



**COUNCIL OF
THE EUROPEAN UNION**

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"I/A" ITEM NOTE

from :	Presidency
to :	Permanent Representatives Committee/Council
Subject :	Presidency's draft report on the European Union's activities in the fight against terrorism.

1. On 22 November, the Presidency issued a comprehensive draft report to GAERC on the status of the European Union's activities in the fight against terrorism (Coreu COP 1494/02) with a procedure for providing comments by Coreu before 27 November 2002. On 25 November, the draft was discussed by COTER and in the light thereof and other comments made, a revised draft was discussed in the RELEX group on 2 December 2003. The revised draft resulting from the Relex meeting was discussed by the Political and Security Committee (PSC) on 3 December 2002 as far as issues related to CFSP and ESDP are concerned.

Agreement was reached on the Presidency's draft report which is attached in the Annex.

2. The Permanent Representatives Committee is therefore invited to:

- confirm the agreement reached on the Presidency's draft report
- recommend that Council:
 - take note of the report;
 - direct its competent bodies to bring the work forward on the recommendations made in the report.

REPORT TO THE GENERAL AFFAIRS AND EXTERNAL RELATIONS COUNCIL

on the status of the European Union's activities in the fight against terrorism

I. INTRODUCTION

The terrorist attacks on the United States of 11 September 2001 changed the global agenda. The European Union rose to the events with great determination and purpose and acted resolutely and swiftly. The fight against terrorism has been a top priority for the Belgian, Spanish and Danish Presidencies and will remain a priority for the European Union for the foreseeable future. More than a year has passed and time has come to take stock of what the European Union has achieved and chart a path for the future. To ensure the freedom, security, and well-being of our citizens and to defend our democratic values, the EU should stay at the forefront in the fight against terrorism together with our close partners, not least the United States.

The European Union remains determined to fight terrorism in all its forms. The fight against terrorism is for the long-haul and the challenges stemming from terrorism are global in nature and the response will also have to be global. This requires a comprehensive approach, including political, economic, diplomatic, and other appropriate means. At the same time, the fight against terrorism must be conducted with respect for the rule of law, human rights and fundamental freedoms.

In its extraordinary session on 21 September 2001, the European Council approved a Plan of Action for the European Union's activities against terrorism and decided to step up the actions of the Union against terrorism through a co-ordinated and inter-disciplinary approach embracing all the Union's policies, including development of the Common Foreign and Security Policy (CFSP) and by making the European Security and Defence Policy (ESDP) operational. The action plan remains the basis of the European Union's handling of the fight against terrorism.

Building on the action plan, the European Union has broken new ground in ensuring the freedom, security and justice for our citizens in close co-operation with our partners. Following the conclusions of the European Council in , the European Union has especially asserted and developed its international role and has, thereby, played a crucial role in underpinning the international coalition against terrorism.

With a view to ensuring greater consistency and co-ordination between all of the Union's policies, the Council of General Affairs and External Relations has been accorded the role of co-ordination and providing impetus in the fight against terrorism. This report demonstrates that significant results have been achieved. At the same time the report contains recommendations on how the European Union can maintain momentum in the fight against terrorism for the benefit of our citizens.

II. EU MEASURES TAKEN IN THE FIGHT AGAINST TERRORISM

A. ENHANCING JUSTICE, SECURITY AND PROTECTION OF EU CITIZENS

All measures and initiatives implemented under the action plan have been reported to the Council through the 'road map'. In particular, substantial progress has been made in the following areas:

Police and Judicial Co-operation

Following the agreement signed in December 2001 providing for the exchange of technical and strategic information between Europol and the US authorities, substantial progress has been made and an agreement providing for the *exchange of personal data between Europol and US authorities* is expected to be concluded before the end of 2002. Furthermore, the negotiations on an agreement between the EU and the US on *mutual legal assistance and extradition* have also progressed significantly.

Important criminal law instruments relevant for combating terrorism, including the *framework decisions on Combating Terrorism and the European Arrest Warrant*, have been adopted, a *framework decision on the freezing of assets* has been pursued, and Eurojust has been established. In order to strengthen the operational co-operation between Member States and between the EU and the US, a number of steps have been taken, in particular regarding investigation and the prosecution of terrorists. One of these measures has been the establishment of a *counter terrorism task force within Europol*.

New instruments in the fight against terrorism have been developed, inter-alia the initiative on the development of *terrorist profiles*, which takes into account the possibility of co-operation with third states.

The EU has developed and refined its capacity to assess the terrorist threat to Member States and their citizens. As a tool for national law enforcement authorities responsible for the fight against terrorism, *threat assessments and a list of terrorist organisations* within the EU have been elaborated and have been updated on a regular basis.

