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NOTE

From : Counter-Terrorism Coordinator
To : COREPER/Council/European Council
Subject : Implementation of the 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 2004 and revised most recently in February 2006. The report summarizes progress since December 2005 and 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.

2. In December 2005 the European Council adopted the European Counter-Terrorism Strategy, 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 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. This report covers progress against individual actions within this same framework.

INTRODUCTION: STRENGTHENING COORDINATION

3. Progress has continued to be made in reinforcing coordination among the Member States and the institutions of the Union in the fight against terrorism.

To combat terrorism effectively it is essential to ensure strong coordination among all relevant agencies at national level. Strong domestic coordination is a precondition for effective coordination at European level. In December 2005 the Council approved a report by the Presidency and the Counter-Terrorism Coordinator on the evaluation of national anti-terrorist arrangements. Good practices were highlighted and recommendations issued. Twelve Member States have since reported on their implementation of the recommendations, which have resulted in improvements in national machinery and capability in several areas. Belgium, for example, has initiated the creation of a national centre for threat analysis. A report on implementation by all 25 Member States will be prepared for December.

4. A first high level political dialogue on counter-terrorism brought together the European Parliament, the European Commission and the Council (Presidency and Coordinator) to discuss the implementation of the EU Counter-Terrorism Strategy and to coordinate the legislative agenda of the three institutions. Details are being finalised by the Council, the Commission and the Parliament of a common website to present the European Union's contribution to the fight against terrorism. Furthermore, to promote coordination and cooperation at operational level on issues of internal security, including terrorism, the directors of Europol, Eurojust, Frontex and Sitcen met with the Chiefs of Police Task Force, the Commission, the Presidency and the Counter-terrorism Coordinator. This first joint meeting enabled participants to explore synergies and to align their work programmes for 2006. A follow-up meeting will take place on 14 July 2006.
5. Europol provided a useful overview of the terrorist threat in Europe in its Situation and Trends Report. The Joint Situation Centre (Sitcen) has continued to provide frequent strategic assessments of the terrorist threat facing Europe. Sitcen's analyses cover both the external and the internal dimensions of the threat. Cooperation between Europol and Sitcen has been strengthened further.
6. European security depends to a large extent on the security of the countries and regions beyond the EU's borders. Deepening cooperation in the fight against terrorism has remained an important part of political dialogue with partners. Dialogues covering all four strands of the EU Counter-Terrorism Strategy were held with the United States, Russia, and the Gulf Cooperation Countries. Negotiations on the last outstanding issues in the EU-GCC Free Trade Agreement are ongoing, but agreement has been reached on the inclusion of a counter-terrorism clause in this agreement. In its dialogue with partners, bilaterally and multilaterally, the EU has continued to emphasize that the fight against terrorism must be consistent with respect for the rule of law and human rights.

7. To develop an integrated approach to the internal and external aspects of security the Council adopted a strategy for the external dimension of justice and home affairs in December 2005. A multi-Presidency work programme was agreed under the Austrian Presidency and several initiatives were taken to implement this strategy. Reflecting the increasing coordination among successive EU Presidencies, representatives of Austria, Finland, Germany, Slovenia and Portugal met with the Russian Federation, the USA, and the Commission to discuss counter-terrorism and other issues of justice and home affairs. Ministers identified three areas for cooperation to combat terrorism: preventing radicalisation and recruitment, combating terrorist financing, and preventing cyber-terrorism. A second ministerial conference organised by the Austrian Presidency discussed issues of internal security in the relations between the EU and its neighbours. Here, ministers identified four priority areas in the fight against terrorism:

- Common efforts to prevent terrorism by measures against radicalisation and recruitment, including the dialogue between cultures and religions;
- Improving the exchange of information to identify terrorists, disrupt their activities and to bring them to justice;
- Joint efforts for a comprehensive convention against terrorism within the UN as well as the implementation of the existing UN conventions against terrorism;
- Cooperation in the field of critical infrastructure protection.

