

**7486/4/04
REV 4**

LIMITE

**JAI 81
ECOFIN 97
TRANS 129
RELEX 107
ECO 68
PESC 187
COTER 7
COSDP 129**

NOTE

from : the Presidency
to : the European Council
Subject : Draft declaration on combating terrorism

1. Introduction

The European Council, deeply shocked by the terrorist attacks in Madrid, expresses its sympathy and solidarity to the victims, their families and to the Spanish people.

The callous and cowardly attacks served as a terrible reminder of the threat posed by terrorism to our society. Acts of terrorism are attacks against the values on which the Union is founded.

The Union and its Member States pledge to do everything within their power to combat all forms of terrorism in accordance with the fundamental principles of the Union, the provisions of the Charter of the United Nations and the obligations set out under United Nations Security Council Resolution 1373 (2001).

The threat of terrorism affects us all. A terrorist act against one country concerns the international community as a whole. There will be neither weakness nor compromise of any kind when dealing with terrorists. No country in the world can consider itself immune. Terrorism will only be defeated by solidarity and collective action.

2. Solidarity clause

The European Council welcomes the political commitment of the Member States and of the acceding States, taken as of now, to act jointly against terrorist acts, in the spirit of the Solidarity Clause contained in Article 42 of the draft Constitution for Europe.

A separate Declaration is attached.

3. Security Strategy

The European Security Strategy, adopted by the European Council last December, identified terrorism as one of the key threats to EU interests and requested the Presidency and Secretary-General/High Representative Solana, in coordination with the Commission, to present concrete proposals for implementing the Strategy, including recommendations for combating the threat posed by terrorism and dealing with its root causes.

In light of the events in Madrid, the European Council believes that full implementation of measures to combat terrorism is a matter of urgency.

The European Council calls for the development of an EU long-term strategy to address all the factors which contribute to terrorism. As we stated in the Conclusions of our meeting on 21 September 2001, the Union must increase its involvement in the efforts of the international community to prevent and stabilise regional conflicts and promote good governance and the rule of law.

In addition, the European Council calls for work to be rapidly pursued to develop the contribution of ESDP to the fight against terrorism, on the basis of actions taken since the Seville European Council.

The European Union will seek ways to improve the security of its citizens who are resident, or travelling, in third countries and exposed to a terrorist threat.

4. Assistance to Victims

The European Council calls for the adoption, before 1st May 2004, of the Council Directive on compensation to crime victims.

The European Council invites the Commission to ensure the allocation, as a matter of urgency, of the funds available in the 2004 budget for supporting victims of terrorism.

5. Building on Existing Cooperation

At its meeting on 21 September 2001, the European Council adopted a Plan of Action to Combat Terrorism which has since been supplemented by many important initiatives. The effective combating of terrorism requires that measures adopted by the Council be effectively and comprehensively implemented by Member States.

(a) Legislative Measures

The European Council acknowledges that the legislative framework created by the Union for the purpose of combating terrorism and improving judicial cooperation has a decisive role to play in combating terrorist activities. It urges all Member States to take any measures that remain necessary to implement fully and without delay the following legislative measures:

- Framework Decision on the European Arrest Warrant
- Framework Decision on Joint Investigation Teams
- Framework Decision on Combating Terrorism
- Framework Decision on money laundering, the identification, tracing, freezing and confiscation of instrumentalities and the proceeds of crime;
- Decision establishing Eurojust;
- Decision on the implementation of specific measures for police and judicial cooperation to combat terrorism;

Any such measures should be in place no later than June 2004.

The European Council calls on Member States to implement the Framework Decision on the execution of orders freezing property or evidence and to ratify the Convention on the Mutual Assistance in Criminal Matters, its Protocol and the three Protocols to the Europol Convention by December 2004.

In addition, the Framework Decision on the Confiscation of Crime Related Proceeds, Instrumentalities and Property and the Framework Decision on Attacks against Information Systems should be finalised by June 2004. Work on the Framework Decision on the Mutual Recognition of Confiscation Orders should also be concluded by June 2004 and work on the Framework Decision on a European Evidence Warrant taken forward.

