

**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 20 November 2012**

**16014/12**

**LIMITE**

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**NOTE**

From: Presidency

To: JHA Counsellors / COSI Support Group / Standing Committee on operational co-operation on internal security (COSI)

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Subject: EU Policy Cycle: Monitoring of the Operational Action Plans 2012

As set out in the Council Conclusions on the creation and implementation of a EU Policy Cycle for organised and serious international crime, COSI shall every 6 months monitor the progress of the implementation of the operational action plans.

To that end, the drivers have produced detailed reports, which are set out in ADD 1 REV 1 to this document (EU RESTRICTED). They were presented to and examined by the National EMPACT Coordinators (NEC), which met on 23-24 October 2012 (see doc. 15995/12 COSI 106 ENFOPOL 359).

Taking into account these reports and the meeting, Europol has drawn up a summary of its experience so far with the implementation of the EU Policy Cycle, which is set out in annex.

**Delegations are invited to examine both the Europol report and the reports of the**

**drivers (ADD 1 REV 1) with a view to a debate in COSI.**

**ANNEX**

## **EU POLICY CYCLE FOR ORGANISED AND SERIOUS INTERNATIONAL CRIME**

### **IMPLEMENTATION: EUROPOL'S FINDINGS, APPROACHING THE END OF YEAR 1**

#### **1. Introduction**

This document is an up-date to the report Europol made to COSI in June 2012<sup>[1]</sup>. It presents a summary of Europol's experience of the implementation of the EU Policy Cycle, especially the eight Operational Action Plans (OAPs), from 1 January - mid October 2012. It is intended to complement the monitoring reports of the second semester 2012, prepared by the Drivers in close cooperation with the EMPACT Support Unit (ESU) on the individual projects<sup>[2]</sup>. It also includes the experience of drafting the Operational Action Plans for 2013 and the results of the National EMPACT Coordinators meeting at Europol on 23 & 24 October 2012<sup>[3]</sup>.

EMPACT is expensive in terms of money and resources, and it is in the common interest of all actors involved in the EU Policy Cycle to ensure that EMPACT is efficient, effective and fully committed to delivering tangible results. Whilst we remain in the two-year test phase of the EU Policy Cycle implementation, approaching the end of year one, already there are some clear patterns emerging. At this stage there are few reasons to be satisfied with the progress being made and this report will point out a number of issues that need urgent attention to ensure that EMPACT delivers its objectives.

#### **2. Europol's Findings**

##### **2.1 The development of the 2012 EMPACT Projects**

The implementation of the 2012 EMPACT projects is so far not on track to meet the agreed Strategic Goals, the one exception is Priority F, THB. The other EMPACT Priorities include those making good progress, some making slow progress and one that requires a review to consider whether it should be continued.

The Priority F Project on Trafficking in Human Beings demonstrates what is achievable and the results are tangible and measurable. The following key points are significant:

- Good Driver/Co-Driver/Participants, relationships and communications
- The number of participating MS has grown from 14 to 17 during 2012
- The OAP is focussed on achievable goals with an operational emphasis
- Action Leaders are empowered to initiate and lead operational activity
- Good support from the Commission, CEPOL & Frontex

- Innovative training and communication techniques e.g. 2 Webinars delivered
- In 5 operations there were 34 arrests and more than 93 victims identified

Tangible results: The number of contributions received and accepted by Europol's relevant Analysis Work File/Focal Point Phoenix increased by 200% (to 1.873) compared to the previous year. This includes 143 new THB cases notified to Europol by October 2012.

There is still room for further improvements, as some MS are more "passenger" than "participant" and the project would benefit from the participation of one particular MS – which is active in combating THB and contributes a lot to FP Phoenix.

At the other end of the scale is Priority E – Smuggling in containers that is proving to be most challenging to get properly started. This Priority was the last to hold its kick-off meeting, in June 2012. It is supported by 10 MS, Europol, Eurojust and CEPOL. The following key points are significant:

- The Strategic Goals were probably too broad in scope
- This is primarily a customs responsibility and integrating customs in EMPACT at this level is a new venture
- The OAP was viewed as unrealistic and several Strategic Goals could not be achieved
- A lack of Action Leaders resulted in actions being discontinued
- An application for ISEC funding failed so another action was discontinued
- The representatives of the participant MS are unable to commit resource
- Key Member States with strategic container ports are missing from the project, although OLAF has recently joined.

