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LIMITE

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ECOFIN 184
TRANS 206
RELEX 206
ECO 104
PESC 405
COTER 31
COSDP 265**

NOTE

from : EU Counter-Terrorism Coordinator
to : COREPER
Subject : Working structures of the Council in terrorism matters - Options paper

1. At the Coreper lunch on 28 April, the Counter-terrorism Coordinator (CTC) was asked to present an options paper on working structures in the Council as regards terrorism. This issue had already been mentioned in a paper from the General Secretariat to Coreper submitted on 8 March 2004, doc 7177/04. In that document, it was stated:

"Coordination problems have been encountered at several levels. The fight against terrorism is a cross-pillar activity engaging many EU actors and instruments. More overarching guidance should be provided to the various working parties and players involved. The two main Council Working Groups (COTER and TWG) are capitals-based and do not feed sufficiently into the Brussels-based discussion and decision-making processes. The TWG itself covers only law enforcement cooperation aspects - other JHA elements which might have an impact on the fight against terrorism such as visa policy, document security and judicial cooperation are dealt with elsewhere, while other aspects such as transport security, data protection have yet another different chain of reporting/decision making.

Furthermore, no single committee is responsible for all aspects of terrorism financing. This situation is in part a reflection of coordination problems at the national level where there can be differences in agreeing policy objectives to be achieved at the European level. Within the institutions, there are considerable coordination challenges given the range of actors involved. Coordination problems have also emerged between first and second pillars, for example in relation to programming."

2. Terrorism is a cross-pillar issue and needs to be considered as such. This was also one of the reasons why the post of Counter-terrorism Coordinator was created. Current working structures of the Council are however directed towards the artificial division of pillars, something which does not facilitate coordination either in Brussels or in capitals. It also entails that there is no dedicated body in Brussels which deals with all aspects of terrorism on a full time basis. Coreper does not have the time to devote itself only to this issue and also deals with terrorist related matters in its two formations (Coreper II deals with JHA, CFSP, ESDP, financing of terrorism; Coreper I deals with transports, telecommunication, environment).

3. Only two Council working groups are fully devoted to the fight against terrorism :

-Terrorism Working Group (TWG) which is composed of representatives of Member States Ministries of Interior/law enforcement agencies (and in some Member States of security services). This group meets three times per Presidency and deals with internal threat assessments, practical cooperation and coordination among EU bodies.

-The Working Party on Terrorism (External Aspects) (COTER) which is mainly composed of representatives of Member States ministries of foreign affairs. This group meets once a month and deals with issues relating to external matters, threat assessments and policy recommendations as regards third countries and regions, implementation of UN Conventions and coordination of work, in particular in the UN, seminars on financing of terrorism.

For the last two years, TWG and COTER have held, once per presidency, a joint meeting to issue a consolidated assessment ("compendium"), integrating the internal and external dimension of the threat (see the current thematic assessment on the underlying factors in the recruitment to terrorism).

4. Several other working groups are dealing with aspects of the fight against terrorism, occasionally or incidentally. The main ones are the following :

-The Article 36 Committee (CATS) which coordinates the works of the various third pillar working groups dealing with police cooperation, judicial cooperation in criminal matters, SIS as well as the work of EU agencies and of the various bodies working in the field of police and judicial cooperation (Europol, Eurojust, European Judicial Network, Cefpol etc.);

-The Strategic Committee on Immigration, Frontiers and Asylum (SCIFA) which coordinates the work of the various working groups in the field of migration, visa, borders and asylum;

-The Political and Security committee (PSC) coordinates the second pillar working groups in the field of CFSP and ESDP. Among those groups, RELEX Counsellors are particularly involved in the EU mechanism to freeze assets of terrorists and terrorist organisations.

-The Working Party on Civil Protection : this group is working on early warning mechanism and consequence management as a whole.

-The various Working Parties on transport (Land, Shipping, Aviation).

5. The work of the Council could be improved on the following fronts :

-financing of terrorism : this issue is spread between many formal and informal working groups in each of the three pillars : COTER , the Multi-Disciplinary Group on Organised Crime (MDG), Relex Counsellors/"Clearing House", specific FATF coordination meetings sometimes organised by the Presidency or the Money Laundering Contact Committee (chaired by the Commission) set up under the Money Laundering Directive are dealing with aspects of the fight against the financing of terrorism. A cross-pillar approach is clearly desirable.