The European Council, with a view to the further development of the legislative framework set out above, instructs the Council to examine measures in the following areas:

- proposals for establishing rules on the retention of communications traffic data by service providers;
- exchanges of information on convictions for terrorist offences;
- cross-border hot pursuit;

- a European register on convictions and disqualifications;
- a data base on forensic material; and
- simplifying the exchange of information and intelligence between law enforcement authorities of the Member States.

Priority should be given to the proposals under the retention of communication traffic data and exchange of information on convictions with a view to adoption by June 2005.

Member States reaffirm their commitment to reinforce judicial cooperation. They are invited to ensure the execution of any request for mutual legal assistance related to terrorist offences and to provide each other with the fullest cooperation.

The Commission is invited to bring forward a proposal aimed at the creation of a European Programme for the protection of witnesses in terrorist cases.

(b) Reinforcing Operational Cooperation

The European Council calls on Member States to ensure that law enforcement agencies (security services, police, customs etc.) cooperate with each other and exchange all information relevant to combating terrorism as extensively as possible.

The European Council calls on Member States to ensure that the optimum and most effective use is made of existing EU bodies, in particular Europol and Eurojust, to promote cooperation in the fight against terrorism. It calls on Member States, to ensure that:

- Eurojust national correspondents for terrorist matters are designated by all Member States and Eurojust is used to the maximum extent for the purpose of cooperation in cross-border terrorism cases;
- Europol and Eurojust representatives are associated with the work of Joint Investigation Teams as far as possible;
- The Europol/Eurojust agreement is adopted by May 2004.

The European Council also calls on Member States to reinforce the role of Europol in the fight against terrorism by:

- reinforcing its counter-terrorism capacities and reactivating the Counter-Terrorist Task Force; and
- ensuring that Europol is provided by Member States law enforcement authorities with all relevant criminal intelligence related to terrorism as soon as it is available.

The European Council calls on Europol to proceed with implementation of the Europol Information System as quickly as possible.

In addition, the European Council underlines the role of the Police Chiefs' Task Force in coordinating operational measures in response to, and prevention of, terrorist acts. The European Council calls on the Task Force to review how its operational capacity can be reinforced and to focus on proactive intelligence. The Task Force is invited to draw up, with the assistance of experts from intelligence services and from Europol, a report on the terrorist attacks in Madrid.

The European Council calls on the Council to examine an interim report on the outcome of the process of peer evaluation of national arrangements in the fight against terrorism by September 2004 and a final report covering the Accession States by September 2005.

The European Council, with a view to building on this cooperation, also instructs the Council to put in place new committee structures capable of ensuring greater operational cooperation on security and terrorism within the Union.

The European Council recognises that there is a need to ensure terrorist organisations and groups are starved of the components of their trade. In particular there is a need to ensure greater security of firearms, explosives, bomb-making equipment, and the technologies that contribute to the perpetration of terrorist outrages. It instructs the Council to examine the scope for measures in this area.

(c) Maximising the Effectiveness of Information Systems.

The European Council calls on the Council to adopt the necessary measures to enable the Draft Council Regulation and Draft Decision on the introduction of new functions for the Schengen Information System (SIS), to come into force by June 2004.

Decisions should be taken on the location, management and financing of SIS II by May 2004 in order to allow the Commission to take forward its full development. The Commission and the Council are urged to take forward work on the Visa Information System (VIS) in line with the conclusions adopted in February 2004. The European Council calls on the Commission to submit proposals for enhanced interoperability between European databases and to explore the creation of synergies between existing and future information systems (SIS II, VIS and EURODAC) in order to exploit their added value within their respective legal and technical frameworks in the prevention and fight against terrorism.

The European Council invites the Commission to bring forward proposals to the June European Council in relation to exchange of personal information (DNA, fingerprints and visa data) for the purpose of combating terrorism. The Commission proposals should also include provisions to enable national law enforcement agencies to have access to the EU systems.

The Council is also invited to consider the criteria that should be applied for the purposes of Article 96 of the Schengen Convention in relation to certain persons reported for the purpose of being refused entry.