Europol has traditionally focussed on criminal phenomena rather than a single mode of transport, so Europol lacked the structure and experience to support the project. The kick-off meeting in June and the OAP planning meetings were the only meetings of the Priority that Europol was asked to support – budget was available for more meetings. France has reported to COSI<sup>[4]</sup> about the challenges of involving the customs services in EMPACT and the difficulties this Priority has encountered demonstrate the problems of making EMPACT a proper multi-disciplinary approach to criminal threats. The Priority has initiated a new action for 2013, engaging with tobacco companies in relation to cigarette smuggling in containers; this has the potential to deliver operational activity but involving the private sector is again breaking new ground.

Europol believes that the Containers Priority is still at an early stage and recognises that it a test-bed for new ideas and for important new multi-disciplinary working. Europol favours trying to provide additional short-term support and then assessing the results at the end of year 2; this project may end up providing the best learning points and information to the first 4 year EMPACT cycle.

Generally the other Priority Projects are re-organising themselves to be better prepared for the 2013 OAPs, but some key statistics are causing concern. Under Priority D: Synthetic Drugs, both the number and quality of reports received at Europol declined slightly, compared to the previous year; whilst in Priority B, Western Balkans, in 2012 the submissions for the third quarter were down 5% against an expected increase of 15%; both

without obvious explanations.

## **2.2. Content and quality of the 2013 OAPs**

After two attempts at drafting the OAPs it becomes clear that the foundation for good OAPs is in appropriate, well drafted Strategic Goals. Certain Strategic Goals were too difficult to convert into implementable operational activities e.g. “Improve the level of security in EU ports to prevent or disrupt crimes using containers”, and it is clear that more time and collaboration with key stakeholders in drafting the Strategic Goals would be a good investment. CEPOL can make a good contribution in this area – based on the training and support it has provided to drafting the OAPs and this is already part of the CEPOL work plan for 2013.

Additionally EUROPOL pioneered some new ways of working when drafting the 2013 OAPs by using professional facilitators and then deploying a “Red Team” of independent thinkers to challenge the OAPs; the idea being to identify problems early and ensure the OAPs are as well conceived and drafted as possible.

The feedback from the half year review of 2012 OAPs recommended more focus on what is practical, achievable and measurable, so the Priority Project teams drafting the 2013 OAPs were urged to keep it simple. This means that some Actions are not addressed (e.g. Containers 2.1 “...survey of EU seaport security”). Generally for the 2013 OAPs this translates into more specific activities with a clearer operational focus – which is good, but with fewer activities overall, which was also a recommendation of the review.

Europol remains concerned that the opportunities for parallel financial investigations and Asset Tracing remain under-developed. Some Priorities never included financial strategies i.e. C, E & H, others have taken financially related Actions out of the 2013 OAPs i.e. B, (SG4), and D, (SG7), or at least significantly reduced their importance

There is no mechanism to make changes to the OAPs mid-cycle and this raises the question of how to manage if a Priority identifies a key piece of work that could make a real difference to the outcome of an important Strategic Goal but is not covered under the existing OAP? Should it wait until the next year?

## **2.3 Actors Involved**

All the roles of the EMPACT Actors have been clarified in the new EMPACT Terms of Reference, approved by COSI in October 2012<sup>[5]</sup>.

### **2.3.1 Driver / Co-driver**

The commitment of the Driver/Co-Driver remains a key factor for success. Different styles can be successful but a personal commitment and the investment of time is crucial.

Communication strategies are another important factor. The driver of West Africa realised that not all the participants of the project had the same understanding about EMPACT, so he arranged further seminars with CEPOL to reach a common understanding. He has negotiated with the Member States that have liaison officers posted to the region so that each country will hold the local “EMPACT coordination role” for six months – further embedding EMPACT thinking in officers working in a distant and difficult region.

