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Subject : Non-military instruments of crisis management

Delegations will find attached a document drawn up by the Secretariat, together with the Commission services, assembling the frameworks, processes, activities, measures, instruments and institutions to which the Union can resort to for crisis management.

NON-MILITARY INSTRUMENTS OF CRISIS MANAGEMENT

The European Council of Cologne invited the Council to carry out an in-depth discussion on all aspects of security, with a view to enhancing and better coordinating the Union's and Member States' non-military crisis response tools. The Security Working Group, which was tasked to deal with this question, asked the Council Secretariat, together with the Commission, to draw up a list of all existing instruments at the Union's level.

The present non-paper attempts to assemble in a single list a large number of mechanisms, processes, bodies and activities which, albeit of a multifaceted character, are all directly linked to crisis prevention/management.

The list is divided into three separate sections: the first lists the general frameworks or processes which the Union has used or may use as tools to influence the behaviour of third countries in the field of crisis prevention/management. The second lists the activities and measures which the Union has carried out in the field of crisis prevention/management. Finally, the third lists the instruments and institutions that have played or can play a role in crisis prevention/management.

All the listed items fall either under Community competence under the TEC or under the Common Foreign and Security Policy under the TEU and often under both. For this reason it was felt that a preliminary, rigid distinction between the two "pillars" was misleading and therefore inappropriate for the present purposes. The legal basis on which each activity is carried out (whether under the TEC, the TEU or both) is listed where appropriate.

A. FRAMEWORKS OR PROCESSES THROUGH WHICH THE UNION MAY INFLUENCE THIRD COUNTRIES FOR THE PURPOSE OF CRISIS PREVENTION/MANAGEMENT

1. EU Membership perspective

Commitment of the EU to grant membership is used in conflict situations to influence behaviour of third countries. The promise of membership is conditional to the compliance by the prospective member with political and economic standards (the "Copenhagen criteria"). The Union has so far provided technical and financial assistance to meet these criteria. The entry into force of the Amsterdam Treaty allows the Union to use this tool in a more comprehensive and politically oriented way.

2. Contractual relationships

The Union has developed a typology of agreements (cooperation, partnership, association, stabilisation etc.) with third countries which are aimed, inter alia, at improving stability. Already the mere interest in achieving contractual relations with the EU but even more the successive stages in their evolution can present a strong incentive and eventually create an obligation for third parties to adapt their domestic and external policies in order to meet the general and specific prerequisites, standards and conditions required for and/or established by an agreement.

The variety of possible agreements the Union may enter into allows it to differentiate in its contractual relations according to the specific situation of a country or region. The possibility to make the conclusion of any type of an agreement conditional to specific prerequisites and to complete any standard-type agreement by specific clauses and provisions allows for further fine-tuning. The "human rights clauses" and the provisions on political dialogue are examples thereof.

As an example, the Lomé Convention human rights clause was recently applied in the case of the Niger coup or the Great Lakes conflict. Conversely the offer to Albania and FYROM of a stabilisation and association agreement is an example of positive use of conditionality.

3. Regional cooperation and stability

The Union has encouraged the development of regional arrangements as a vehicle for stabilisation in different parts of the world. In certain cases the arrangements in question were set up upon initiative of the Union, as in the cases of the Barcelona Euro-Med process, the Royaumont process or the Stability Pact for South-eastern Europe. The Union can participate in them, as in the case of the ASEAN Regional Forum, establish links with them as in the case of Mercosur, or provide support to them, as in the case of ECOWAS. These arrangements or processes often encompass the adoption of confidence-building measures (e.g. the OSCE or the ARF process) such as regular information, visits, cultural and leaders exchanges, joint seminars, codes of conduct, borders facilities and other actions designed to increase tolerance and awareness. The legal basis for participation depends on the typology of the arrangement (informal, treaty-based etc.) as well as on the kind of participation from the Union side (the Union as such, the Community, Member States etc.).