6. Strengthening Border Controls and Document Security

Improved border controls and document security play an important role in combating terrorism. The European Council therefore emphasises that work on measures in this area needs to be expedited. In particular, work will be taken forward on:

- the proposal for a Regulation establishing a European Borders Agency with a view to adoption by May 2004 and the Agency made operational by 1 January 2005;
- the proposed Council Directive on the obligation of carriers to communicate passenger data with view to an early conclusion on this measure; and
- the adoption of the Draft Strategy for Customs Cooperation and a related work plan by May 2004, and the subsequent implementation of measures to combat terrorism as a matter of urgency.

The European Council also instructs the Council to adopt by the end of 2004 the Commission's proposals for the incorporation of biometric features into passports and visas, with a view to the finalisation of the technical specification to be adopted by the Commission by March 2005.

The European Council, with a view to further developments of these measures instructs the Council to take forward, on the basis of a proposal from the Commission, work on the creation by end 2005 of an integrated system for the exchange of information on stolen and lost passports having recourse to the SIS and the Interpol database.

It also invites the Commission to bring forward a proposal no later than June 2004 for a common EU approach to the use of passengers data for border and aviation security and other law enforcement purposes.

7. EU Guidelines for a Common Approach to Combating Terrorism

The European Council welcomes the EU Guidelines for a Common Approach to Combating Terrorism which demonstrate the commitment of the Union to prevent and suppress terrorism in a visible and coherent manner.

8. Strategic Objectives for a Revised EU Plan of Action to Combat Terrorism

Building on existing cooperation, the European Council agreed updated Strategic Objectives to enhance the EU Plan of Action to Combat Terrorism (contained in Annex I).

The following high level Strategic Objectives will be implemented:

- Deepen the international consensus and enhance international efforts to combat terrorism
- Reduce the access of terrorists to financial and other economic resources.
- Maximise capacity within EU bodies and Member States to detect, investigate and prosecute terrorists and prevent terrorist attacks
- Protect the security of international transport and ensure effective systems of border control
- Enhance the capability of Member States to deal with the consequences of a terrorist attack
- Address the factors which contribute to support for, and recruitment into, terrorism
- Target actions under EU external relations towards priority Third Countries where counter-terrorist capacity or commitment to combating terrorism needs to be enhanced

The European Council requests the Council to complete the adoption of the revised Plan of Action and to report back to the June European Council.

9. Sharing of Intelligence

Underlining the importance of more efficient intelligence cooperation and improved threat assessment, the European Council calls upon Member States to improve mechanisms for cooperation and the promotion of effective systematic collaboration between police, security and intelligence services.

The flow of intelligence in relation to all aspects of terrorism to Europol should be improved. The further development of the relationship between Europol and intelligence services will also be taken forward.

The European Council endorses the efforts of Secretary-General/High Representative Solana to integrate, within the Council Secretariat, an intelligence capacity on all aspects of the terrorist threat with a view to informing EU policy and invites him to make proposals in advance of the June European Council.

10. Preventing the financing of Terrorism

The European Council believes that strong action must continue to be taken on the sources of financing of terrorist organisations while respecting the rule of law. It invites the Council to identify measures to improve the effectiveness and efficiency of the mechanism set up to freeze the assets of terrorists and terrorist organisations and to identify the holders and true beneficiaries of bank accounts.

The European Council calls on all Member States to ratify and fully implement the 1999 UN Convention for the Suppression of the Financing of Terrorism and to give effect to the provisions of UNSCR 1373 directed to the freezing of assets.

Member States are invited to increase cooperation between national competent authorities, Financial Intelligence Units and private financial institutions to facilitate improved exchange of information on terrorist financing.

The Commission will consider improvements on regulation and transparency of legal entities, including charities and alternative remittance systems, which may be used by terrorists to acquire funding for their activities.

The EU will pursue dialogue with third countries on this crucial issue in order to step up the fight against the financing of terrorism.

