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Delegations will find attached the partially declassified version of the above-mentioned document.

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ANNEX

**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 26 May 2003**

**9864/03  
EXT 1 (13.02.2008)**

**COTER 15  
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**NOTE**

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From : Secretariat  
To: Political and Security Committee  
N° prev.Doc.: 15475/2/02 REV 2  
Subject : THE GUIDELINES FOR A COMMON APPROACH TO THE FIGHT  
AGAINST TERRORISM

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1. Delegations will find herebelow "**The Guidelines for a Common Approach to the Fight Against Terrorism**". They are based on the Guidelines for a Common Approach to Suppress International terrorism, which were originally established in 1986 and revised in 1996 and 1999. In this latest revision, the Guidelines have been significantly altered to take into account developments following 11 September.
2. The Guidelines, which constitute an accompanying internal document to the EU Action Plan adopted at the European Council on 21 September 2001, set out in general terms the EU counter terrorism approach on crosscutting issues of particular relevance for the political dialogue.
3. The Guidelines for a Common Approach to the Fight Against Terrorism constitute a tool in the political dialogue as well as in other external relations of the European Union and a basis for the European Union to demonstrate its commitment to prevent and suppress terrorism in a visible and coherent manner. In this context, they will serve as a basis in formulating and presenting the positions and statements of the European Union.

4. The Guidelines also provide a contribution to the fulfilment of the objective of the European Union to focus the political dialogue sharply on particular countries, regions and multilateral frameworks, and on specific issues related to counter terrorism.
5. At its meeting on 4 December 2002, the COTER Working Party reached agreement on the revised document which was attached to the working group report (CFSP/SEC/2853/02). In light of the comment received a revised version was circulated as document 15475/1/02 REV 1.
6. Further to the exchange of views held at its meeting on 17 December 2002, the Political and Security Committee endorsed the revised Guidelines for a Common Approach to the Fight Against Terrorism except for its paragraph 12 to be further discussed in COTER with a view to an agreed text (Doc.15475/2/02 REV 2).
7. Under the Greek Presidency COTER has been thoroughly addressing the issue, which was also raised in COHOM. At the end of a silence procedure on 22 May 2003, COTER agreed on a new formulation for paragraph 12 , now new 11 further to a reordering of the paragraphs also agreed upon by COTER.
8. Delegations will now find attached "The Guidelines for a Common Approach to the Fight Against Terrorism" which include the agreed new text relating to terrorism and human rights.
9. The PSC is invited to endorse the attached "**Guidelines for a Common Approach to the Fight Against Terrorism**", with a view to submission to the Permanent Representatives Committee and to Council for adoption.

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**THE GUIDELINES**  
**FOR A COMMON APPROACH TO THE FIGHT AGAINST**  
**TERRORISM<sup>1</sup>**

**I. INTRODUCTION**

1. The Guidelines for a Common Approach to the Fight Against Terrorism constitute a tool in the political dialogue as well as in other external relations of the European Union and a basis for the European Union to demonstrate its commitment to prevent and suppress terrorism in a visible and coherent manner. In this context, they will serve as a basis in formulating and presenting the positions and statements of the European Union.

2. The Guidelines also provide a contribution to the fulfilment of the objective of the European Union to focus the political dialogue sharply on particular countries, regions and multilateral frameworks, and on specific issues related to counter terrorism. The Guidelines, which constitute an accompanying internal document to the EU Action Plan adopted at the European Council on 21 September 2001, set out in general terms the EU counter terrorism approach on crosscutting issues of particular relevance for the political dialogue.

**II. OVERALL HANDLING OF TERRORISM**

3. Terrorism is one of the most serious common challenges facing the international community. The fight against terrorism remains a matter of the highest priority for the European Union.

**a) The general approach**

4. The European Union condemns all acts of terrorism as criminal and unjustifiable, irrespective of their motivation, forms and manifestations.

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<sup>1</sup> The Guidelines for a Common Approach to the Fight Against Terrorism are based on the Guidelines for a Common Approach to Suppress International terrorism, which were originally established in 1986 and revised in 1996 and 1999. In the latest revision, the Guidelines have been significantly altered to take into account developments following 11 September.

