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NOTE

from :	EU Counter-Terrorism Coordinator
to :	Council/European Council
Subject :	EU Counter-Terrorism Strategy - discussion paper

Since my appointment as Counter-Terrorism Coordinator, I have been reporting regularly to the European Council on developments in the fight against terrorism, and also producing discussion papers highlighting the key issues for policy makers to concentrate on.

This paper comes at a particularly crucial moment, as the Council is currently considering major changes in the way in which the EU's Institutions work, following agreement to the Lisbon Treaty. The EU will also soon set out a new five year plan for Justice and Home Affairs, the "Stockholm Programme", to which I have made a separate detailed contribution. One of the priorities of the incoming Presidency will be agreement to an Internal Security Strategy, in which terrorism is likely to feature prominently. Rather than repeat the detail of all this, and the revision of the Counter-Terrorism Action Plan, I have taken the opportunity to produce a discussion paper which is shorter and more strategic. This seeks to describe the changing nature of the threat from terrorism, reconfirm the validity of the EU's Counter-Terrorism strategy, and set out some key challenges which need to be addressed in the future.

The Threat

It is now over eight years since the catastrophic attacks of 9/11; five years since the Atocha station bombings in Madrid and four years since the "7/7" attacks in London. In this climate it is natural to ask whether terrorism is still something we need to worry about. Amid a string of other global crises with more immediate impact on peoples' lives, there seems to be a growing sense of "CT fatigue".

However, the fact that an incident on the scale of 7/7 has not happened again in Europe does not mean that Al Qaeda or other militant groups have not been trying. It is rather a tribute to the success of the measures we are already taking to counter the threat. Police forces in Europe and the US have foiled a number of plots including some aimed at mass transit systems. Within the last month there has been the attack on an army barracks in Milan, fortunately with significantly less damage than might have been the case. Arrests have been made of staff working in sensitive institutions. Outside Europe, EU nationals have been the target of AQ related groups in the mass attack in Mumbai in November 2008, and within the last few months EU nationals have been taken hostage and killed in North Africa and in Pakistan. Arrests have also been made in the US in connection with a plot to attack the Danish newspaper famous for the publication of cartoons of the prophet Mohammed.

The core organisation of Al Qaeda, probably based somewhere on the borders of Pakistan and Afghanistan, has been under enormous pressure from US and Pakistani military action. It has also been destabilised by the election of President Obama, who has mounted a visible challenge to its propaganda narrative. However, it remains the most significant source of threat to Europe and whatever organisational dislocation it has suffered, it is clear that AQ propaganda still has the power to inspire and motivate individuals around the world, including in Europe, to get involved in terrorism as a solution to the problems they see around them. AQ is actively seeking out new sanctuaries in which to regroup and continue its campaign, most significantly at the moment in Sahel and Yemen, but this risk exists wherever weak States and poor government combine. Young Europeans continue to travel to conflict zones, such as the Afghanistan/Pakistan border or increasingly Somalia, in order to train as terrorists and to join AQ. Others are only in touch with the organisation through the internet. This kind of "home grown" terrorism requires few resources and is harder to detect because it may not have any physical links back to what one might call "Al Qaeda central".

While militant Islamist terrorism today still constitutes the biggest threat facing Europe as a whole, a number of Member States continue to face their own indigenous terrorist problems, and we should not lose sight of the longer term possibility that other fringe groups could resort to political violence on a European scale as has happened in the past.

The threat from terrorism thus remains significant, but more importantly it is constantly evolving both in response to our attempts at combating it, and to new opportunities that present themselves. The emergence of self-starting “lone wolves” (or small groups) that have no organisational connections, but work entirely from material they find for themselves on the internet is a particular example. Terrorist groups have shown interest in developing CBRNE capabilities. To keep Europe protected against a further mass casualty attack, our counter-terrorism measures need to evolve as fast and as effectively as do the terrorists. Terrorist attacks happen when intent meets capability. We need to work on both sides of this equation.