The Council has also been presented with two papers proposing an integral approach to the external aspects of the fight against serious international crime, including terrorism. One set of proposals addresses cooperation with the Balkans, the other one focuses on cooperation with Afghanistan and its neighbours. Additional proposals will be prepared by the Finnish Presidency.

8. European citizens consistently express support for a strong and effective European contribution to the fight against terrorism. When asked in which areas they wish to see more decision-making at European level, 80% of European citizens mention counter-terrorism (Eurobarometer, May 2006). Clearly, on this issue public expectations of the Union are high. In this light, it is positive to note that implementation of the EU Strategy and the Action Plan in the fight against terrorism has by and large remained on track. Particular progress has been made in the implementation of the PREVENT strand. Much work has also been done in the other priority areas (PROTECT, PURSUE, and RESPOND), often to prepare decisions which the Council has committed itself to take before the end of 2006. The delays in implementation by Member States of the relevant EU instruments have been reduced further, albeit at a slow pace. However, important decisions still need to be taken in fields ranging from data exchange and data protection to the protection of critical infrastructure and the coordination of emergency management. Considerable efforts and political leadership will therefore continue to be required, particularly in areas where the current EU treaty imposes unanimity.

PREVENT

9. The first objective of the Counter-Terrorism strategy is to prevent people 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 to counter radicalisation and recruitment. A good start has been made with the implementation of this strategy.
10. Several expert meetings have been convened to allow for exchange of national experiences and the identification of good practices. National experts met to discuss radicalisation in prisons, threats posed by returning Jihadists and strategies to encourage recruits to leave terrorist groups. Another expert meeting, hosted by Europol, addressed the use of the Internet for terrorist purposes. The incoming Finnish and German Presidencies will work to improve and coordinate surveillance of the Internet by national law enforcement authorities and Europol. A third conference was held in Vienna to deepen the dialogue between cultures and religions. The Union also conducted a meeting in the EUROMED framework to discuss with its Mediterranean partners national experiences and policies to prevent incitement to terrorism.

11. Concerning the threat emanating from satellite channels disseminating terrorist propaganda Sitcen has been asked to update its assessment in support of policy discussions during the Finnish Presidency.
12. The Presidency has moved forward with the elaboration of a communication strategy aimed at explaining EU policies that could have a bearing on processes of radicalisation within and outside of the EU.
13. The Commission has established a network of experts in the academic field who can contribute expertise on radicalization and recruitment and help to elaborate policies designed to counter it.
14. Member States and the Commission have deepened their coordination of counter-terrorism-related assistance to third countries. The programme of assistance to Morocco contains an important theme relevant to radicalization and recruitment. Key elements will focus on community policing, Internet, prisons and education.
15. A particularly useful aspect of the work so far carried out in this field has been the creation of cross-border networks among European experts. Contacts with counterparts elsewhere in the world have also been intensified. These networks need to be developed further. To push ahead with this work against radicalisation and recruitment will be a priority of the Finnish and German Presidencies.

PROTECT

16. The second objective of the Counter-Terrorism Strategy is to protect citizens and infrastructure and reduce our vulnerability to attack, including through improved security of borders, transport and critical infrastructure.

17. The Austrian and Finnish Presidencies have agreed to give particular emphasis on the integrated management of external borders, and to support the work of the European Borders Agency Frontex. Several measures to improve cooperation in the fight against terrorism and other forms of serious crime, including though border protection, are still under discussion in the Council and in the European Parliament. This is the case, for example, with the proposals for a Council Decision and Regulation on the new Schengen Information System SIS II, the proposal for a Regulation on the Visa Information System, and the draft Decision concerning access for consultation of the VIS. The Council has reached a political agreement to include biometric identifiers in the SIS II. This is necessary to reduce the risk of (terrorist) suspects evading identification by using false identities. Adoption of the proposals concerning SIS II and the draft Council Regulation on VIS - important building blocks of the EU strategy - has been scheduled by July 2006.