5. Terrorism is a threat to internal security and can constitute a threat to international security, to peaceful relations between States and to the development and functioning of democratic institutions throughout the world. The fight against terrorism is for the long haul and the challenge stemming from terrorism is global in nature. Hence, a global response is required of the international community.

6. The European Union is against making concessions to terrorist demands, and is determined to prevent those committing terrorist crimes from deriving any benefit whatsoever from their acts. It is essential to bring to justice the perpetrators, organisers and sponsors of terrorism and to make sure that those responsible for hiding, supporting or harbouring such persons will be held accountable in accordance with international law as well as the rule of law.

7. The fight against terrorism requires a comprehensive and multifaceted approach by the international community comprising inter alia political, legal, economic, diplomatic, and if necessary, military means. The political dialogue is essential. The European Union is also focussing on the need to provide technical assistance to those countries, which are not capable of implementing counter-terrorism measures effectively. Military means should only be used as a last resort and, like coercive measures, have to be in accordance with the UN Charter.

#### **b) The definition of terrorism and interrelations to other concepts**

8. The international community has not established a definition of terrorism<sup>2</sup>. For the purposes of the Council Framework Decision of 13 June 2002 on Combating Terrorism and the Council Common Position of 27 December 2001 on the Application of Specific Measures to Combat Terrorism, the European Union has established definitions of terrorist acts and perpetrators of terrorist acts. The definitions are in Annex 1 to these guidelines.

The European Union perceives terrorist acts as criminal acts carried out with the aim of seriously intimidating a population, or unduly compelling a Government or an international organisation to

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<sup>2</sup> However, a universally accepted definition of a terrorist act is contained in the 1999 International Convention on the Suppression of the Financing of Terrorism.

perform or abstain from performing any act, or seriously destabilising or destroying the fundamental political, constitutional, economic or social structures of a country or an international organisation.

9. The European Union does not recognise the concept of state terrorism. Acts of states are already adequately covered by rules of international law other than those related to acts of terrorism.

10. The European Union recognises the interrelationship between terrorism and organised crime, illicit drugs, money-laundering, illegal arms-trafficking, and illegal movements of nuclear, chemical, biological and other potentially deadly materials. In this regard it is necessary to enhance co-ordination of efforts on national, sub regional, regional and international levels in order to strengthen a global response to these serious challenges and threat to international security.

### **c) Terrorism and human rights**

11. The European Union holds the view that a distinction must be made between individual criminal acts and acts which are attributable to states. Only states are legally responsible under International Law for protecting human rights. However, acts of terrorism, which are well defined criminal acts, seriously affect the enjoyment of human rights.

12. National as well as international efforts to combat terrorism must respect human rights and fundamental freedoms, the rule of law and, where applicable, humanitarian law. Violence should never be directed against civilians in the name of combating terrorism. Terrorism must not be answered by disregarding human rights, and the fight against terrorism must be carried out in accordance with international human rights law as defined in the relevant international instruments. Human rights, as defined in these international instruments, apply to all persons, including persons who have committed or are suspected of having committed terrorist acts.

13. No limitations of human rights and fundamental freedoms, except as laid down in the relevant human rights instruments, are permissible. Furthermore there are rights, in particular the right to life; to freedom from torture or to cruel, inhuman or degrading treatment or punishment; to freedom

of thought, conscience and religion; and the right not to be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence at the time, when it was committed, that may not be derogated from under any circumstances.

### **III. THE EU APPROACH TO COMBAT TERRORISM INTERNATIONALLY**

14. The European Union believes that the fight against terrorism demands concerted international action and effective national preparedness to prevent and suppress acts of terrorism. In this respect, the European Union has displayed its sincere interest in co-operating more actively and closely with all major actors towards the common goal of combating terrorism.

#### **a) Choice of international forum competent to deal with the issue of terrorism**

15. The European Union believes that the fight against terrorism should be taken forward in various international organisations and bodies in accordance with the strengths and mandate of each individual body. The issue of the proper forum and the role of the various regional and international bodies should be addressed within the European Union as well as in the political dialogue with third countries in order to accomplish coherence and avoid overlap and thereby ensuring the highest possible collective impact.

#### **b) UN**

16. The European Union recognises the central role of the United Nations in the fight against terrorism and remains committed to supporting the UN in its endeavours in this field.

