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"I" ITEM NOTE

from :	Counter-Terrorism Coordinator
to :	COREPER/Council/European Council
Subject :	Implementation of the Strategy and Action Plan to Combat Terrorism

1. This report responds to the European Council's request for a report every six months on the implementation of the Action Plan to combat terrorism adopted in June 2004 and revised most recently in September 2006. The report summarizes progress since June 2006 and the state of play regarding ratification of the conventions and implementation of the legislative acts regarded as having priority, the details of which are set out in ADD 1.

2. In December 2005 the European Council adopted the European Counter-Terrorism strategy, which has provided the framework for EU activity in this field. The strategic commitment of the Union is to combat terrorism globally while respecting human rights, and make Europe safer, allowing its citizens to live in an area of freedom, security and justice. The strategy groups all actions under four headings - PREVENT, PROTECT, PURSUE, RESPOND. The Revised Action Plan follows this pattern with the objective of setting out clearly what the EU is trying to achieve and the means by which it intends to do so. The report covers progress against individual actions within this same framework.

INTRODUCTION

3. To combat terrorism effectively all Member States must ensure all relevant national services coordinate their activities and operate on the basis of sufficient capabilities. In December 2005 the European Council approved an analysis by the Presidency and the Counter-Terrorism Coordinator of the evaluation of national counter-terrorism arrangements. Good practices were highlighted and recommendations issued. In the course of 2006 Member States reported to the Council on implementation of the recommendations. Many positive changes in Member States have been noted, including changes in legislation. The final implementation report will be presented to the Council in December.
4. In its political dialogue with international partners the EU continued to promote the role of the UN in the fight against terrorism. In particular, the EU played a key role in supporting the adoption of the UN Counter Terrorism Strategy which reflects the priorities of the EU's own strategy. Although progress on the UN Comprehensive Convention on International Terrorism remained blocked, the EU regards the conclusion of the Convention as a viable goal and remains committed to achieving consensus on that subject in the UN

5. Cooperation between the EU and the United States, Russia, Australia and other international partners has been extended further. A high-level political dialogue on counter-terrorism took place between the Counter-Terrorism Coordinator and the Indian authorities. The EU-India summit in October confirmed the commitment of both sides to intensify their cooperation in this field. Following President Musharraf's visit to Brussels the Pakistani government indicated it too would welcome a regular dialogue on counter-terrorism with the European Union. The Government of Egypt has presented a similar request.
6. In its dialogue with partners, bilaterally and multilaterally, the EU has continued to emphasize that the fight against terrorism must be conducted in full respect of the rule of law and human rights. On September 15 EU Foreign Ministers confirmed that the existence of secret detention facilities where detained persons are kept in a legal vacuum is not in conformity with international humanitarian law and international criminal law.
7. In recent years it has become increasingly apparent that decision-making in the Justice and Home Affairs sector is hampered by a variety of institutional deficiencies which must be addressed. The efficiency of decision-making is reduced by the need for unanimity, which is increasingly difficult to secure in a Union of 25 and soon 27 Member States. The process is slow and uncertain, as has perhaps most clearly been seen in the case of the proposed Framework Decision on the European Evidence Warrant and the proposed decision on cross-border police cooperation. While these legislative instruments have a wider application than counter-terrorism, they are clearly important in the EU's overall CT strategy. Faster progress must be made in these areas if the EU is to implement this strategy effectively.
8. There remain also deficiencies in implementation. For example, national implementation of the Framework Decision on the freezing of property and evidence has been slow. Although the deadline for implementation was August 2005, less than half of the Member States have implemented it. Implementation of the Framework Decision on the European arrest warrant has also been slow and uneven, as is the case with the Council Decision on the exchange of information and cooperation concerning terrorist offences. The Commission lacks effective powers to launch infringement proceedings to remedy deficiencies in national implementation of third pillar legislation, and judicial oversight remains restricted.