11. Measures to Protect Transport and Population

The European Council calls for the strengthening of the security of all forms of transport systems, including through the enhancement of the legal framework and the improvement of prevention mechanisms. The Commission is, in particular, invited to bring forward a proposal for enhancing the security measures in harbours and ships.

Further action is needed to strengthen capacity within Member States to alleviate the consequences of attacks on the civilian population, including in the areas of health security and civil protection, building on existing EU Health Security and CBRN programmes.

The Commission, the Council and the Member States, as appropriate, should develop policies to strengthen the protection of citizens, essential services (such as water supplies, energy and communications) and production systems (agro-food and process industries), as well as to establish mechanisms (surveillance, early warning, alert and response systems and procedures) to deal with the consequences of any terrorist attacks.

12. International Cooperation

Supporting the key role of the United Nations, the European Council will continue to work to ensure universal adherence to, and full implementation of, all UN Security Council Resolutions, UN Conventions on Terrorism and related Protocols.

The European Union will work with and within international, regional and sub-regional organisations to strengthen international solidarity in countering terrorism.

The European Union will ensure effective and practical cooperation with Third countries in combating terrorism, in particular through the following measures:

- Development of technical assistance strategies, to facilitate vulnerable Third countries in enhancing their counter-terrorism capability, and by addressing counter-terrorism concerns into all relevant external assistance programmes to promote good governance and the rule of law
- ensure that counter-terrorism is a key element of political dialogue at all levels with Third Countries, in particular those which represent a potential terrorist threat to international peace and security.
- The European Union will analyse and evaluate the commitment of countries to combat terrorism on an ongoing basis. This will be an influencing factor in EU relations with them.

The European Council calls for the optimum use of all EU police resources deployed in Third countries, also in the context of EU crisis management.

13. Cooperation with US and Partners

Building on the solidarity and cooperation enshrined in the 2001 Plan of Action to Combat Terrorism, the European Council will seek to further strengthen cooperation with the US and other partners in countering the threat posed by terrorism.

14. Establishment of the Position of a Counter-Terrorism Coordinator

The European Council emphasises that a comprehensive and strongly coordinated approach is required in response to the threat posed by terrorism.

The European Council accordingly agrees to the establishment of the position of a Counter-Terrorism Co-ordinator.

The Co-ordinator, who will work within the Council Secretariat, will co-ordinate the work of the Council in combating terrorism and, with due regard to the responsibilities of the Commission, maintain an overview of all the instruments at the Union's disposal with a view to regular reporting to the Council and effective follow-up of Council decisions.

15. The Way Forward

The European Council invites the Council, in cooperation with Secretary-General/High Representative Solana and the Commission, to report to the June European Council on the implementation of these measures.

Annex I

EUROPEAN UNION STRATEGIC OBJECTIVES TO COMBAT TERRORISM (Revised Plan of Action)

Objective 1: To deepen the international consensus and enhance international efforts to combat terrorism

- Support the key role of the United Nations in sustaining the international consensus and mobilizing the international community as a whole, in particular the General Assembly and the work of the Security Council, inter alia, through its Counter Terrorism Committee and the Taliban/Al Qaeda Sanctions Committee, as well as the Terrorism Prevention Branch of the UN Office of Drugs and Crime
- Work to ensure universal adherence to, and full implementation of, the United Nations Conventions on Terrorism, and to agree a Comprehensive UN Convention against Terrorism and agree a comprehensive UN Convention on the Suppression of Acts of Nuclear Terrorism
- Work with and within regional and international organizations to ensure their effective contribution to combating terrorism in accordance with UN obligations
- Include effective counter-terrorism clauses in all agreements with third countries

Objective 2: To reduce the access of terrorists to financial and other economic resources

- Ensure the effectiveness of EU asset freezing procedures, including the non-financial economic resources, in accordance with UN obligations and the need to respect due process and the Rule of Law
- Establish operational links and improve cooperation between relevant bodies to facilitate enhanced exchange of information on terrorist financing
- Develop and implement an EU strategy on the suppression of terrorist financing, including the regulation of charitable organisations and alternative remittance systems