### **2.3.2 Project Participants**

Participants in EMPACT Projects are expected to be national experts – many are not or are too junior to play an active role in committing resource to the project. The drafting process for the 2013 OAPs provided Europol with a valuable insight into the challenge the Drivers face – some of the participants were highly active and fully engaged, others not at all. There is a clear role here for the National EMPACT Coordinators to review their commitment to the EMPACT Priorities – establish exactly what contribution their representatives have made – active “participants” are welcomed.

### **2.3.3 EMPACT Support Unit**

The EMPACT Support Unit has recently been reinforced by Europol and by the new EMPACT Terms of Reference which has allowed Europol to recruit a Seconded National Expert from the forthcoming Presidency Trio. An SNE from Lithuania has been selected and will join the EMPACT Support Unit in December 2012.

### **2.3.4 National EMPACT Coordinators (NEC)**

The new EMPACT Terms of Reference assigns a key role to the National EMPACT Coordinator. In 2012 two National EMPACT Coordinator meetings were held, each devoted to helping this key actor to play a full and informed role in EMPACT. The last meeting on 23<sup>rd</sup> & 24<sup>th</sup> October 2012 at Europol Headquarters attracted only 12 persons holding the NEC post; other countries sent an EMPACT representative, and some were represented by their Liaison Officer. This is despite the fact that the date of the NEC meeting had been published in the report of the previous NEC meeting as early as 8<sup>th</sup> June 2012. The Presidency highlighted that not all National EMPACT Coordinators (NECs) had attended the meeting and reminded the delegates that it is important that the NECs give attention to the meeting.

### **2.3.5. Europol Project Support Managers**

Eight Europol Project Support Managers – one for each EMPACT Priority, support the Driver, Co-driver and participants by providing Europol expertise and operational support. In the second half of the year two EMPACT Support Managers will be replaced. These experts provide Europol intelligence and operational support to the project and should be working hand in hand with the Driver, Co-driver and Action Leaders. They can also access Europol operational financial support for operational meetings and other forms of operational support – from analysis, mobile office deployments to use of operations rooms and other logistical requirements. Some Priorities are not making sufficient use of these valuable Europol resources and this should be addressed in the next phase of the cycle.

### **2.3.6 JHA Agencies**

The commitment of the Justice and Home Affairs agencies remains crucial for the success of the EU Policy Cycle. CEPOL in particular has been very active in tailoring training to the requirements of the different actors in EMPACT and to increase knowledge of the EU Policy Cycle. This was recently described in detail in a separate report to COSI<sup>[6]</sup>. Frontex as the Co-driver for priority C – illegal immigration has also played an important role and is also active as a participant in Priority F: THB. Eurojust also remains highly engaged and is a member of all the Priorities.

### **2.3.7 Third Partners/Organisations**

A review by Europol of the 2013 OAPs identified that 7 of the 8 EMPACT Priority OAPs would seek engagement with key Third States: A (1.1, 3.1), B (1.2) C (6), D (4.2), E (2.2), F (7), H (4.4). For EMPACT the required cooperation partners are China, the USA, Western Balkans countries, African countries (Nigeria), Vietnam & Non-EU Eastern European

countries. Norway, Croatia, Monaco and Switzerland are the only Third States with Operational Agreements that are members of Europol Priorities. Since the intention of EMPACT is to focus on operational activities this presents some challenges. Europol has some experience that will hopefully assist in this area and the involvement of Interpol in 4 Priorities will be important.

The same review of the 2013 OAPs identified 10 other overlaps/synergies between the different 2013 OAPs: Improving intelligence flows, Prevention, Private Sector Collaboration, Forensic Strategy, Legislative Changes, Administrative Approach, New Focal Point, Training, Borders & Anti-corruption. Europol believes that these are key areas where drivers/co-drivers will need additional support in order to achieve the Strategic Goals and Europol will be looking to other organisations and agencies to identify Best Practice, expertise, existing projects and suitable training.

#### **2.4 Europol’s overall contribution to the Policy Cycle**

Europol is fully committed to the Policy Cycle and much of its work is prioritised in line with EMPACT.