The EU CT Strategy

It has been the long-standing policy of the EU to treat Terrorism as crime, to be tackled within the framework of criminal law. This approach has many obvious advantages, not least the fact that it helps de-glamorise the terrorists. The "prisoners of war" in Guantanamo are a staple of Al Qaeda propaganda, convicted prisoners in European jails do not get a mention.

Terrorism is different to other forms of crime in that it is conducted in the hope of political gain, rather than financial gain. This explains the high political importance attached to the fight against terrorism, and consequent need for a political response. The fight against terrorism is one of the key areas in which, according to Eurobarometer surveys, European citizens see the need for a common European response.

However, concentrating on terrorism simply as a criminal phenomenon does have disadvantages. It tends to downplay the factors that motivate terrorism, and encourage a straightforward repressive approach. In the past, CT measures have often been considered only in great haste in reaction to major attacks. In these circumstances there is again an imperative to take visible repressive action. The EU CT strategy was deliberately designed to remedy this defect by setting out a comprehensive approach, to be implemented steadily, and so providing a more solid and durable basis for long term success against terrorism. Indeed, the best way to overcome "CT fatigue" is to maintain a steady pace rather than try to sprint ahead too quickly and end up falling behind.

The analysis we have made of what has been done so far under the strategy, on which a draft is being circulated separately, shows how much has been done, but also what still remains to do. Much has already been achieved in Europe, especially in terms of PROTECT and PURSUE. To balance this more work needs to be done in the PREVENT and RESPOND strands.

The 10 Key Challenges:

1. Victims : we need to do more to support the victims of terrorism. This is important for its own sake, to show that our policy is centred on helping our citizens who are the targets of terrorism. The victims of terrorism are victims of an attack that is directed at society as a whole, and thus society must show its solidarity, recognition and support; not just for their healing process, but to de-legitimize and de-glamorise the appeal of terrorism. In order to justify their murders, terrorists de-humanize their victims. We must bring the human element back into the centre-ground.

2. Human Rights. We need to maintain broad support for the fight against terrorism both within the EU, and internationally. Crucial to this is making the case that effective counter terrorism measures and the promotion of human rights really are mutually reinforcing goals. Most importantly, the transatlantic relationship will remain crucial to Europe's security and the approach of the new US Administration, strongly motivated by human rights concerns, is a significant opportunity to deepen the EU – US partnership. We need to lay the basis for this by concluding an agreement on data protection and data sharing, as well as a robust long term agreement to support the Terrorist Finance Tracking Program. A set of common principles in the fight against terrorism, as proposed in the EU-US Statement on Guantanamo could reinforce the legal foundation for our joint efforts. These efforts should focus not only on creating our own common space of justice and security, but we should also work together more in third countries and international institutions to expand that space of justice and security more widely. We need to maintain the consensus in the UN behind the global CT strategy, and develop it further, for example through the CCIT.

3. We need to intensify and broaden our Prevent work. Extensive studies have looked into why people become terrorists. They have shown that the drivers of this kind of radicalisation are not confined to one faith or political persuasion. A particular challenge is thus to prevent terrorism without stigmatising any community. We need to proceed with an open mind and great sensitivity in order to get the balance right. In doing so, we have to challenge our own thinking as a fair part of what can be done to prevent violent radicalisation falls outside core CT-focus, yet they remain 'CT-relevant' policies. Cross-cultural dialogue, community cohesion and participation have an obvious CT dividend, but this is devalued if CT is seen as the main driver.