The Council has adopted a Council Decision on the designation in each Member State of *specialized services within the police services*. The specialised services of each Member State have access to and are to collect the information concerning and resulting from criminal investigations conducted by the law enforcement authorities of that Member State, with respect to terrorist offences involving any of the persons, groups or entities included on the EU terrorist lists. Furthermore the Council has adopted recommendations on the introduction of a *standard form for exchange of information on terrorists*. The Council has also adopted a Council Decision establishing a *mechanism for evaluating* the legal systems and their implementation at national level in the fight against terrorism. An evaluation of the effectiveness of Members States' legal systems and the implementation at national level of the various relevant international conventions in the fight against terrorism has been initiated.

Border Control

The practical implementation of the Plan for the *management of the external borders* has been further progressed. To this end, joint border control operations are being planned and conducted in the Mediterranean, at the eastern land borders, at European airports and in the North Sea. With a view to improving Member States' ability to combat illegal immigration and possible links to international terrorism, a project relating to the creation of a *common risk analysis model* is to be completed before the end of 2002.

Protection of the Populations against the CBRN Threat

A joint Commission and Council programme has been prepared. The programme will improve co-operation in the European Union on *preventing and limiting the consequences of chemical, biological, radiological or nuclear threats*. The overall aim of the programme is to increase the efficiency of the measures taken at national and EU level with regard to terrorist CBRN threats. The programme sets out the strategic objectives that need to be addressed in order to improve the protection of the population, the environment, the food chain and property against CBRN threats and attacks and describes where further action is required.

Maritime Security

EU Member States and the Commission have been supportive of the work initiated by the IMO amending the SOLAS Convention and creating a new International Code for the Security of Ships and Port Facilities. Some issues remain outstanding. However, remarkable progress has been made so far to finalise the security provisions of the Convention and the Code with a view to adoption at the IMO Diplomatic Conference in December 2002.

The EU and the United States have a shared objective to obtain the highest possible level of security of container traffic with only minimal disruption of international trade flows. Continuous discussions are conducted with the United States to develop a set of basic working arrangements for the co-operation between US Customs Services and EU Customs Administrations on *increased security of seagoing containers* through an effective and efficient introduction of the US Container Security Initiative (CSI). This includes a possible EU/US agreement that will replace pre-existing bilateral agreements.

Civil Aviation Security

The EU has also made efforts to improve *civil aviation security* and an important Council Regulation on this issue is expected to be adopted before the end of 2002. This Regulation will tighten standards on security measures and technical specifications for equipment in support of aviation security in Community airports. This includes improved screening of passengers, crew, and airport staff before entering certain security-restricted areas in airports. In the International Civil Aviation Organisation (ICAO), Member States have facilitated international standards regarding the protection of cockpit doors as of November 2003 and the development of an international airports security audit programme.

Travel advice

Steps have been taken to enhance co-operation and exchange of information between the relevant services in order to give individual Member States the best possible basis for the elaboration of their respective national travel advice.

B. THE FIGHT AGAINST THE FINANCING OF TERRORISM

The fight against the financing of terrorism continues to be a priority for the European Union. A range of measures has been taken in order to enhance the efforts of the European Union in this field.

Economic and financial measures have been taken to dry up the sources of terrorist funding.

The EU has taken measures through the appropriate legal acts (Common Positions and, within the competence of the Community, Council Regulations) to ensure the full implementation of the United Nations Security Council Resolutions dealing with the financing of terrorism:

- As regards the *implementation of UNSCR 1373 (2001)*, the EU has developed a common list of persons, groups and entities involved in terrorist acts, against which an obligation to freeze funds and/or enhanced police and judicial co-operation apply. The EU has taken measures to ensure that the list is kept under constant review.
- As regards *UNSCR 1390 (2002)* the lists adopted by the UN Sanctions Committee are transposed automatically into Community legislation.

A workshop on preventing the financing of terrorism took place on 27 November 2002 providing the framework for an exchange of experiences and analysis on the shortcomings and possible solutions identified by Member States in the field of countering the financing of terrorism.

Within the framework of the Common Foreign and Security Policy, an *analysis on the financing of terrorism* is being undertaken, which examines the international co-operation and instruments available on the fight against the financing of terrorism and sets out the EU strategy towards third countries and multilateral forum in this field.

The European Union has actively supported the Eight Special Recommendations on Terrorist Financing adopted by The Financial Action Task Force (FATF), and the efforts centred on the implementation of these recommendations by as many countries as possible. This exercise has helped identify countries for priority technical assistance by the IMF, the World Bank and the United Nations in order to improve the anti-terrorist financing systems of these countries.