18. The customs authorities of the Member States have a key role to play in preventing the smuggling of material that could be used by terrorists. In 2005 European customs agencies for the first time conducted a common counter-terrorism exercise (Operation Protect). Further joint operations are being prepared in 2006 and 2007.

19. Terrorists worldwide continue to target the transport sectors and other economic interests. The proposal to reinforce the European standards in aviation security (Regulation 2320/2002) is expected to be debated shortly by the Parliament. Important proposals to protect critical infrastructure in the Union are currently being prepared by the Commission. These include initiatives with respect to the transport sector, energy, and cyber-security, as well as proposals to strengthen public-private cooperation. As the response to the Commission's Green Paper indicated, however, considerable differences still exist among Member States with respect to a European Programme for Critical Infrastructure Protection (EPCIP). The Commission announced that it will submit a proposal for an EPCIP by June 2006 and, by end 2006, a proposal on a Critical Infrastructure Warning and Information Network (CIWIN).

20. Greater efforts to conduct security-related research and development are indispensable to address the threat of conventional and non-conventional terrorist attacks. Preparatory actions to a maximum of around € 15 million annually can be financed from the Community budget, but more significant initiatives will have to await the adoption of the 7th European Research Framework Programme (scheduled for the end of 2006).

PURSUE

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

Terrorist financing

22. The EU has continued to strengthen its legislative framework to combat terrorist financing. All Member States have now ratified the UN Convention on the Suppression of Terrorist Financing. Two important pieces of legislation were adopted in December 2005 - the Regulation on cash couriers (implementing FATF Special Recommendation IX) and the Third Money Laundering Directive. Every effort must now be made to ensure that this legislation is implemented effectively. In particular, the Third Money Laundering Directive is a major element of the EU's terrorist financing strategy covering several key aspects of the nine FATF Special Recommendations. In 2005 the Council also agreed a general approach on the Regulation on Funds Transfers and work has since progressed in the European Parliament. Adoption of this instrument should be possible by mid-2006. Similarly, work has been progressing on the proposal for a Payments Services Directive, implementing, inter alia, FATF Special Recommendation VI on alternative remittances. Political agreement in the Council is expected in the second half of 2006. The Framework Decision on the application of the principle of mutual recognition to confiscation orders is still subject to a parliamentary scrutiny reservation.

23. Most legislation in the CT Action Plan has now been achieved or is on track for completion in the near future. But there is much work to be done in the non-legislative field. In particular, there needs to be more emphasis on operational cooperation through the exchange of financial intelligence, both within and between governments, and on strengthening financial investigation as a tool for detecting and disrupting terrorist networks.
24. On the first of these, the Commission has produced a Communication (COM (2005) 620) which is being discussed by the Council. As for coordination between governments, all Member States have been connected to the FIU Net and an updated version of the system with greater functionality is being developed. However, there is still scope for more intensive cooperation between the national FIU's.
25. Transparency of legal entities in the non-profit sector also needs to be enhanced to reduce the risk of abuse of this sector for terrorist financing. The Council agreed a set of principles to guide Member States in December 2005. The Commission issued a Communication which is still under discussion in a Council working group.
26. The EU asset freezing procedures have been updated, though the unanimity requirement does not make for swift decisions. FATF mutual evaluations of Member States' implementation of FATF standards are now proceeding and so far three Member States have been found to be partially non compliant with FATF Special Recommendation III. All Member States should be encouraged to ensure that their national asset freezing mechanisms reflect the relevant international standards.
27. Externally, the EU continued its dialogue with key partners. EU and US experts met to discuss national experiences in combating terrorist financing. A third joint seminar was held with the Gulf Cooperation Council, with observers from major countries in the fight against terrorism, such as the US and Japan, and relevant international institutions, including the IMF and FATF. An experts meeting in the framework of the EU/Israel Joint Cooperation

Agreement provided a forum for a useful exchange of views and an opening for possible further practical steps. Technical assistance programmes to priority countries mainstreamed terrorist financing, including such elements as training for police and magistrates in the field of investigations into terrorist financing, training of FIU personnel, and FIU equipment. Agreement was reached with Russia to open a dialogue on terrorist financing in the framework of the EU-Russia Permanent Partnership Council.