I am increasingly convince that we need both to *prevent* radicalisation but also to *promote* good relations and practices in terms of community engagement. Again, this implies looking beyond looking beyond core CT tasks, but instead at CT-relevant policies and practices. That is why we are very engaged in improving cross-cultural relations through initiatives, like the Alliance of Civilisations. We need more genuine cross-cultural dialogue. To break the vicious circle and find ways to understand the differences. Also from the perspective of preventing extremism is dialogue of great value as it constitutes a clear rebuttal of the propaganda of extremists.
This is a field where we rely heavily on Member States to take the lead. A number have already done so as "lead countries" for particular strands of work as set out in my previous reports. In going forward, I would like to highlight the Netherlands, who with a concrete and practical focus on the role of local actors have created a de-facto experience-sharing network of the local actors from some ten Member States. It is through this kind of sharing of best practices and concrete operational tools that we need to proceed. Only by building upon the first-hand experience of local professionals - be they teachers, youth workers, police officers or community liaison officers - will we deal with the reality on the ground. Indeed, we need more of a multi-disciplinary approach to fully grasp the challenges and to identify real responses.

4. Development and Security (including ESDP) We need to respond to the problem of failed & failing states, which provide potential havens not only for terrorists but for all forms of crime. Without security, development is impossible, for example we cannot achieve targets for female education if terrorists burn down all the schools which admit women. This is increasingly recognised by the development community, but there is still a reluctance to use aid money to tackle the security challenges facing these countries. We need to work to make sure the causes of insecurity and conflict are taken more into account in developing programmes to support sustainable development. We should also continue to improve the coordination between internal security instruments and CFSP/ESDP tools, not only in sharing information, but also in sharing expertise to make sure that the extensive contribution the EU makes to creating security and expanding the rule of law across the world has a visible dividend in terms of internal security. This is needed to justify the continued contribution particularly of domestic law enforcement personnel to these missions.

5. The Legal Framework The 2008 Framework Decision on incitement, recruitment and training was a major step forward. We now need to follow its implementation. More generally we need to continue with the approximation of Member States criminal law to ensure that differing definitions do not give rise to loopholes in which behaviour illegal in one Member State can simply shift to another. This is particularly important where new offences are being created.
A new legal instrument based on mutual recognition allowing for the collection of evidence in cross border investigations, and covering all forms of investigative measures, is needed to allow genuinely integrated cross border investigations; and in terrorism investigations a cross border element is much more frequent than in ordinary crime. We should also examine the need to adopt common legislation on new investigation techniques (e.g. on line computer search). Other challenges include the need to think about the correct legal framework to tackle "participation" in terrorist groups when such groups are loose or even have at best a virtual existence (as with the "lone wolf"); and whether going to a terrorist training camp abroad should be made an offence as it has in some Member States.

6. Information Management and Data Protection The Zazi case in the US shows how data collection can be an effective tool in CT investigations. However, fragmented requests for new data collection measures without any explanation of underlying strategy have allowed a myth to grow that there is a secret "Big Brother" plan. The real problem has been that we have had no plan. We need to develop a strategy for collecting all the data we need, but for privacy protection this must be only the data which are necessary. The proposed Council Conclusions are a major step forward in achieving this by setting out a methodology to ensure that the decisions on management and exchange of data are taken in a coherent, professional, efficient, cost-effective, accountable and comprehensible way.
In most lessons learned exercises after major terrorist incidents there are indications that an attack could have been stopped had all the relevant information been available to the right people at the right time. We need to improve the way in which Member States are feeding information to Europol and Eurojust. All Member States should also have a national fusion centre and we should set up a network connecting them. Depending on the findings of the EU Information Management Strategy and the lessons learned from national experience with PNR systems, we should examine in this context the need for an EU PNR, and the possibility of an EU Terrorist Tracking Financial Programme (TFTP). An added benefit of developing our own European PNR (or even TFTP) models would be the development of a more equal partnership with the US.

7. Soft targets : among the favourite targets of terrorist groups have been transport systems, and prestige hotels. We need to intensify the current work on aviation and maritime security, in close cooperation with transport operators in order to mitigate the impact on the travelling public (eg to find ways in which we can resume allowing liquids to be taken on planes). We also need to start working potential targets which have received less attention such as urban mass transit and high speed rail.