The ECOFIN Council moved towards a common position on the directive on market abuse on 19 July. The directive on market abuse was adopted by the ECOFIN Council on 3 December. This directive will help to combat attempts to finance terrorism via misuse of the financial markets. At the ASEM Finance Ministers' meeting in Copenhagen on 6-7 July, ministers endorsed FATF recommendations and committed themselves to combating terrorism.

C. THE EUROPEAN UNION'S EXTERNAL ACTION IN THE FIGHT AGAINST TERRORISM

Following the declaration of the European Council in Seville on the contribution of CFSP, including ESDP, in the fight against terrorism, the General Affairs Council adopted conclusions on the External Action of the European Union against terrorism on 22 July 2002, which establishes a comprehensive framework for the external policy of the European Union in this field. By setting out this framework the Council adopted a multi-faceted approach ensuring the integration of the fight against terrorism in all aspects of the European Union's external policy, including the Common Foreign and Security Policy.

To serve as a basis for integrating the fight against terrorism in the European Union's relations to third countries, a number of *threat analysis*' have been developed on certain countries and regions of particular relevance in the fight against terrorism. The European Union has finalised seven regional analysis' (Central Asia, South East Asia, Middle East, Gulf countries and Iraq, Northern Africa, Eastern Africa and the Balkans) and more than 30 country analysis'. These threat analysis' will provide a useful basis for the operational measures of the European Union, such as the political

dialogue, counter-terrorism elements in contractual relations with third countries and technical assistance projects to third countries in the field of counter-terrorism.

The European Union has established a procedure to ensure *“reviewing and amending of counter terrorism aspects of relations with third countries, including as appropriate contractual relations, following the systematic evaluation initiated by the GAC in October 2001”*. This procedure sets out provisions allowing for the revision and amending of contractual relations of the European Union with third countries regarding existing agreements as well as possible new ones. Counter-terrorism elements are included – as appropriate - on the basis of an evaluation of a number of criteria relevant to the fight against terrorism, e.g. the commitment of a given country and its capacity to implement UNSCR 1373 (2001) and other international commitments, its support for a general convention against terrorism, its record with regard to implementation of the twelve existing UN conventions on combating specific terrorist acts, as well as a specific risk assessment analysis.

In order to meet the objective of *“focusing the political dialogue more sharply on particular countries, regions and multilateral frameworks, and on specific issues related to counter terrorism, and ensuring follow up”*, a number of concrete measures have been taken. Since 11 September 2001, counter terrorism has been a top priority in the Union’s political dialogue with third countries resulting in a number of significant political statements and declarations, such as from the EU/India Summit in November 2001, the EU/Japan Summit in December 2001, the EU/Canada Summit and the EU/Latin America Summit in May 2002, the EU/ASEM Summit in September 2002 and the EU/African Union Ministerial in November 2002. As a follow up to the declaration on terrorism adopted on 3 October 2001 at the EU/Russia Summit, the EU and Russia reached agreement at the Summit on 11 November 2002 on a far-reaching framework for the fight against terrorism entailing more intensified co-operation. The framework sets out the shared values and commitments in the fight against terrorism and identifies a series of specific areas of EU-Russia co-operation to be taken forward.

The *Guidelines for a Common Approach to the Fight Against Terrorism*, which have been updated and amended, provides a further contribution to the fulfilment of this objective. The Guidelines, which constitute an accompanying internal document to the EU Action Plan adopted at the European Council on 21 September 2001, sets out in general terms the EU counter terrorism approach on cross-cutting issues of particular relevance for political dialogue.

In order to meet the objective of “*identifying specific actions to assist third countries in implementing their commitments under UNSCR 1373*” the Commission has acted swiftly by establishing a strategy for providing additional and focussed projects on technical assistance to a number of third countries facilitating the implementation of UNSCR 1373 and other relevant international obligations. On the basis of this framework, pilot projects are being launched in a limited number of countries. Priority countries for assistance have been chosen based on criteria endorsed by the Council (relevance in the fight against terrorism; significance to EU foreign policy; technical assistance needs; readiness to co-operate and existence of EU comparative advantage) and in consultation with the UN Counter Terrorism Committee (CTC).