28. Work has now begun on the independent scrutiny launched by the Commission of the EU's efforts in the fight against terrorist financing with particular reference to national and EU compliance with the nine FATF Special Recommendations. The results are expected in the second half of 2006 and they will be a valuable instrument in assessing the effectiveness of the EU strategy in the fight against terrorist financing.

Operational cooperation

29. The European Arrest Warrant is proving an important and frequently used tool of judicial cooperation in the fight against terrorism. The experience gained with the EAW in recent years should allow the Union to identify best practices. To this end an EU-wide peer evaluation has been launched of the implementation by Member States of the European Arrest Warrant.
30. Under the Austrian presidency Europol was involved in 20 national investigations into Islamist terrorism. Eurojust was involved in several important co-ordinating cases, including cases connected to eight Analytical Work Files in Europol during 2005. However, differences still exist between Member States as regards their use of Eurojust. The implementation of the Council Decision on the exchange of information and co-operation concerning terrorist offences, which is due by June 2006, will considerably widen the scope and amount of information passed to both Europol and Eurojust. As for Europol, it is important for its effective functioning in the short term that all the Protocols should be ratified. Longer term,

the current discussions in the Council on transforming the Europol Convention into a Council Decision should lead to a more efficient working structure for Europol, which will actively contribute to improving its role in the fight against terrorism. Counter-terrorism is part of the mandate of the European Borders Agency (Frontex), which started its operational activities in the second half of 2005. At the request of the European Council, which adopted the Global Approach to Migration in December, Frontex is currently working to implement joint operations and pilot projects in the Mediterranean region, to present a risk analysis report on Africa and to launch a feasibility study on reinforcing monitoring and surveillance of the Southern border of the EU. The European Police College (CEPOL) will be organising several counter-terrorism police training courses in 2006.

Legislative agenda

31. On the legislative front, the Directive on data retention was adopted on 15 March 2006, following agreement between the Council and the Parliament in December 2005. It is important that Member States now implement the Directive within eighteen months of the date of entry into force.

Other legislative measures called for in the Action Plan are still under consideration by the Council and the Parliament. These include:

- the proposal for a Council Framework Decision on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters;
- the proposal for a Council Decision concerning access for consultation of the Visa Information System by the authorities of Member States responsible for internal security and by Europol for the purposes of the prevention, detection and investigation of terrorist offences and of other serious criminal offences;
- the proposal for a Council Framework Decision on the European evidence warrant;
- the proposal for a Council Framework Decision on certain procedural rights in criminal proceedings throughout the European Union;
- the proposal for a Framework Programme on security and safeguarding liberties;

- the proposal for a Framework Decision to implement the principle of availability (an ad hoc group on exchange of information has been created to prepare application of the availability principle with regard to DNA).

National parliamentary scrutiny reserves are still outstanding with respect to the Framework Decision on simplifying the exchange of information and intelligence between the law enforcement authorities of the Member States (general approach agreed by the Council in December 2005).

No agreement was reached on the proposal for a Council Decision on the improvement of police cooperation between the Member States of the EU, especially at the internal borders and amending the Schengen Agreement. Here, and on other issues, the unanimity requirement in the current treaty has restricted the capacity of the Council to reach decisions.

32. Building on its 2005 Communication on explosives, detonators, bomb-making equipment and fire-arms, which was welcomed by the Council, the Commission proposed a modification of the Directive on control of the acquisition and possession of weapons. It has also prepared a green Paper on detection technologies in the work of law enforcement, customs and other security authorities. The Counter-Terrorism Coordinator and the Organisation for the Prohibition of Chemical Weapons are exploring cooperation to prevent chemical assets being used for terrorist purposes.
33. At international level the EU continued to promote the role of the UN in the fight against terrorism. The EU pushed strongly for the adoption of a Comprehensive Convention on International Terrorism but agreement at the UN remained blocked. The EU also promotes adoption of a UN Counter Terrorism Strategy.