-Threat assessment : the terrorist threat is assessed by many groups and bodies : the TWG submits to the Council every six months an assessment of the terrorist threat on internal security, COTER assesses the terrorist threat in third countries and regions, Europol assesses regularly the threat posed by extremist islamism, the Joint Situation Centre (SITCEN) has produced assessments

dealing with cross-pillar subjects such as counter-terrorism, Counter-Proliferation and threat from non-conventional weaponry (CBRN) and the Counter-Terrorist Group (CTG) sends regularly to SG/HR, SITCEN, Coreper and Commission a report on the threat posed by Radical Sunni Islam. The proposals that SG/HR will make to the European Council on intelligence cooperation will allow for a streamlining of these many reports : in the future, SITCEN will produce assessment reports for the competent Council working groups on the various aspects of the terrorist threat (internal and external).

-Civil protection and consequence management : while a lot of work has been developed in this field, within both the Commission (Civil Protection Monitoring and Information Centre - MIC) and the Council (CBRN Terrorism Programme, Health Security Programme, Database of military assets etc.), more systematic procedures ought to be defined for a rapid and efficient cooperation between the different actors in civil protection before (preparedness) and after a terrorist attack (consequence management).

-Critical infrastructures : as already indicated in document 7177/04, a cross-pillar analysis of the threat and policies in relation to critical infrastructures does not exist yet and is urgently required.

-Operational cooperation : the Tampere European Council had given the Police Chief Task Force (PCTF) the mandate to coordinate concrete law enforcement operations within the European Union, based on the threat assessments produced by Europol. While the PCTF has over years focused its work on concrete operations, its functioning has been undermined by its position outside the Council structures and the lack of a permanent secretariat. The proposal made by the Presidency in document 9453/04 CATS 22 ENFOPOL 50 will allow to improve significantly the efficiency of operational coordination within the European Union.

6. The Declaration on combating terrorism insists on the importance of a swift and full implementation by Member States of all the decisions taken by the European Union. This implies not only the transposition into national law of Directives and Framework Decisions as well as the ratification of Conventions but also that measures are put in place to ensure that this implementation actually delivers in practice the result intended by the EU/EC measures.

The revised Action Plan/Roadmap drafted by the Presidency with the assistance of the CTC and the Commission will allow the Council to improve the monitoring of implementation. This document will put together the many measures agreed (leftovers of the 2001 Action Plan and new measures decided on 25 March 2004) and list them on the basis of the 7 strategic objectives indicated in the Annex to the Declaration, with the indication of the body competent to take the initiative and/or to decide, the degree of priority, the deadline for adoption and/or implementation and any comment necessary. The CTC could be tasked to regularly update the Revised Action Plan/Roadmap and to report every six months to the European Council on the state of implementation of the measures listed in it.

7. The need to improve both coordination within the Council and implementation leads to suggest Coreper to consider the following options :

Option A

Create a High Level Working Group on Terrorism, chaired by the CTC, with national members designated by Prime Ministers/ Heads of State. This Working Party meets twice per Presidency at the level of heads of delegation and once a month at the level of deputies and reports to Coreper. It also makes a report, through the CTC, to the European Council once per Presidency. TWG and COTER are not formally abolished but meet less frequently. This option would not appear opportune for the time being. However, the Counter-terrorism Coordinator will have to maintain close contacts with national capitals.

Option B

Merge the TWG and COTER (a horizontal working party on terrorism is created) and give it responsibility for implementation of the various Action Plans as reflected in the Revised Action Plan/Roadmap. Reporting is to be made directly to Coreper. This option probably does not go far enough in the direction of overall coordination.

Option C

Maintain the current working group structures but reinforce coordination in capitals and in Brussels. Coreper should engage itself in more systematic and regular follow-up of implementation of the Action Plan (terrorism placed at least once per month on the agenda of Coreper and Presidency and/or the CTC makes a report on the latest developments), by giving stronger direction to the work being undertaken in various Committees and working parties, and by reporting to the General Affairs Council which has overall responsibility for coordinating and organising the work of the Council.

In any of these options, it is suggested that there be in each Permanent Representation a person dealing with all aspects of terrorism.

It is also suggested that the working structures of the Council are reviewed by Coreper before the June 2005 European Council.