9. On 25 June 2006 the European Council invited the Presidency to explore, in the context of the Hague Programme and in close cooperation with the Commission, the possibilities of improving decision-making and action in the area of Freedom, Security and Justice, on the basis of the existing Treaties. The Commission presented on 28 June 2006 its Communication, “Implementing the Hague Programme: The Way Forward” (COM(2006) 331 final). Article 42 of the Treaty on European Union allows the Council to transfer actions under the current third pillar to the first pillar (the so-called bridging clause or passerelle). Much CT cooperation can and does occur without such a transfer but renewed consideration should be given to this issue or to modifying the Treaty in order to enhance such cooperation further.

PREVENT

10. The first objective of the Counter-Terrorism Strategy is to prevent people from turning to terrorism by tackling the factors or root causes which can lead to radicalisation and recruitment, in Europe and internationally. To attain this objective, in December 2005 the Council adopted a strategy and an action plan to counter radicalisation and recruitment.
11. The internet has been identified as a key vector for the spread of terrorist propaganda and recruitment. Germany has launched an initiative ('Check the Web') to tackle terrorist incitement on the Internet. The aim of the project will be to ensure synergies in the efforts of Member States and the EU to counter terrorist use of the Internet..
12. Meetings to promote interfaith and intercultural dialogue have been held in the framework of the Barcelona Process and the Anna Lindh Foundation. The Finnish Presidency has also organized a conference with religious and cultural groups in Jakarta aimed at challenging stereotypes in Europe and the Islamic World.
13. Community policing has been emphasized as a means to prevent radicalization and recruitment. Many Member States have made progress in training their police forces in this field. In addition, the CEPOL work programme for 2007 provides for joint training of EU police officers and for the exchange of experiences of national approaches.

14. The Commission has set up an expert group on violent radicalisation and it intends to present a report on the state of play of research in the field within the next few months. The Commission has also commissioned studies on the triggers for radicalization among youths, narratives used by extremists, and the methods through which terrorists find new recruits.
15. A proposal to facilitate information exchange on expulsion of radical preachers inciting violence and racial hatred is under discussion in the Council.
16. A Media Communication Strategy was approved by the Council in July 2006. The strategy aims to challenge inaccurate depictions of EU policies and to undermine terrorist propaganda which distorts conflicts around the world as a supposed proof of a clash between the West and Islam. Improved communication should contribute to countering efforts aimed at radicalization and recruitment.
17. In external relations, the EU has continued to engage international partners on radicalization and recruitment. Sharing experiences and best practice is an important part of tackling this global phenomenon. In some cases (e.g. Morocco) the EU has included radicalization and recruitment issues in capacity building programmes. The EU has also worked to reinforce the international consensus on the respect for human rights in the fight against terrorism. This is a fundamental requirement to prevent further radicalization. The EU has equally continued its efforts to address the international conflicts which facilitate radicalization and recruitment into terrorism.
18. The Presidency, with the support of the EU CT Coordinator and the Commission, will present a review of the Radicalization and Recruitment Strategy before the end of the year.

PROTECT

19. The second objective of the Counter-Terrorism Strategy is to protect citizens and infrastructure and reduce our vulnerability to attack, including through improved security of borders, transport and critical infrastructure.
20. In October the Council welcomed the transitional proposal to integrate the new Member States in SIS 1+. Moreover, political agreement has been reached on the SIS II legal texts, which include the legal possibility to exchange data with Interpol on lost and stolen passports.
21. Some progress has been made on the Proposal for a Regulation on VIS and the Decision concerning access for consultation by authorities responsible for internal security and Europol of the VIS. However, both proposals are still under discussion in the Council and the European Parliament.
22. In order to improve the security of EU passports, so far 18 Member States (and the three associated States) have been issuing biometric passports including facial images. The remaining Member States will do so in the course of 2007.
23. Custom services from several Member States organized a joint counter-terrorism exercise in 2005. A similar cross-border exercise is being planned for 2007. The result of other relevant joint customs operations, such as the planned operation Fireball focusing on smuggling of firearms, will be taken into account.
24. In October the EU and the US concluded an Interim Agreement on the processing and transfer of passenger name record (PNR) data by air carrier to the US department of Homeland Security. This agreement substantially reproduces the previous EC/US Agreement, ensures continuity, provides legal certainty to economic operators and ensures respect for the protection of personal data.

