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NOTE

from : Presidency
to : COREPER/Council

Subject : Report to the European Council on the implementation of the Declaration on combating terrorism

[PM - DRAFT REPORT WILL BE UPDATED IN LIGHT OF OUTCOME OF JUNE JHA AND GAERC COUNCILS AND OTHER RELEVANT DEVELOPMENTS]

1. Introduction

The Declaration on Combating Terrorism adopted by the European Council on 25 March mandated the Council, in cooperation with Secretary General/ High Representative Solana and the Commission, to report in detail to the June European Council on the state of implementation of the measures embraced by the Declaration.

This report has been prepared for that purpose. It follows the sequence in which items were dealt with in the Declaration of 25 March. The report focuses, in particular, on those measures on which the European Council sought progress by June.

Further actions that have a deadline after this date, or are ongoing, are detailed in the revised Plan of Action (doc. 10010/04) which is being produced in parallel and should be read in conjunction with this report.

2. Solidarity Clause

The Community Mechanism for Civil Protection is available to support and facilitate civil protection assistance following a terrorist attack.

3. European Security Strategy

The European Security Strategy established the strategic framework for EU action in the fight against terrorism, identifying terrorism as a global phenomenon which threatens the whole of Europe. Action under the Irish Presidency has been undertaken within this framework. Since the terrorist attacks in Madrid of 11 March 2004, focus has primarily been on internal aspects of the fight against terrorism, but the external dimension is equally important. In addition to the considerable progress in the three months since the Declaration was adopted, concrete proposals for further action are also being put forward.

- As a first step in the development of an EU long-term strategy to address all factors which contribute to terrorism, a cross-pillar study on Recruitment to Terrorism, which identifies key factors which can contribute to radicalisation, support for terrorist organisations and recruitment to terrorism, has been prepared. Priorities for ongoing action are identified in the report and include the identification of specific initiatives to broaden the international consensus in relation to the fight against terrorism, engaging with Islamic countries to support their efforts to tackle extremism and widen educational opportunities, and conducting comprehensive studies of recruitment to terrorism in specific contexts, such as in prisons, schools, universities or mosques.

- Further work in these areas, which will form the basis of the long-term strategy, will continue into the Dutch Presidency.
- The May GAERC endorsed a Political and Security Committee report on modalities, procedures and criteria for making available to the Community Civil Protection Mechanism the content of the database of military assets and capabilities relevant to the protection of civilian populations against the effects of terrorist attacks, including CBRN, and implementation of these modalities is now being taken forward by the appropriate bodies.
- As part of the implementation of the Headline Goal 2010 paper, a number of scenarios will be developed and finalised in 2004 that will reflect the threat from terrorism.

The EU-FAST initiative is intended to strengthen existing capacities for alleviating the consequences of terrorist attacks on civilian populations.

4. Assistance to Victims

The Council Directive on compensation to crime victims was adopted by the Justice and Home Affairs Council at its meeting on 29 April, following agreement on a general approach at its meeting 30 March.

The Commission will launch a call for proposals for pilot projects supporting victims of terrorism, including actions to commemorate the first 'victims of terrorism' day.

5. Building on existing cooperation

The Declaration called for progress to be made on legislative measures both by way of implementation at Member State level of a number of existing instruments and by the adoption of certain other instruments.

(a) Legislative Measures

- Progress towards the implementation of a number of instruments at Member State level by specified deadlines continues to be made. The position in regard to measures required to be implemented by the end of June will be set out in Annex 1. That position should improve further by that date;
- The Draft Framework Decision on Confiscation of Crime Related Proceeds, instrumentalities and property and the Draft Framework Decision on Attacks against Information Systems were to be adopted by June 2004. Both remain subject to parliamentary scrutiny reservations;
- Negotiations on the Framework Decision on the Mutual Recognition of Confiscation Orders has, as requested, been brought to a conclusion following agreement on the outstanding issues on the substantive text at the Justice and Home Affairs Council on 29 April.
- New legislative proposals have been presented by reference to the two priority areas identified in the Declaration and on which the European Council has requested negotiations to be brought to completion by June 2005. A Draft Framework Decision on the retention of communications data was presented by the United Kingdom, France, Sweden and Ireland in April. The Commission Communication of 5 April on measures to be taken to combat terrorism etc. includes a proposal for a Draft Council Decision on the exchange of information and cooperation concerning terrorist offences. The Communication also contains additional proposals for the purpose of advancing the Declaration.

(b) Reinforcing Operational Cooperation

Significant progress has been made on a number of matters identified in the Declaration for the purpose of reinforcing operational cooperation

- Europol has re-established its Counter Terrorism Task Force and is reinforcing its counter-terrorism capacity more generally;
- the Police Chiefs Task Force has prepared a report on the terrorist attacks in Madrid as requested by the European Council and completed its review of how its operational capacity can be reinforced which is being examined within the Council.
- the Europol / Eurojust Agreement was approved by the Justice and Home Affairs Council on 29 April;
- Decisions have been taken on strengthening coordination within the Council structures to deal with terrorism, on the basis of the Council Secretariat report of 8 March and a further options paper presented by the Counter-Terrorism Coordinator.

c) Maximising the Effectiveness of Information Systems

- The Council Regulation on the introduction of new functions for the Schengen Information System, including in the fight against terrorism was adopted by the Justice and Home Affairs Council on 29 April;
- Council Conclusions on the location, management of the SIS II system were adopted by the Justice and Home Affairs Council on 29 April;

6. Strengthening Border Controls and Document Security

Progress has also been made on the measures identified in connection with the strengthening of border controls etc.