4. Market access

Being the largest world commercial power, the Union can use preferential access to its market as leverage vis-à-vis third countries. The commercial elements in the Sarajevo declaration of July 30 on the Stability Pact are a good example.

5. Financial assistance

The Union uses its financial resources as an instrument in crisis management: Lomé Convention disbursement can be suspended in case of conflict among beneficiaries. Funds for the Balkans (article 308 TEC) can be activated in an after-conflict situation (Kosovo) or suspended in a pre-conflict emergency (FRY) as a component of crisis management. Flow of funds from TACIS, PHARE, MEDA and other budgetary sources can be modulated according to the overall security context and crisis needs.

B. ACTIVITIES AND MEASURES EMPLOYED BY THE UNION IN THE FIELD OF CRISIS MANAGEMENT

The following list of activities and measures carried out by the EU in the field of crisis-management is established according to a purely indicative criterion. It begins with activities having a "preventive" character - insofar as they contribute to defusing the tension in a specific geographical area or a specific country, which are then followed by those linked to the actual outbreak of a crisis and then to its aftermath.

6. EU diplomacy political dialogue

EU diplomacy is a very important tool in the EU relations with third countries. The EU has established a regular political dialogue not only with like-minded countries but also with countries with which the Union may have divergence of views on major issues. It is in particular in the latter cases that such meetings can be employed as a means to defuse potential crises or seek solutions for on-going crises. Legal basis is the bilateral agreement with the country concerned or ad-hoc arrangements.

7. EU and Member States participation and coordination in international organisations or fora

EU and Member States coordinated actions in international organisations or fora (i.e. UN, OSCE, Contact Group, G8, Council of Europe, PIC) both in accordance with agreed EU policies based on CFSP and first pillar instruments, and on an ad hoc basis play a crucial role in crisis-management.

8. Early warning

See, below, the role of the Secretary General/High Representative and the PPEWU. The Union can also avail itself of WEU resources such as the Satellite Centre, the Military Staff, etc. Some specific mechanisms have been created for Africa (See CP of 2.6.1997). The Commission concluded in 1999 an arrangement with the ECOWAS Secretariat in Abuja (Nigeria) supporting, inter alia, the establishment of an early warning mechanism about tensions in the region.

The European Commission's *Conflict Prevention Network (CPN)* is a network of external stand-by expertise that the European institutions can draw upon to obtain a substantial input in terms of conflict prevention analysis so as to supplement their internal knowledge.

9. Fact-finding

Fact-finding missions can be organised or authorised by the Union as a preliminary step, before deciding on the type of action required by the situation. Such missions can be carried out by troikas at different levels, by ad-hoc personnel or by the missions of the Member States or the European Community.

10. Actions, contribution to or participation in organisations dealing with non-proliferation and arms destruction

These multifaceted activities usually encompass action at diplomatic level promoting certain goals, as well as direct participation of the European Union in international efforts, financial contributions to such efforts, and specific actions. The legal instrument employed for this purpose is usually a Joint Action (Article 14 TEU), sometimes combined, as in the case of KEDO, with a first pillar legal basis, which might cover several areas of action and also provide for the possibility of adopting specific implementing decisions.

Various examples: KEDO (JA 96/195/CFSP) and KEDO-Euratom Agreement, Anti-Personnel Landmines (JA 97/817/CFSP), Small Arms (JA 99/34/CFSP).

11. Humanitarian Assistance

The European Community provides one third of the world humanitarian aid (some MEURO 800 in 1999), whereas the EU Member States provide another third. EC humanitarian aid is administered through the European Community Humanitarian Office (ECHO), which normally operates through international organisations and NGOs. Kosovo and Bosnia have been major beneficiaries of ECHO action. Contractual relations with partners are articulated through a Framework Partnership Agreement, the latest version of which entered into force on 1 January 1999 and has been signed by over 200 organisations. Legal basis is Article 181 TEC.

