



**COUNCIL OF  
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**LIMITE**

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**I/A ITEM NOTE**

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from: General Secretariat of the Council  
to: Permanent Representatives Committee/Council  
Subject: Presidency progress report on the handling within the Council of the Joint proposal for a Council Decision on the arrangements for the implementation by the Union of the Solidarity Clause

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1. The Treaty on the Functioning of the European Union (TFEU) contains a new provision for a Solidarity Clause (Article 222), establishing that the Union and its Member States shall act jointly in a spirit of solidarity if a Member State is the object of a terrorist attack or the victim of a natural or man-made disaster.
2. In line with paragraph 3 of Article 222 TFEU, the Commission and the High representative submitted a joint proposal for a Council decision on the arrangements for the implementation by the Union of the Solidarity Clause (doc. 18124/12 dated 16 January 2013).

3. On 27 February 2013, COREPER endorsed the additional mandate to the Friends of the Presidency (FoP) working group on the review of the CCA to include also the proposal on the implementation of the Solidarity Clause (doc. 6598/13), thus changing the name of the working group to FoP on the CCA review and the Solidarity Clause Implementation (FoP CCA/SCI). Through this mandate, the FoP working group was tasked to bring work forward on the Solidarity Clause implementation and ensure a coherent handling in the Council.
4. In line with this mandate, this Presidency report presents the state of play on the handling of the joint proposal to allow the General Affairs Council to assess progress.
5. In terms of handling, the Irish Presidency organised the discussions on the CCA and the SCI in separate meetings devoted to each track. During this semester, three meetings of the FoP working group on the SCI were held (20 March, 26 April, and 3 June).
6. The approach adopted by the Presidency was for the FoP to do the spadework, in order to allow other Committees or working parties to focus their efforts in their areas of competence, in line with the FoP mandate (doc. 6598/13).
7. The first FoP meeting on 20 March featured a detailed presentation by the Commission and the EEAS of the proposal and of the rationale behind each article. The views expressed by Member States allowed establishing an overall picture and the best possible approach for planning the following works. The key issues identified include notably: the geographical scope, the activation and response process, the role of the Council and Member States, the coordination and link with the CCA, the financial and legal aspects, terrorism prevention and threat assessment, and the military dimension (doc. 7839/13). Member States also suggested adding a review article and a procedure for the deactivation of the Clause.
8. Based on written comments from Member States, the Presidency decided to organise the 26 April discussion in clusters of interlinked elements of the proposal. The aim of such discussion was to get clarifications in particular from Commission and EEAS or the Council Secretariat including the Legal Service, to develop a common understanding, and to identify the main positions and possible dynamics.

9. At the 26 April meeting, in depth discussions began on the issues of activation, response, coordination and situation assessment (doc. 9286/13). Amongst others, the FoP discussed the qualitative criteria (e.g. exceptional circumstances) and process (procedure for invoking the Clause, points of contact, preventive activation, etc.) for an activation of Art.222 TFEU. It also discussed the response measures and the related coordination and decision-making process (role of the Council and other Institutions, possible actions to be carried out, proposed centre of gravity approach, possible differentiated approach in the event of terrorism versus disaster, use of the CCA as the underpinning mechanism for the overall coordination, etc.).
10. At its 3 June meeting (doc. 10915/13), following the same approach, the FoP working group looked at the issues not addressed previously, namely the scope, the general objective and subject matter, CFSP and military aspects, threat assessment and preparedness, financial implications, and other issues (including review clause, termination, etc.). In particular, the discussion focused on:
- the geographical scope: i.a. compatibility with Union law for the coverage of areas or assets outside the territory but under the jurisdiction of Member States;
  - the external/CFSP dimension: comprehensive approach, conditions for use of military resources, optimal use of all existing mechanisms and resources including CSDP, while maintaining Member States' prerogatives and ensuring coherence of the overall response, etc;
  - the characteristics of the proposed threat and risk assessment (frequency of the reports, difference/complementarity with existing assessments, rationale for the inclusion of a risk assessment, overall purpose, etc.) and the methodology for producing it (building on existing assessments and information exchange channels, role of the Council and Presidency, involvement of the EU Counter Terrorism Coordinator and EU Agencies, process for integrating information, etc.);
  - the proposed preparedness measures (scope, methodology, link with existing arrangements, possible outcome, etc.) and the necessity for including such an article in the proposal.

11. These first exchanges helped clarify a number of issues. Most importantly, they helped identify a convergence of opinions on the need to reinforce the role of the Council in the proposed Council Decision. They allowed the Presidency to develop an informed view on the different and inter-related parts of the joint proposal, thus paving the way for building an initial Presidency compromise during the next semester.
12. In parallel, the joint proposal was presented by the Commission and EEAS to the working party on Civil Protection (PROCIV) on 10 April. Given the cross-cutting nature of the proposal, delegations were invited to channel any comment via their representative at the FoP CCA/SCI working group. On 12 June 2013, the Chair of the FoP presented to COSI the state of play and progress made. Given Member States input and in line with the FoP mandate (doc. 6598/13) the Presidency will liaise with the PSC and COSI chairs to coordinate work during the next semester.
13. The incoming Lithuanian Presidency was involved in the preparatory work for each FoP meeting, with a view to ensure a smooth transition. The incoming Presidency presented an indicative planning of meetings of the FoP, with a first meeting to be held as early as 8 July.
14. On this basis, COREPER is invited to:
  - confirm the extension of the mandate (doc. 6598/13) of the FoP CCA/SCI (to be renamed FoP IPCR/SCI following the completion of the CCA review process) until the end of December 2013;
  - recommend to the Council to take note of this Presidency report.

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