25. In response to the attempted plot to hijack transatlantic airliners at Heathrow and blow them up using liquid explosives, the Commission adopted new rules under the Regulation on aviation security to limit the size of cabin baggage and the amount of liquids allowed on board aircraft. At the same time, work has proceeded on a new Regulation on aviation security which will simplify and make more flexible the arrangements for agreeing new rules. A text has been agreed with the European Parliament and the Council is expected to adopt it December.
26. The recent prevented terrorist attacks in London have once again shown the need for research to be focused in order to stay one step ahead of terrorists and to anticipate new methods of attack. The Commission issued a Green paper on detection technologies and organized a conference with the private sector on the security of explosives. The Commission is also preparing the ground for a European Network of Explosive Ordnance Disposal as a channel for exchange of information among national experts.
27. Commission proposals on the European Critical Infrastructure Program, including a Communication on Transport and Energy Critical Infrastructure and on establishing of the Critical Infrastructure Warning and Information Network (CIWIN) are expected to be sent to the Council soon.
28. The Commission has included provisions on security-related research in its proposal for the 7th Research Framework Program (2007-2013). Agreement between the Council and the Parliament has been reached and the proposal is expected to be adopted by the end of year. The budget earmarked for security-related research amounts to € 1400 million.

PURSUE

29. The third objective of the European strategy against terrorism is to pursue and investigate terrorists across our borders and globally; to impede planning, travel and communications; to disrupt support networks; to cut off funding and access to attack materials, and bring terrorists to justice.

Terrorist financing

30. Progress has continued in transposing the nine FATF Special Recommendations into EU law. On 7 November 2006 the Council adopted the *Regulation on information on the payer accompanying transfers of funds* following a first-reading agreement with the European Parliament. The Regulation, which implements FATF Special Recommendation VII, will enter into force on 1 January 2007. Work has been progressing on the proposal for a *Payments Services Directive* implementing FATF Special Recommendation VI on alternative remittances with a view to its adoption in 2007. As regards the *Third Anti Money Laundering Directive*, a first set of implementing measures was adopted on 1 August 2006.
31. The Council adopted the *Framework Decision on the application of the principle of mutual recognition to confiscation orders* on 5 October 2006. The purpose is to establish the rules under which a Member State shall recognize and execute in its territory a confiscation order issued by a court competent in criminal matters of another Member State.
32. The Legislative framework is more or less completed and the focus needs to be now on operational cooperation such as the exchange of information (financial intelligence) and on strengthening financial investigations as a tool for detecting and disrupting terrorist networks. The recommendations set out in the Commission Communication on terrorist financing of November 2006 (COM (2005) 620) are under discussion in the Working Party on Terrorism. Consideration could be given to bringing in financial expertise to the process in order to have a more informed debate on these important proposals.

33. Development of the European network of *Financial Intelligence Units* is still incomplete. All Member States need to be connected operationally and FIUs need to use the platform in order to establish the FIU.NET as a viable EU wide network. The Commission has established an informal FIU Platform to discuss obstacles with implementing the 3rd AML/CTF Directive and to ensure a uniform implementation. The Commission has also started to evaluate the implementation by EU Member States of the Council Decision of 17 October 2000 concerning arrangements for cooperation between FIUs. A report is expected by early 2007. Consideration could be given to using the peer evaluation system to look at the role of the FIU and other relevant national bodies in the fight against terrorism. This could cover an inventory of international standards (FATF, Egmont Group) and existing instruments for cooperation at the EU level, followed by an analysis of legal and other obstacles for sharing information between FIUs and law enforcement and intelligence services. Such a peer review could also include the private sector and conclude with an analysis of best practice.
34. There has not been much progress on the abuse of the non-profit sector by terrorist financiers. At the current stage of discussions it appears that there are significant differences between practices in the Member States allowing limited scope for comprehensive EU level legislation in this area. However, while implementing their own rules individually according to the FATF criteria, Member States could continue to explore further the scope for a common EU approach to certain aspects of reducing NPO vulnerabilities to criminal infiltration. The five principles, decided by the JHA Council in December 2005, could function as a general guideline for this. Building on the Communication of November 2005 [COM (2005) 620], the Commission is setting up a Contact Group to encourage further EU level dialogue between the Commission and interested parties from the public and the non-profit sector with a view to reducing NPO vulnerabilities to financial criminal abuse, including terrorist financing.