12. Support (financial and other) to electoral process, government, peace process, multi-racial process etc.

In most cases these initiatives are taken as a means to sustain a process aimed at steering the area or country concerned away from a potential crisis, or with a view to bringing the country or area concerned back to normality in the aftermath of a crisis. The measures envisaged may include financial support (also through Community initiatives), coordination of donors, direct support to the organisation of elections (voter registration, electoral legislation and training of officials) and observation/monitoring of the electoral process (media, participation of women). The Commission has been asked to develop an EU handbook for training of election observers. Each new Presidency is expected to establish a list of elections for the next twelve months.

Significant examples include the support to the Middle East Peace process (JA 94/276/CFSP), to the democratic and multiracial transition in South Africa (JA 93/678/CFSP), or, more recently, the support to democratic process in the Congo, in Nigeria and in Bosnia (respectively JA 97/875/CFSP, JA 98/735/CFSP and JA 95/545/PESC). Recent examples of electoral observation under the first pillar include Albania (1997), Cambodia (1998) and Indonesia (1999).

Legal instrument: Joint Actions (Article 14 TEU) or EC Acts.

13. Human rights promotion

On 29 April 1999, the Council adopted two new regulations (975 and 976/99) providing for a specific legal basis of Community operations which "contribute to the general objective of developing and consolidating democracy and the rule of law and to that of respecting human rights and fundamental freedoms in third countries". Projects to this effect are funded across the world through international, regional and non-governmental organisations. See e.g. joint programmes with the Council of Europe concerning the Russian Federation, Ukraine and other countries. Legal basis is provided by Article 181 or 308 TEC.

Protection of minority rights has been at the heart of the 1995 Stability Pact launched for countries of Central and Eastern Europe as a crisis prevention action. The EU supports and participates in international missions of observation on human rights (recently: Rwanda, Angola, Burundi), which are normally followed by specific actions.

14. Security Institutions building

Actions concerning fair administration of justice, reform of the military forces (in particular democratic control over armed forces and accountability of information agencies), measures against corruption, education and awareness raising within civil society are funded by PHARE, TACIS and MEDA.

15. Fight against terrorism

These activities are mainly linked to the Middle East peace process and to Israeli-Palestinian relations. Their purpose is the provision of counter-terrorist support for the Palestinian authority, through the financing of a 3-year programme of assistance and the appointment of an EU Special Advisor for the region. The programme has a relatively low budget but a high political profile. It includes training in surveillance, search and interview techniques, management training of security and police personnel and provision of specialist equipment and services. See e.g. JA 97/289/CFSP.

Legal instrument: Joint Action (Article 14 TEU).

16. Monitoring

See, above, the ECMM. The EU provides technical assistance to and monitors local police forces (see also below) in the context of elections or conflict. Assistance takes the form of observation and consultation. Impartiality and respect of human rights are the subject of monitoring. Recent examples of such actions include Mostar (through WEU), South Africa, Palestine and Mozambique. Funding is provided by first and second pillar budgets. The Union can also, on the basis of article 17 TEU, avail itself of the WEU Satellite Centre, as in case of Kosovo.

17. Sanctions

Sanctions, ranging from arms embargoes to total embargoes with respect to a specific country or group of countries, represent one of the main non-military instruments which the Union has employed to put pressure on the countries concerned with a view to defusing a crisis or convincing their government to adopt a certain course of action.

In a very large number of cases the measures in question were adopted to implement a UN Security Council Resolution. There have also been cases where the measures taken had "autonomous" character.

The legal nature of the measures adopted depends on the area covered: measures falling under Community competence are taken by a EC act, while measures falling under Member States competence are adopted by a Common Position (which must then be implemented by Member States with domestic law provisions).

Existing agreements between the EC and specific countries or group of countries may pose a general limitation to the autonomous power of the Communities to adopt economic sanctions towards them. For this reason more recent agreements contain clauses allowing for their suspension or termination in particularly serious cases.