- Cooperate closely with the Financial Action Task Force (FATF) on all issues regarding the financing of terrorism and ensure that the EU legal framework is adapted to the eight special recommendations on terrorist financing
- Pursue political and technical dialogue with Third Countries, in order to step up the fight against the financing of terrorism

Objective 3: To maximise capacity within EU bodies and Member States to detect, investigate and prosecute terrorists and prevent terrorist attacks

- Ensure optimum and effective use of existing EU bodies such as Europol, Eurojust and the Police Chiefs Task Force
- Improve mechanisms for cooperation for the sharing of expertise on protective, investigative and preventive security policies between police and security services
- Promote effective, systematic collaboration in intelligence exchange between Member States
- Enhance the capacity of appropriate EU bodies in the preparation of intelligence assessments of all aspects of the terrorist threat, with a closer linkage to EU policymaking
- Work to identify, disrupt and dismantle arrangements for supply of weapons to terrorists

Objective 4: To protect the security of international transport and ensure effective systems of border control

- Ensure the integration of counter-terrorist considerations into the work of relevant EU bodies (transport, border controls, identity documentation etc)
- Work to develop further EU transport security standards, in coordination with relevant international organisations and third countries
- Develop and implement a common EU approach to the exchange and analysis of passenger information
- Encourage and support non-EU states to comply fully with ICAO and IMO standards

- Enhance capacities for the identification of terrorists and the detection of terrorist devices, materials or funds at ports, airports and land borders
- Reinforce the protection of European citizens in third countries

Objective 5: To enhance the capability of the European Union and of Member States to deal with the consequences of a terrorist attack

- Identify areas for closer cooperation in consequence management with other international organisations within their respective competences, including NATO
- Ensure full implementation of the EU Health Security and CBRN programmes
- Develop strategies to improve the capacity of Member States to communicate with citizens in the event of a major terrorist attack
- Ensure that support and assistance is provided to the victims of terrorist crimes, and protect minority communities who may be at risk of a backlash in the event of a major attack

Objective 6: To address the factors which contribute to support for, and recruitment into, terrorism

- Identify factors which contribute to recruitment to terrorism, both within the EU and internationally, and develop a long-term strategy to address these
- Continue to investigate the links between extreme religious or political beliefs, as well as socio-economic and other factors, and support for terrorism, building on work already undertaken in this area, and identify appropriate response measures
- Make more efficient use of external assistance programmes to address factors which can contribute to the support for terrorism, including in particular support for good governance and the rule of law
- Develop and implement a strategy to promote cross-cultural and inter-religious understanding between Europe and the Islamic World

Objective 7: To target actions under EU external relations towards priority Third Countries where counter-terrorist capacity or commitment to combating terrorism needs to be enhanced

- Expand the role of the SitCen in the carrying out of threat assessments to enable working groups to focus on the development of policy
- Develop capacities to analyse and evaluate third country activities in counter-terrorism
- Develop technical assistance strategies to enhance the counter-terrorist capacity of priority countries, in coordination with other international organisations and Donor states
- Ensure that specific counter-terrorism issues, including effective counter-terrorism clauses in all agreements reflecting the priorities of the revised Plan of Action are a key element of EU relations at all levels with priority countries
- Mainstream counter-terrorist objectives into the work of the geographical working groups and external assistance programmes

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DRAFT DECLARATION ON SOLIDARITY AGAINST TERRORISM

We, the Heads of State or Government of the Member States of the European Union, and of the States acceding to the Union on 1 May, have declared our firm intention as follows:

In the spirit of the solidarity clause laid down in Article 42 of the draft Treaty establishing a Constitution for Europe, the Member States and the acceding States shall accordingly act jointly in a spirit of solidarity if one of them is the victim of a terrorist attack. They shall mobilise all the instruments at their disposal, including military resources to:

- prevent the terrorist threat in the territory of one of them;
- protect democratic institutions and the civilian population from any terrorist attack;
- assist a Member State or an acceding State in its territory at the request of its political authorities in the event of a terrorist attack.

It shall be for each Member State or acceding State to the Union to choose the most appropriate means to comply with this solidarity commitment towards the affected State.