The Commission has identified the following areas, where technical assistance in general might be provided: Ratification of international conventions, drafting of counter-terrorism legislation, combating the financing of terrorism, police and law enforcement work including the fight against organised crime related to terrorism, judicial capacity building, judicial co-operation, fight against corruption, border management, immigration law and practice, customs law and practice and human rights instruments underpinning good governance/rule of law. Concrete projects will be designed in close co-operation with the third country in question, and on the basis of assessment, mission with participation of the Commission and national experts from EU Member States. The Commission reports to the Council on a regular basis.

The Commission has decided to give priority to Indonesia, Pakistan and the Philippines as the first pilot countries. An assessment mission to the Philippines took place in November 2002 and assessment missions for Indonesia and Pakistan are in the planning process.

To achieve better co-ordination of existing activities in the field of technical assistance to third countries and to ensure coherence in EU external action, an internal inventory of bilateral as well as multilateral activities within the European Union and Member States, is being established and will be updated on a regular basis. Furthermore, the European Union has established a compilation of EU model legislation implementing UN Security Council Resolution 1373 (2001) with a view to assisting third countries in their endeavours in the field of counter-terrorism. This compilation of model legislation could serve as a basis for inspiration for third countries on the legal implementation of UNSCR 1373 (2001). The compilation will be provided through the CTC web site and the compilation of national legislation in the field of counter-terrorism published by the UN Secretariat.

Indonesia represents a tangible example of the Unions reinforced capacity to take swift action. Following the shocking terrorist attack in Bali, a high-level troika delegation of the European Union visited Indonesia in order to express EU solidarity and to demonstrate willingness to support the Indonesian Government in its fight against terrorism. Based on the shared interest in strengthening political dialogue on combating terrorism, regular expert meetings have been established. Furthermore, the Commission has identified Indonesia as a pilot country for technical counter-terrorism assistance.

“Increasing the effectiveness of existing instruments implementing UNSCR 1373 including by exchanging best practice” has been a cross-cutting priority for the European Union. With a view to exchanging best practices and experiences between Member States in the field of the fight against the financing of terrorism, a large-scale workshop has taken place. Exchange of information and experience has also been addressed in other fields, e.g. through development of the aforementioned inventory of counter terrorism technical assistance projects, as well as through the establishment of new procedures for exchange of information on travel advice.

Regarding *“implementing and developing the targeted initiatives within the field of non-proliferation, disarmament and arms control adopted by the GAC on 15 April 2002”* a mechanism has been developed to ensure the implementation of the concrete measures adopted by the Council, focusing on the effective implementation of multilateral instruments, export controls, international co-operation and political dialogue.

With regard to the other priority actions for the EU, including in the field of CFSP and ESDP, work is underway:

- to devote greater efforts to conflict prevention
- to develop a common evaluation of the terrorist threat against the Member States or the forces deployed under ESDP outside the Union in crisis management operations
- to refine the impact of the terrorist threat on the development of military capabilities, notably within the ECAP process and
- to explore the possibility to use military or civilian capabilities to help protect civilian populations against the effects of terrorist attacks.

In this context the Helsinki Headline Goal Catalogue was refined. The aspect of terrorist threat to deployed forces was addressed, and a new requirement for NBC protection has been incorporated in the catalogue.

With a view to *enhancing co-operation with and within relevant international organisations, as well as with the United States and other partners* in the field of counter-terrorism, close co-operation at all levels has been maintained and developed with the US. Also, the European Union has initiated concrete action plans with a number of other third partners to serve as a basis for concrete and mutual co-operation. The objective of the action plan is to improve co-operation, where added value can be expected by moving from sheer political dialogue, to active and operational co-operation on issues identified as priorities for both partners. Furthermore, a framework has been established in order to facilitate a closer co-operation and exchange of information between the European Union and the associated countries, e.g. by setting up a network of contact points.

With regard to co-operation with *international organisations and multilateral forum*, the European Union has established close co-operation on counter-terrorism with its partners in the bi-regional co-operation between the EU and Latin America/the Caribbean, ASEM (Asia-Europe Meeting), ARF (the ASEAN Regional Forum), the Barcelona process, the Centre for international crime prevention in Vienna, etc. The European Union is also actively involved in the implementation of the action plan of the Ministers of the Council of Europe and the work of the Multi-Disciplinary Working Group on Terrorism. EU-OSCE co-operation has advanced through close contact to the Personal Representative on counter terrorism of the OSCE and the chairmanship of the OSCE. The objective is to build on the comparative advantages of both organisations, especially in Central Asia. Furthermore, the Commission is exploring possibilities for enhanced co-operation with the OSCE in Central Asia. The European Union has actively supported the United Nations in its pivotal role as the global forum in combating acts of terrorism.