Major events (most recently the *Oktoberfest* in Germany) have been subject to specific terrorist threats. In a number of countries terrorist organizations specifically target the tourism industry in order to inflict financial damage. A lesson from the Mumbai attacks is that we need to develop and exercise emergency plans to respond to multiple attacks in large cities. There are a number of events in the coming years, such as the 2012 Olympics and Euro 2012, where a successful terrorist attack would have obvious trans-national consequences. The EU needs to continue to reinforce the civil protection mechanisms available to it (eg MIC, and Respond "modules") and also have an ambitious programme of exercises to test these systems and generate ideas for developing them further not least in the context of post-Lisbon arrangements (see below).

8. Critical Infrastructure & Cyberspace We need to think about what in today's world constitutes "critical infrastructure" and extend the Directive on the protection of critical infrastructures accordingly. More widely there is a need to ensure overall coordination of the various aspects of the fight against terrorism in cyberspace. This needs to be seen not only as critical infrastructure, but also as an arena for the propaganda war and for recruitment to terrorism), a space in which terrorists need to be tracked and monitored, the venue for cybercrime and potentially also for targeted attacks (cyber-warfare). We need to balance citizens legitimate expectations of privacy in the virtual world with the ability to track those who mean serious harm (eg in the regulation of encryption).

9. Public Private Partnerships We need to do more to actively engage the private sector and develop Public Private Partnerships in CT. We should start by setting up proactive and sustained dialogue with the private sector. This could be initiated by a Summit meeting of representatives of the European security industry with the new EU institutions and representatives of the Member States. One of the results of such dialogue should be the configuration of informal networks between policy, CT practitioners, the private sector and civil society. In addition to the transport sector (as mentioned above), more work needs to be done with the private operators of hotels and other large venues (including hospitals etc.). Another priority should be to collect best practices on the relations between the financial institutions and the law enforcement and intelligence communities. In CT in particular, there are fewer of the suspicious patterns visible in money laundering and financial institutions need more help in spotting suspicious transactions.

10. Security-related research : unlike the military, law enforcement does not have a tradition of forward planning for its future requirements from technology. The market for internal security products in Europe remains highly fragmented. It would help law enforcement, and also help create a stronger European security industry if we could develop and expand a genuine dialogue on future technology needs in the field of internal security. The ESRIF report provides a good basis for this. We should also reinforce the European Network of Internal Security Technology Departments, and seek to increase the synergies in the field of research between Defence and Internal Security.

Next Steps

The disappearance of the Pillars will allow for more integrated policies in a number of areas. In counter-terrorism, as outlined in the key challenges above, internal and external aspects are inextricably entwined, and a multi disciplinary cross Ministerial approach is essential. The collapse of the barriers between pillars will facilitate such an approach within the EU's institutions and greatly increase efficiency in policy making. Just as particular examples, it will facilitate links between law enforcement agencies and CFSP Missions, and it will allow closer cooperation between Europol and Frontex.

In terms of future operational cooperation, COSI should set the framework within which Member States and EU Agencies operate in the field of CT. In particular, more needs to be done to promote the setting up of JIT's in the field of CT with the participation of Europol and Eurojust (with EC financial support). We will need to develop and adopt rapidly the decision-making procedure for the use of the solidarity clause. The CCA offers a good and well tested model for this.

Otherwise, the future organisation of the EU institutions following entry into force of the Lisbon Treaty remains to be finally determined, and this is not the right moment to get into organisational detail. However, it would greatly help in taking work forward at an EU level if there were a network of senior national officials each of whom had an overall view at a policy level of their country's work on CT. Many Member States have designated a national Counter-Terrorism Coordinator (CTC). As administrative systems vary greatly, there is no simple model which can be transferred everywhere, and each Member State would need to find its own solution. But given the particular political sensitivity of CT work, I would value the "reality check" which such a network of senior officials would provide.