35. An independent study of national and EU compliance with the nine FATF Special Recommendations has recently been presented to the Commission. The results should inform a debate in the Council on how to refine and amend the EU Strategy to combat terrorist financing (2004) and to bring it into line with current trends.
36. The Counter-Terrorism Coordinator has been requested to report every six months on the implementation of the strategy against terrorist financing. This more detailed report will be presented to COREPER in December.

Operational cooperation

37. The Chiefs of Police Task Force has elaborated a handbook of best practices or ‘menu of options’ for local law enforcement commanders not routinely involved in counter-terrorism work. The handbook is to be published by Europol on its secure website.
38. The Atlas network of special intervention units of the Member states was created after the 9/11 attacks in the USA. A number of Member States have expressed the wish provide Atlas with a basic legal framework that would be applicable in case they require assistance of the special intervention units of another Member State to deal with a large scale crisis. Having in mind the difficulties to reach agreement on recent proposals on police cooperation, the Council has recently examined whether the necessary unanimity can be reached to provide Atlas with a legal framework, or whether sufficient Member States would be prepared to do so as a form of enhanced cooperation.
39. One Member State (Ireland) still needs to complete ratification of the three Protocol amending the Europol Convention. Ireland has confirmed completion by end of this year. The Commission confirmed its intention to submit by the end of the year a proposal to facilitate the functioning of Europol through a change in its legal basis, replacing the Europol Convention by a Council Decision.

40. SitCen continued to provide the Council and the Commission with regular analyses of developments in relation to the terrorist threat. Joint analyses with Europol have also been presented. The Commission has withdrawn its Proposal for a Council Decision on the transmission of information resulting from the activities of security and intelligence services with respect to terrorist offences.

Legislative agenda

41. The adoption of the Framework Decision on simplifying exchange of information and intelligence between law enforcement authorities is expected before the end of the year.
42. The discussions on the Framework Decision on taking into account convictions in the course of new criminal proceedings have been difficult, but it may now be expected that the Council will reach a political agreement in December.
43. According to The Hague Programme the Framework decision on the European Evidence Warrant should have been adopted by the Council at the end of 2005. The Council reached a political agreement in June. However several parliamentary scrutiny reservations remain, so that the text will probably not be formally adopted before the end of 2007. The issue of parliamentary reservations from some Member States is continuing to slow down the adoption of instruments in the Third Pillar.
44. Discussions about the Framework Decision on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters are continuing. The Presidency hopes to be able to reach a general approach by the end of the year.
45. The draft Framework Decision on organisation and content of the exchange of information extracted from criminal records between MS is still under discussion in the Council and the European Parliament.

46. In the Hague Programme (item 3.3) the European Council called for the adoption of a Framework Decision on certain procedural rights in criminal proceedings by the end of 2005. Discussions have continued on this draft decision but adoption does not appear imminent.
47. The discussions in the Council regarding the principle of availability have been suspended because the incoming Presidency has announced that it is considering taking an initiative to incorporate aspects of the Prüm Treaty into the Union framework.

International cooperation

48. To reinforce transatlantic cooperation in the fight against terrorism and other trans-national organised crime Eurojust concluded a cooperation agreement with the US Department of Justice. An American public prosecutor will be stationed as a liaison officer at Eurojust. The US Bureau of Alcohol, Tobacco and Firearms is expected to station a liaison officer with Europol. During talks with the Indian government in October, the EU CT Coordinator invited the Indian authorities to visit Europol and Eurojust with a view to discussing the possibility of informal cooperation.
49. Counter terrorism meetings were held in the framework of ASEAN, ARF, ASEM, and EUROMED. Cooperation with Australia has been discussed in order to find synergies in our CT work in the South East Asian region. The technical assistance action plans with Morocco and Algeria are being implemented and discussion is now underway with a view to enhancing support for Indonesia. The EU's support for the Jakarta Centre for Law Enforcement (JCLEC) has yielded practical results and assistance to the African Union Counter-Terrorism Centre in Algiers is under consideration.