- Political agreement on the Draft Regulation establishing a European Borders Agency was achieved at the Justice and Home Affairs Council on 30 March
- The Council Directive on the obligation of carriers to communicate passenger data was adopted by the Justice and Home Affairs Council on 29 April.
- The Strategy for Customs Cooperation in the Third Pillar 2004-2006 and the related work plan were adopted by the Justice and Home Affairs Council on 30 March;

7. EU Guidelines for a Common Approach to Combating Terrorism

The adopted Guidelines now form part of the EU's policy on combating terrorism.

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

A revised Plan of Action to Combat Terrorism, in keeping with the strategic objectives approved by the European Council in March, has been prepared.

The Plan of Action is contained in Council Document 10010/04.

The Plan of Action, which builds on the 2001 Action Plan, represents the EU Strategy to combat the threat posed by global terrorism and will inform future work for the purpose of taking forward the European Council Declaration. The Plan of Action has been prepared with a view to being capable of also acting as a roadmap for the purpose of such future work and, where appropriate, includes deadlines for the achievement of specified objectives and/or progress on specified measures.

It is intended that the Plan of Action will be regularly updated by the Council and Secretary General/Higher Representative Solana, with a view to ensuring that the action required at any particular time in relation to individual measures will be clearly identified.

9. Sharing of Intelligence

The Secretary General /High Representative was mandated to report on the creation of an intelligence capacity on all aspects of the terrorist threat within the General Secretariat of the Council (SITCEN).

[PM Key recommendations of Solana paper]

The Council will now ask SG/HR Solana to implement such arrangements as soon as possible and to keep this question under constant review and to report on progress made at the December 2004 European Council.

10. Preventing the Financing of Terrorism

Work on identifying measures to improve the effectiveness and efficiency of the mechanism set up to freeze the assets of terrorists and terrorist organisations was prioritised by the Presidency. A number of proposals for improving efficiency and effectiveness in the working methods of the relevant Council bodies have been agreed. In addition :

- Work on identifying holders and true beneficiaries of bank accounts, irrespective of their place of residence will be prioritised by the incoming Presidency.
- EU efforts to give effect to the provisions of UNSCR 1373 directed to the freezing of assets are being actively pursued.
- The 22 April Commission Communication on Organised Financial Crime addressed transparency issues and alternative remittance. The Commission intends to hold a meeting of the EU Forum for the Prevention of Organised Crime during the Dutch Presidency. This will consider improvements on regulation and transparency of legal entities as well as assessing the feasibility and potential scope of an EU instrument on the regulation of the charitable sector.
- Dialogue on the Financing of Terrorism with the Euromed countries has taken place. This issue will also feature on the agenda for the EU-US Summit in June and further ad hoc dialogue with the GCC countries is planned for later this year.

11. Measures to Protect Transport and Population

Work is ongoing on the strengthening of all forms of transport and specific proposals in this regard are outlined in the Action Plan (Council Document 10010/04).

- A Regulation on ship and port facilities security was adopted on 22 March, while a proposal for a Directive on improving port security was presented in February. A further proposal to modify this Directive to make it more explicit in terms of controls of vehicles being loaded onto passenger ferries is expected to be presented this month.
- In tandem with the work on taking forward the Community Civil Protection Mechanism relevant to the protection of civilian populations against terrorist attacks [outlined at no3 above], work has also been accelerated on the implementation of the CBRN programme, in the context of strengthening capacity to alleviate the consequences of terrorist attacks on civilian populations.

12. International Cooperation

There has been good progress in supporting the key role of the UN and strengthening international solidarity in countering terrorism.

- Work was initiated by the second pillar Working Group, which held a formal meeting with the Counter-Terrorism Committee (1373) and met with representatives of the 1267 Sanctions Committee of the UN in May. These contacts will continue and will focus on where the EU and the UN can cooperate on specific counter terrorism measures and areas of mutual assistance.
- The Commission and the Counter Terrorism Coordinator also met with the key UN Security Council Committees in May.

- Strategic criteria for Capacity Building Technical Assistance programmes in Counter-Terrorism in Third Countries were agreed between the Commission and the second pillar working group in June. Ten priority countries for action will now be identified by the incoming Presidency.

13. Cooperation with US and Partners

- The Second pillar Working Group conducted a formal Troika with the US.
- The Commission and the Counter Terrorism Coordinator also met with the key US Officials in May.
- A High Level Policy Dialogue on Border and Transport Security with the US has been established and the first of these biannual meetings was held on 26 April.
- The fight against Terrorism will feature prominently at the EU-US Summit on 25/26 June and a joint statement will issue on counter terrorism cooperation.

14. Counter Terrorism Coordinator

The Counter Terrorism Coordinator has been actively engaged in coordinating the work of the Council in combating terrorism.

He has engaged on a programme of visits to Member States to consult with them on issues arising relevant to his mandate and to listen to their needs. He has also developed contacts with relevant US policy makers and in the UN. He has submitted proposals in relation to Council working structures and on ways to improve monitoring of the implementation of EU legislation together with an interim report on two peer evaluation processes underway within the Council relevant to the Union's fight against terrorism.

The Counter Terrorism Coordinator has also been closely involved in the preparation of the new Action Plan.

15. The Way Forward

The European Council invites the incoming Presidency, together with SG/HR Solana and the Counter Terrorism Coordinator to report progress on the implementation of the Roadmap of the EU Plan of Action set out in Council Document 10010/04 to the December European Council.