III. RECOMMENDATIONS

The aim of the following recommendations is to maintain continuity and further develop the EU involvement in the fight against terrorism and in particular to build on the strengthening of the external aspects of the activities of the Union, with a view to incorporating the fight against terrorism into all aspects of EU external policy.

- I. On the basis of the EU Action Plan the EU should continue to develop all aspects related to the fight against terrorism, including the early and full implementation of the measures included in the EU road map on the fight against terrorism.
- II. Special attention and priority should be accorded to the following areas with a view to providing additional progress:
 - a. Enhancing justice, security and protection of the EU citizens

- Implementation of the programme to improve co-operation in the European Union for preventing and limiting the consequences of chemical, biological, radiological or nuclear threats.
- Further consideration of how to ensure the full use of the potential provided by the Schengen Information System in counter terrorism.
- Conclusion of agreements with the USA on extradition and mutual legal assistance in criminal matters.
- Consideration of negotiations with Canada on extradition and mutual legal assistance.
- Progress concerning the co-operation with Russia on the basis of the joint statement on the fight against terrorism, including the specific areas identified for EU-Russia co-operation adopted at the EU-Russia summit on 11 November 2002.

b. The fight against the financing of terrorism

- Maintain the EU's impetus in the fight against the financing of terrorism and to develop EU measures in this field by making the EU Asset Freezing lists more operational by focussing more on the financiers as well as the channels used to finance terrorism.
- Taking forward the discussion on terrorist organisations that also engages in political activities.
- Regular exchange of information on the implementation by Member States of the obligations in UNSCR 1373 concerning the freezing of funds and other financial assets or economic resources of persons and entities.

- Enhancing co-operation - inter alia in the framework of further workshops or seminars - on the prevention of the financing of terrorism by the exchange of experiences on national measures in this field, in particular by focussing on the financing of terrorism through non-profit organisations (NPO's) or other arrangements for transferring funds.
 - Implementation of the operational recommendations identified in the threat analysis on the financing of terrorism, and update of the analysis as appropriate.
- c. The fight against terrorism in all aspects of the EU's external policies, including CFSP and ESDP
- The comprehensive framework for the external policy of the European Union in the field of counter-terrorism established by the Council conclusions of 22 July 2002 should continue to form the basis for the European Union's relations to third countries. This strategy should be reinforced in all the external relations of the European Union.
 - Further development and regular updating of the analysis of the terrorist threat and the policies of the local government in specific countries and regions by the competent working bodies of the Council with involvement of the Council Secretariat (SITCEN, Policy Unit), as appropriate.
 - Further develop a common evaluation of the terrorist threat against the Member States or the forces deployed under ESDP outside the Union in crisis management operations.
 - Full implementation of the operational recommendations of the geographical threat analysis; and the political declarations with third countries.

- Implementation of counter terrorism co-operation commitments with third countries; and review of existing agreements to consider if necessary inclusion of counter terrorism elements.
- On the basis of contributions prepared by the various working bodies in the CFSP, the PSC should address on a regular basis the horizontal implications of measures taken in the field of counter terrorism with a view to ensuring coherence in the external policy of the European Union and pertinent follow up.
- Continuation without delay of the implementation of EU pilot projects on technical assistance to third countries regarding the implementation of UNSCR 1373. On the basis of a rapid evaluation of experiences gained from the pilot projects, lessons learned will inform preparation of future assistance projects in this area.
- Further exploration of potential co-operation with the OSCE in relation to possible joint pilot projects in Central Asia.
- Coordination of bilateral technical counter-terrorism assistance projects of Member States, the associated countries as well as EU measures in this field.
- Continue ongoing efforts to further develop the list of concrete measures in the field of non-proliferation, disarmament and arms control adopted by the Council on 15 April 2002.
- To step up the work to increase the effectiveness of the contribution of the ESDP in fight against terrorism, in accordance with the declaration of the European Council. In particular, attention should be paid to the following items:
 - The military capabilities that may be required to protect forces deployed in EU-led crisis management operations against terrorist attacks, in order to ensure the essential freedom of action and force effectiveness (force protection).

- The military and/or civilian capabilities that may be required for the protection of civilian populations against the effects of terrorist attacks (Consequence Management)

III. The implications of enlargement of EU for the fight against terrorism.

- The highest priority should be given to co-operate with and assist the new Member States in their endeavours in the field of counter-terrorism, inter alia
 - Regarding the implementation of the EU Action Plan
 - Enhanced exchange of information on and involvement of the new Member States in the work of the relevant bodies of the Council (working groups etc).

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The in-coming Presidency is invited to present a report on EU action in the fight against terrorism, including progress on these recommendations.