RESPOND

50. The fourth priority of the EU's Counter-Terrorism strategy is to prepare ourselves, in the spirit of solidarity, to manage and minimize the consequences of a terrorist attack, by improving capabilities to deal with the aftermath, the coordination of the response, and the needs of victims.
51. In December 2005 the Council endorsed the proposal from the Presidency and the Counter-Terrorism Coordinator for emergency and crisis coordination arrangements. The proposed arrangements for political coordination in Brussels were tested in a table-top exercise in October and discussed by COREPER. Additional exercises will be prepared in 2007 and 2008.
52. Updated guidelines on consular protection of EU citizens have been circulated to the missions of Member States in third countries, as well as a text on consular best practices. Work is underway to create a web page where EU citizens can find information on travel advisories and consular assistance by the home State and other member states.
53. The Council is expected to reach a decision about the Commission's proposal on establishing a rapid response and preparedness instrument (now renamed "civil protection financial instrument"), notably about whether the EU budget could be used to finance the hiring of transport and equipment for mutual assistance among the Member States. Failure to adopt the financial instrument before the end of 2006 would lead to difficulties in financing the civil protection activities currently covered by the 2000-2006 civil protection action programme, as well as in the operation of the proposed new civil protection mechanism.
54. Adoption of the Commission proposal on the recast of the Civil Protection Mechanism depends to a large extent on progress concerning the financial instrument, so that both are being examined in parallel.

55. In November 2005 the Commission has presented its assessment of the civil protection assistance available through the Community Civil Protection Mechanism in the event of a major terrorist attack, as requested by the European Council in 2004 and 2005. The report covered, *inter alia*, the availability of vaccines and other specific medical facilities, and detection and decontamination capabilities. The Counter-Terrorism Coordinator has recalled the importance of these findings on several occasions, including during the meeting convened by the Presidency in London following the disrupted plot against airlines in August. So far the Council has not given a specific follow-up to the findings.
56. The Commission has announced it is preparing proposals on bio-security and preparedness against bioterrorist attacks. Two Conferences with participation by Member States and the private sector have been organized in preparation for a Green paper scheduled for the first half of 2007.
57. In 2005 two cross-border exercises were held to test the EU's preparedness to deal with a terrorist attack with small-pox (New Watchman) and an outbreak of pandemic influenza (Common Ground). During both exercises considerable difficulties emerged in communications between the Member States and the Commission, and between the Member States themselves. So far the Council has not given a specific follow-up to these findings.

ESDP

58. Work continued on the Headline Goal 2010, where the terrorist threat was included in all relevant scenarios in 2005 in the framework of the definition of military requirements. Required military capabilities include Command and Control, Intelligence, Survivability, Readiness, Deployability, Force and Mission Protection, and CBRN Defence. In 2007 possible shortfalls will be identified. The database of military capabilities will be expanded on a voluntary basis by Member States to indicate assets that might be used in responding to disasters outside the EU. The key military tasks to be investigated include preventive measures such as Embargo Operations, Secure Lines of Communications, Fight against the Proliferation of WMD, and protective/reactive measures such as Consequence Management.

59. Work is also ongoing within the European Defence Agency, notably in the field of the Integrated Development Team (IDT) "Protect", currently dealing in particular with CBRN and maritime surveillance. In the area of consequence management the PSC noted the framework for military support to EU disaster response, which will be revised in the light of experience gained.
60. Helping citizens in an emergency situation requires rapid and effective delivery of assistance. Military means may be essential to complement civilian capabilities. Detailed procedures concerning military owned and military chartered transportation are being developed with the Member States, the Commission (MIC/ECHO), and the EU Coordination Centers in Athens and Eindhoven.
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