Following COSI’s approval of the new SOCTA methodology, a dedicated team of strategic analysts is currently preparing the SOCTA. This involves analysis of the Member States’ contributions to a detailed questionnaire. A draft of the restricted SOCTA is being elaborated and will be presented to COSI in March 2013.

Now that the implementation of the new AWF concept is complete and the re-structuring of Europol is finalised (implementation of the new structure by the end of 2012), Europol is better able to commit resource to the key priorities of EMPACT. The re-structuring of the intelligence flow allows Europol to be more agile in responding to new and changing priorities. Data arriving in the Europol Information Hub via SIENA is now identified according to the 8 EMPACT priorities and this enables the analysts to identify relevant data and retrieve it more easily even if it is not stored in “their Focal Point”.

#### **2.5 Europol Financial Support to EMPACT meetings in 2012**

EMPACT Priorities	Number of meetings	Budget
Drivers preparation for OAP	1	€9,000
A: Western Africa	5	€20,000
B: Western Balkans	2	€16,000
C: Illegal immigration	3	€39,800
D: Synthetic Drugs	3	€35,000
E: Container Smuggling	2	€20,000
F: THB	4	€41,000
G: Mobile OCG	5	€38,000
H: Cybercrime	2	€15,000
<b>TOTAL</b>	26	€205,000

In 2011 Europol prioritised EMPACT-related activities and allocated €200K to support EMPACT meetings in 2012, subsequently increased to €250K later in the year. Europol funding ensured that each group could meet four times in the year for strategic and planning meetings. The above table shows that only 3 of the Priorities took full advantage of that funding

For the last 3 years Europol has also made a budget provision to provide financial support to operational meetings; in considering these requests investigations that support the EMPACT are prioritised. In 2012 Europol budgeted €400K to support operational meetings; €230K of this has been committed to support EMPACT related meetings. MOCG and Illegal Immigration received the largest share, whilst West Africa has had no benefit at all.

In 2012 three EMPACT projects planned to seek EU funding. The Containers Project applied for ISEC funding and was turned-down (a new application has been submitted), the Synthetics Project applied to ISEC and was successful – their funding is for 2013-14 and finally the West Africa Project decided not to apply. In June the Drivers identified the lack of funding as a crucial obstacle to the timely implementation of their OAPs. Member States and Europol consider that the current EU funding arrangement (ISEC) is not organised in a way that supports EMPACT and Europol.

## **2.6 Awareness**

A lack of awareness about EMPACT remains an issue but much has been done in the past few months to address this. Europol highlights the engagement of the EU Agencies involved in the different Priorities but particularly CEPOL which has provided tailor-made courses for specific target groups and plans six more EMPACT related training modules in its 2013 work programme as well as the prospect of an e-learning resource. For EMPACT to succeed, especially in challenging, multi-disciplinary areas, this training and awareness raising needs to reach a wider audience and this requires a special effort in the final year of the 2-year test phase.

## **3. Conclusion**

“Honest criticism is hard to take, particularly from a relative, a friend, an acquaintance or a stranger”. Franklin P. Jones.<sup>[7]</sup>

It is important to remember that EMPACT is still less than one year into its two-year test phase and implementation issues are normal at such stage. The important point is to learn from the experiences so far and keep aiming high – in this regard Europol is keen to carry on with the Containers Priority for now, for example. We should also place these critical observations within the wider context of the success found in establishing the EU Policy Cycle in quick time and in a practical format.

As to the further developments Europol proposes the following:

- The Commission is invited to look into the present issues of funding the various activities within the policy cycle
- Europol must finish aligning its intelligence support to EMPACT
- The NECs are encouraged to review their country’s involvement in EMPACT with a view to change priorities and adjust resources where necessary, and to champion EMPACT and raise awareness
- The Drivers and Co-drivers could further optimise their communication with their teams, with key stakeholders and with Europol to ensure they are using all the available resources
- The Participants should explore the possibility whether they can step-up and be Action Leaders, with the support of the respective Driver and the NEC.