The EU maintained its dialogue with the US and other key partners, including on the need to respect human rights in the fight against terrorism. Fulfilment by Member States of their constitutional requirement in respect of the EU-US agreements on extradition and of bilateral instruments is expected to be completed by the end of 2006. Counter-terrorism meetings in the framework of ASEAN, ARF and ASEM, and a closer dialogue with Japan and Australia, have provided a platform for greater EU involvement in Asia. Terrorist financing seminars with Israel and the GCC countries produced opportunities for practical cooperation. Technical assistance action plans have been implemented with Morocco and Algeria, covering areas such as false documentation, training of the judiciary, airport and maritime security and police cooperation. The Commission continued to provide CT related assistance to many countries around the world. At the regional level, the EU continued to provide support to the Jakarta Centre for Law Enforcement (JCLEC), one of the success stories of counter terrorism in South East Asia, and is now planning assistance to the African Union Counter-Terrorism Centre in Algiers.

RESPOND

34. The fourth priority of the EU's Counter-Terrorism Strategy is to prepare ourselves, in the 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.

35. In December 2005 the Council endorsed the proposal from the Presidency and the Counter-Terrorism Coordinator for EU emergency and crisis coordination arrangements. During the Austrian Presidency a Manual on EU emergency and crisis coordination has been prepared. This manual sets out arrangements for political coordination in Brussels in case of major emergencies (natural or man-made) inside or outside of the European Union. It also pre-identifies operational networks and emergency support available in Member States which could be called upon in the event of terrorist attacks or an influenza pandemic.

Member States are putting in place the necessary internal structures to ensure that they are in a position to respond rapidly to all requests for assistance in relation to emergencies or crises. This should include a single national contact point, manned round the clock, for all emergency situations.

36. To complement available civilian means of transport, Member States may make available military-owned strategic air and sea lift capabilities when available, and surplus civilian strategic lift capabilities which have been chartered by the military on the commercial market, in particular under the Strategic Airlift Interim Solution (SALIS) involving 14 Member States. Mechanisms are being put in place for this purpose. The Council adopted a general framework for the use of ESDP transportation assets and coordination in support of EU disaster response.
37. More than 180 million trips are made by EU citizens each year to destinations outside the European Union. Improving consular protection of EU citizens remains a political imperative. Good cooperation took place after the recent terrorist attacks in Sharm-El-Sheikh and Bali, and hurricane Katrina, but more needs to be done. The common consular guidelines for EU missions in third countries have been updated to enhance the support role of Commission delegations in providing logistics and staff. Work should continue on ensuring greater coordination of EU missions' contingency and evacuation plans in third countries and on ensuring better coordination of Member States consular assistance teams dispatched to crisis spots.
38. Work on the Commission's proposals on establishing a rapid response and preparedness instrument and on the recast of the Community's civil protection mechanism has progressed well. Council decisions will be taken during the Finnish Presidency. In May Michel Barnier issued a report with proposals for the creation of a European Civil Protection Force.

39. In November 2005 the Commission presented its assessment of the civil protection assistance available through the Community Civil Protection Mechanism in the event of a major terrorist attack, as requested by the European Council in 2004 and 2005. The report covered, i.a., the availability of vaccines and other specific medical facilities, and detection and decontamination capabilities. So far the Council has not given a specific follow-up to these aspects of the findings.
40. With its Mediterranean partners the EU agreed to strengthen national and collective mechanisms to deal with the aftermath of a terrorist attack (Euro-Mediterranean Code of Conduct on Countering Terrorism, November 2005). During the Austrian Presidency a similar agreement was reached with Russia. To implement their roadmap on the Common Space for Freedom, Security and Justice the EU and Russia agreed to work together to protect critical infrastructure, and to improve preparedness to deal with the consequences of a terrorist attack (including training of special units). Implementation of these engagements will be part of the mandate of the Finnish Presidency.
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