- *General embargoes*

Embargoes of general character (whether covering economic relations between the Union and the country concerned in their entirety or only in part) are often adopted in implementation of a SC resolution and refer to it directly in the text of the Common Position (Article 13 TEU). They are coupled with a EC Regulation, covering the area of Community competence (the legal basis for the regulation is Article 301 TEC). See, e.g., CP 94/315/CFSP on reduction of economic relations with Haiti, and the corresponding EC Regulation 1263/94 of 30.5.1994.

- ***Arms embargoes***

They are usually adopted by a Common Position, (based on Article 13 TEU) specifying the kind of material covered by the embargo and the conditions for its implementation. See, e.g. CP 96/184/CFSP concerning arms exports to the Former Yugoslavia, and the recently adopted Common Position on East Timor.

- ***Specific measures such as investment prohibition, freeze of assets, restrictions on persons movements etc.***

Measures of a more specific character have been taken in certain cases in the form of prohibition of export of equipment which might be used for internal repression or terrorism, freezing of funds held abroad, ban on credit facilities and new investments, flight bans, etc. (recent examples concern the Federal Republic of Yugoslavia). Given the nature of the measures, in many cases both a Common Position and a EC Regulation were needed. The CP had the usual Article 13 legal basis, whereas the legal basis of the EC regulations included, besides Article 301, Article 60 TEC, concerning movement of capitals. Other measures falling outside the EC competence (restrictive measures with regard to people acting against independent media in the FRY) were taken by a Common Position only.

18. Administration of Mostar

This initiative was specifically linked to the conflict in the Former Yugoslavia, and represents an example of non-military initiatives which can be taken in the course of a conflict. The activities in question included inter alia financial assistance to the various bodies present on the field, and was based on a Joint Action (Article 14) (94/790/CFSP). The concrete conditions for the application of the JA on the administration of Mostar were set forth in a Memorandum of Understanding signed in Geneva between the Parties concerned.

19. Convoying of Humanitarian Aid

As above, this initiative was linked to the conflict in Bosnia, and was based on a series of joint actions (JA 93/603/CFSP and following), to take into account the evolution of the situation and the needs.

20. Participation in structures implementing peace agreements

This participation has usually taken the form of a contribution to the actual structures which supervise the implementation, or financial participation in a donors effort (see e.g. for Bosnia-Herzegovina, JA 95/545/CFSP).

The instrument selected is usually a Joint Action (Article 14 TEU), combined as appropriate with an EC regulation.

21. Mine Action

These measures are adopted in order to help the country concerned to deal with problems arising in the aftermath of a crisis. Examples include mine clearance in Bosnia, Cambodia, and Angola and mine training in Croatia (in the aftermath of a conflict) They have been adopted by a Decision in implementation of the Joint Action on APLs (98/627/CFSP) coupled with a decision based on Article 17 TEU requesting WEU to implement the Decision (see Decision 98/628/CFSP) and by Commission decisions based on EC Regulations concerning specific Community programmes on humanitarian or technical assistance and development aid. In the period 1992 to 1998, 180 MEURO were committed to mine action worldwide to support demining programmes, including economic rehabilitation, mine awareness, assistance to mine victims, research and development of technology.

22. Action against proliferation of small arms and light weapons

Financial and technical assistance to programmes and projects aimed at combating the destabilising accumulation and spread of small arms and light weapons involves EU participation and/or financing of international efforts as well as autonomous EU actions. One example in the EU contribution to the UNDP pilot project involving the collection and destruction of weapons in the Gramsh district of Albania. The EU has also recently increased its diplomatic activity aimed at promoting around the world the aims of the recently adopted Joint Action (99/34/CFSP). Legal basis: so far second pillar only (Article 14 TEU).