17. Recognising the primary responsibility of the UN Security Council for the maintenance of international peace and security, and thus for action in particular cases of international terrorism, the European Union remains of the opinion that within the United Nations the Sixth Committee of the General Assembly is the most appropriate forum for a thorough examination of the general legal issues related to terrorism. The Sixth Committee and the ad hoc committee tasked to complement

the network of international Conventions and Protocols related to acts of terrorism have a central role in the fight against terrorism. The European Union considers it essential to reach universal consensus on matters related to terrorism. Therefore the European Union will do its utmost in conducting a constructive and fruitful dialogue in the UN General Assembly with all parties and groups involved.

18. The European Union believes that the establishment of the Counter Terrorism Committee (CTC) has been groundbreaking, as there now for the first time is a mechanism for monitoring the universal implementation of the legal obligations of UN Member States in the fight against terrorism. The European Union remains fully committed to supporting the work of the CTC.

19. The European Union recognises the role of the Terrorism Prevention Branch of the Centre for International Crime Prevention and its contribution to enhance international efforts to prevent terrorism.

### **c) The comprehensive legal framework of the United Nations**

20. The European Union is of the view that the United Nations successfully has established a comprehensive legal framework, which the European Union remains committed to implementing fully. Universal and full implementation of Security Council resolution 1373 (2001) and other Security Council resolutions related to the fight against terrorism continues to be a priority for the European Union and its Member States.

21. In the normative field, the 12 UN Conventions and Protocols play a pivotal role in the fight against terrorism and these instruments continue to be of crucial importance. The European Union places great importance on the signing and ratifying and full implementation of these international Conventions and Protocols and shall continue to devote considerable efforts to ensuring that the EU Member States are in compliance with all these Conventions and Protocols.

22. The European Union believes the sectorial approach in the negotiation and conclusion of UN antiterrorism conventions (air traffic, maritime safety, hostages, bombings, financing etc.) has been

successful and continues to strive for the early adoption by consensus of the draft Convention on the Suppression of Acts of Nuclear Terrorism.

23. The European Union firmly supports the early conclusion by consensus of the negotiations on the draft Comprehensive Convention on terrorism. The Comprehensive Convention should provide added value by filling the present gaps of unregulated issues while preserving the “acquis” of the earlier sectorial conventions.

#### **IV. EXTERNAL ACTION IN THE EU FIGHT AGAINST TERRORISM**

24. The Council Conclusions on the External Action of the European Union against terrorism adopted on 22 July 2002 constitute a comprehensive framework for the external policy of the European Union in the field of counter-terrorism. By setting out this framework the Council has adopted a multi-faceted approach ensuring the integration of the fight against terrorism in all aspects of the European Union’s external policy, including CFSP/ESDP.

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Pages 9 and 10 :

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## **V. GENERAL OPERATIONAL MEASURES**

37. In addition to the activities mentioned above in chapters II, III and IV, the European Union will be active in promoting international co-operation for the suppression of terrorism, in particular within the framework of the United Nations.

38. Whenever a terrorist act occurs, the European Union will condemn such an act on the basis of common procedures within the CFSP.

39. The European Union will use its political dialogue with third countries to raise the issue of prevention and suppression of terrorism where relevant, and make demarches where appropriate, in order to:

- Maintain and extend international co-operation in the fight against terrorism and make it more effective.

- Urge all states to comply with the binding UN resolutions countering terrorism, in particular UNSCR 1373 (2001), and to co-operate fully with the Counter Terrorism Committee, and urge all states to take effective measures to prevent and combat terrorism, and in particular to prevent and combat the financing of terrorism.
- Call upon all states that have not yet signed or ratified the UN Conventions and Protocols against terrorism to sign and ratify and fully implement these Conventions and Protocols and encourage states to comply with them.
- Pave the way for conclusion of the negotiations on the Comprehensive Convention on terrorism and the Convention on the suppression of acts of nuclear terrorism.
- Address the issue of possible technical counter-terrorism assistance to third countries.
- Stress that all efforts to combat terrorism must respect human rights and fundamental freedoms, the rule of law and, where applicable, humanitarian law, and emphasise that terrorism must not be answered by disregarding human rights.
- Apply the strongest political pressure on states abetting, supporting or harbouring terrorists.

