing our support on the law enforcement function and legal framework, and not the actor.
- If the Arab Spring countries are interested, the EU should work with them on comprehensive security sector reform, including counter-terrorism, to assist in the establishment of systems which comply with the rule of law and human rights.
- Given that the Council of Europe (CoE) has important expertise for example in the context of rule of law, constitutional reform, criminal justice and prison reform, the EU should reflect on how to integrate and mainstream counter-terrorism aspects into our joint rule of law and justice projects with the CoE, which currently do not have a CT angle. This is particularly important in the CoE neighbourhood (Arab Spring countries), but could be explored also in non-EU CoE Member States.
- The EU should explore how to better use Privacy by Design, on which for example the Information & Privacy Commissioner of Ontario in Canada has done some cutting edge work¹. On a practical level, I would encourage making use of the advisory service for security research in the EU financed SURVEILLE project which helps to develop technology consistent with ethical and human rights commitments and useful to end users (<http://www.surveille.eu/index.php/advisory-service/>).

¹ Information about the concept and the approach can be found on their website <http://privacybydesign.ca/>. See for example solutions found in "Guidelines for the Use of Video Surveillance Cameras in Public Places", "Privacy and Video Surveillance in Mass Transit Systems: A special investigation report (MC07-68)", "Privacy-Protective Facial Recognition: Biometric Encryption Proof of Concept", "Surveillance by Design program"

Security and Development

- OECD-DAC guidelines on "A Development Co-operation Lens on Terrorism Prevention" and "Security Sector Reform (SSR) and Governance" should be fully taken on board when revising the Development Cooperation Instrument, the European Neighbourhood Policy Instrument and the Instrument for Pre-accession Assistance (IPA II) in the context of the 2014-2020 MFF. Counter-terrorism should be mentioned explicitly in the security and development nexus, along with drugs, organized crime and borders.
- The EU should fully implement the Council Conclusions on Security and Development and the "Agenda for Change". As the "Agenda for Change" states, the EU should finalize the requested Action Plan on security, fragility and development¹ which is pending since 2007.
- Transparency and information flow about development cooperation programmes and procedures should be increased, as well as lessons learned from past experiences and concrete steps which have been taken or to be taken in those countries of most relevance to CT.
- The EU should engage in joint strategic debate between the terrorism/security, regional and development experts regarding programming for countries relevant to terrorism, to enable a comprehensive approach and create transparency and a real debate as to how EU money should best be spent.
- The EU should use to a maximum extent what is allowed under ODA to mainstream PREVENT policies into development programming and to mainstream comprehensive security sector reform into its work on good governance, as well as focus on rule of law and strengthening the justice system.
- The OECD argument that combating terrorism generally helps the donor rather than the recipient might need to be reviewed, for example in light of the Sahel and Nigeria, where terrorism is a serious local problem hampering economic growth and tourism.

¹ 15097/07

Africa

- The EU needs to help address urgently the terrorist safe haven in northern Mali and strengthen transition to a democratically accountable government. EU security and diplomatic engagement needs to be stepped up considerably, along with efforts on the humanitarian crisis. In the medium term, CSDP engagement in Mali should be considered. The operation in Niger is important to avoid spill over of the crisis. I welcome that the first CSDP operation with a CT objective will be deployed shortly. The regional angle of the operation will be crucial. EU assistance to the regional fusion center Unite de Fusion et de Liaison and military command CEMOC should be explored.
- Implementation of the Sahel Strategy should be stepped up as a matter of urgency. The security and development nexus should be taken into account when programming the 11th EDF, reorienting development assistance towards economic growth, anti-corruption, nation building, rule of law and security.
- The EU should respond as a matter of priority to Nigeria's request for counter-terrorism assistance. In this context, I welcome the planned Boko Haram study and the CT package under preparation under the Instrument for Stability short term. It is crucial that the programming of the 11th EDF will take into account the need to development assistance for the North, including education, creation of economic and job opportunities for young people and prevention of violent radicalization, without which CT engagement cannot be successful.
- CT action in the Horn of Africa could benefit from the extensive EU engagement against piracy, if a CT angle was systematically mainstreamed into our anti-piracy activities. The EU should examine to add CT components to training offered to security forces, law enforcement or justice in the framework of capacity building to counter piracy and to add CT in the context of supporting the drafting of anti piracy legislation. A combined approach could benefit both CT and piracy efforts and help to speed up the work.