23. Police training and monitoring.

These measures are also taken in order to help the country concerned to deal with problems arising in the aftermath of a crisis. One example of police training is the re-establishment of a viable police force in Albania (in the aftermath of serious internal disorders). Legal bases were the Joint Action (1999/189/CFSP) coupled with a decision based on Article 17 TEU requesting WEU to implement the Joint Action (1999/190/CFSP). The Commission has decided under the Community programme PHARE (legal basis: article 308 TEC) as well as development assistance programmes to provide support (including financial) for this initiative even before the adoption of the Joint Action. In the framework of its cooperation to development the EU also provides funding for actions in Africa and the Caribbean countries related to police training (legal base: articles 1181 and 310 TEC).

24. Borders Control

Within the framework of specific arrangements with the countries concerned the EU has been assisting in developing border management policies, equipment, facilities, regulations and training as well as procedures combating illegal immigration and illicit trafficking. See e.g. the EU Baltic Border management programme, or EU activities in Albania (also involving policing of the borders and customs activities), and in Kosovo.

C. INSTRUMENTS AND INSTITUTIONS WHICH THE UNION CAN USE FOR CRISIS MANAGEMENT

25. Presidency and Troika

The Presidency, with the support of the Troika, is the main instrument the Union can use to deal with impending and on-going crises. Its role ranges from the early stages of the definition of the Union's policy with respect to that situation to carrying out specific tasks as mandated by the Council. Its role is notably defined in Article 18 TEU.

26. Secretary General/High Representative, Council Secretariat and PPEWU

With the entry into force of the Amsterdam Treaty, in accordance with Article 18, paragraph 3 TEU the Secretary General of the Council will assist the Presidency by exercising the function of High Representative for CFSP. The High Representative, who leads the Council Secretariat and the Policy Planning and Early Warning Unit, will constitute the backbone of CFSP and, because of the permanent character of his mandate will no doubt play a central role in crisis-management.

27. Commission

The Commission is fully associated to all matters coming within the CFSP, including the implementation of decisions. As a Troika member it cooperates with the Presidency as stated above. Moreover, it acts on its own on the basis of its responsibilities resulting from the TEC, on many areas related to non-military instruments of crisis management. Within its services, some agencies and offices are especially entrusted with tasks directly related to crisis-management. A good example is ECHO.

ECHO's assistance mainly aims at saving and preserving the lives of populations affected by a humanitarian crisis and the emergency rehabilitation/construction of basic infrastructure by humanitarian international organisations and NGOs. Other civilian instruments managed by the Commission concern fields such as rehabilitation/reconstruction, trade relations, financial assistance, human rights protection, democratization and good governance, de-mining, etc. Community delegations and offices on the ground actively contribute to this field, ensuring, together with other bodies and agencies, the interface between military forces and the civilian authorities. UNMIK (UN Interim Administration Mission in Kosovo) is a relevant example.

28. Special Envoys and Special Representatives

Special Envoys and/or Special Representatives are usually appointed by the Council to increase the effectiveness and heighten visibility of the EU contribution to the solution of problems in a specific country or geographical area. They perform their tasks under the authority of the Presidency and or the Secretary General/High Representative and, in most cases, in cooperation with the Commission.

Various examples: Great Lakes (JA 96/250/CFSP), Middle East (JA 96/676/CFSP), Kosovo (JA 1999/239/CFSP), RFY (JA 98/375/CFSP).

The appointment of Special Envoys or Representatives has always been done with a Joint Action. (Legal basis Article 14 TEU).

29. HOMs

Heads of Missions in third countries draft reports addressed to the Council on particular situations in the country where they are posted. These reports are circulated by Coreu.

30. ECMM (European Communities Monitoring Mission)

Established in 1991 with the purpose of monitoring the implementation of the cease-fire, withdrawal of troops and suspension of the declarations of independence following the Brioni agreement of 7 July 1991.

The tasks of the mission, as well as the territorial scope of its activities were subsequently and repeatedly modified as the conflict in the former Yugoslavia evolved.

Legal basis was a Memorandum of Understanding concluded by the EC and its Member States on the one hand and the Yugoslav Federal authorities, Croatia and Slovenia on the other.