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**EU DEFINITIONS****OF TERRORIST ACTS AND PERPETRATORS OF TERRORIST ACTS**

For the purposes of the Council Framework Decision of 13 June 2002 on Combating Terrorism and the Council Common Position of 27 December 2001 on the Application of Specific Measures to Combat Terrorism, the European Union has established definitions of:

- Persons, groups and entities involved in terrorist acts;
- Terrorist act;
- Terrorist group;
- Structured group.

**- EU DEFINITION OF PERSONS, GROUPS AND ENTITIES INVOLVED IN TERRORIST ACTS**

“Persons, groups and entities involved in terrorist acts” shall mean:

- Persons who commit, or attempt to commit, terrorist acts or who participate in, or facilitate, the commission of terrorist acts,

- Groups and entities owned or controlled directly or indirectly by such persons; and persons, groups and entities acting on behalf of, or under the direction of, such persons, groups and entities, including funds derived or generated from property owned or controlled directly or indirectly by such persons and associated persons, groups and entities.

**- EU DEFINITION OF TERRORIST ACT**

‘Terrorist act ’ shall mean one of the following intentional acts, which, given its nature or its context, may seriously damage a country or an international organisation, as defined as an offence under national law, where committed with the aim of:

(i) Seriously intimidating a population, or

(ii) Unduly compelling a Government or an international organisation to perform or abstain from performing any act, or

(iii) Seriously destabilising or destroying the fundamental political, constitutional, economic or social structures of a country or an international organisation:

(a) Attacks upon a person's life, which may cause death;

(b) Attacks upon the physical integrity of a person;

(c) Kidnapping or hostage taking;

(d) Causing extensive destruction to a Government or public facility, a transport system, an infrastructure facility, including an information system, a fixed platform located on the continental shelf, a public place or private property, likely to endanger human life or result in major economic loss;

(e) Seizure of aircraft, ships or other means of public or goods transport;

(f) Manufacture, possession, acquisition, transport, supply or use of weapons, explosives or of nuclear, biological or chemical weapons, as well as research into, and development of, biological and chemical weapons;

(g) Release of dangerous substances, or causing fires, explosions or floods the effect of which is to endanger human life;

(h) Interfering with or disrupting the supply of water, power or any other fundamental natural resource, the effect of which is to endanger human life;

(i) Threatening to commit any of the acts listed under (a) to (h);

(j) Directing a terrorist group;

(k) Participating in the activities of a terrorist group, including by supplying information or material resources, or by funding its activities in any way, with knowledge of the fact that such participation will contribute to the criminal activities of the group.

**- EU DEFINITION OF TERRORIST GROUP**

‘Terrorist group’ shall mean a structured group of more than two persons, established over a period of time and acting in concert to commit terrorist acts.

**- EU DEFINITION OF STRUCTURED GROUP**

‘Structured group’ means a group that is not randomly formed for the immediate commission of a terrorist act and that does not need to have formally defined roles for its members, continuity of its membership or a developed structure.

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**THE 12 UNIVERSAL UN ANTITERRORISM CONVENTIONS  
AND PROTOCOLS**

Within the framework of the United Nations the following 12 anti-terrorism conventions and protocols have been established:

1. **Convention on Offences and Certain Other Offences Committed on Board Aircraft - Tokyo 14/09/63**
2. **Convention for the Unlawful Seizure of Aircraft - The Hague 16/12/70**
3. **Convention for the Suppression of Unlawful Acts Against the Safety of Aircraft - Montreal 23/09/71**
4. **Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Personnel - New York 14/12/73**
5. **Convention Against the Taking of Hostages - New York 17/12/79**
6. **Convention on the Physical Protection of Nuclear Materials - Vienna 03/03/80**
7. **Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Aviation, complementary to the Convention for the Suppression of Unlawful Acts Against the Safety of Aircraft - Montreal 24/02/88**

8. **Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation - Rome 10/03/88**
9. **Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms on the Continental Shelf - Rome 10/03/88**
10. **Convention on the Marking of Plastic Explosives for the Purpose of Detection - Montreal 01/03/91**
11. **UN Convention for the Suppression of Terrorist Bombings - New York 15/12/97**
12. **UN Convention for the Suppression of Financing of Terrorism - New York 09/12/99**

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