



Council of the
European Union

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PESC 1179
RELEX 663
FIN 631
COTER 94

PARTIAL DECLASSIFICATION

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Subject:	Terrorist financing - Implementation of UNSCR 1373

Delegations will find attached the partially declassified version of the above-mentioned document.



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THE EUROPEAN UNION**

Brussels, 15 December 2004

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RESTREINT UE

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NOTE

From : Presidency
To : Permanent Representatives Committee

No. prev. doc. : 7116/04 PESC 157 RELEX 90 FIN 108 COTER 5

Subject : Terrorist financing - Implementation of UNSCR 1373

1. On 18 March 2004, Coreper approved suggestions put forward by the Irish Presidency with regard to improving the effectiveness of "Clearing House" (CH) procedures (doc. 7116/04 RESTREINT UE), without amending the working methods agreed by Coreper in September 2002 (doc. 11693/02 RESTREINT UE). At this meeting, the Committee also agreed to send the suggestions regarding possible attendance of SITCEN and EUROPOL to the CH meetings back to the Foreign Relations Counsellors Working party (RELEX) for further consideration.
2. The Foreign Relations Counsellors Working party (RELEX) recently discussed the Terrorist Financing Strategy (doc. 14180/1/04 REV 1), in particular the recommendation that the

mechanisms for designation of terrorists and asset freezing should be kept under constant review with a view to improving their effectiveness ¹.

3. **NOT DECLASSIFIED**

4. **NOT DECLASSIFIED**

5. Given these developments, Coreper is invited to
- approve the suggestions as set out in the Annex, which will replace the suggestions approved by the Committee on 18 March 2004 ², and complement the working methods agreed by Coreper in September 2002 (doc. 11693/02), in particular with regard to the possible attendance of a representative from EUROPOL to CH meetings (§ 14 of the Annex);
 - task RELEX to have an in depth discussion on the question of the possible attendance of the Situation Centre to CH meetings on the basis of an avis of the Legal Service and report back to Coreper.

¹ Paragraph 25 of doc. 14180/1/04:
" Effective freezing action will require from all Member States efforts to prepare designations that are based on solid intelligence and information from competent authorities which comply with the criteria the EU uses for freezing, drawing on the enhanced information sharing recommended above, while respecting legal safeguards. There should be greater focus on front organisations, non-profit organisations and individuals as well as on problems relating to the re-naming of organisations. The Council, together with the Commission, will examine whether the legal framework can be strengthened with regard to these issues."

² The background considerations set out in Annex II to document 7116/04 remain unchanged.

Suggestions

- **More Effective Use of Clearing House Procedures.**

1. In order for the work of the CH to be made more meaningful, it will be necessary for its deliberations to focus, to a greater extent than previously, on targeted individuals, **NOT DECLASSIFIED**, alongside its consideration of groups and entities. The information which is the basis for those deliberations will have to be sufficiently detailed to meet the necessary criteria set out in Article 1.4 of the Common Position 2001/931/CFSP and the statement made by the Council when adopting the Common Position and Regulation 2580/01 (see annex to the ANNEX).

2. **NOT DECLASSIFIED**

- **Long-Standing Proposals**

3. Member States may unanimously agree that no further action is required on any proposal.
4. In principle, requests received more than one year prior to the meeting, are removed from active consideration, unless a Member State requests otherwise, or additional material becomes available.
5. When a proposal has been made by a Member State, and one year has elapsed without a decision to list, the MS in question will inform the CH whether it wishes to maintain its request and will endeavour to provide more information as necessary.

6. When a proposal has been made by a third state, and one year has elapsed without a decision to list, the Presidency will ask the third state whether it wishes to maintain its request and, if so, will ask for further supporting information as necessary. If the request is maintained, Member States will consider whether any further action is necessary on the basis of the supporting information provided, and the Presidency will inform the third state of any decision taken as appropriate.

- **First Basic Scrutiny of Proposals**

7. On the basis of the working methods agreed by Coreper ¹, the Presidency (preferably), or any other delegation, will when receiving a proposal from a third state carry out a first basic scrutiny in accordance with the criteria set out in Article 1.4 of the Common Position 2001/931/CFSP as well as with the statement made by the Council when adopting the Common Position and Regulation 2580/01.

- **Designation**

8. Substantial information should be presented to the CH in support of pending or new proposals, in accordance with CP 2001/931/CFSP. This is particularly important in the context of proposals on individuals.

¹ **Doc. 11693/02 RESTREINT**

9. If it has been established by a substantive discussion that an already listed terrorist group or entity has re-named itself, and if it has also been established that the re-naming did not change the character and in particular the terrorist objectives of the group or entity, the new name could be added to the original listing as an alias.

10. NOT DECLASSIFIED

11. Immediately following the agreement by COREPER of a designation in accordance with CP 2001/931/CFSP, the following countries will be prenotified (subject to final approval of the designation by the Council itself). Such prenotification could only take place after permanent security agreements have been established with each of the countries in accordance with the Council's security regulations. These agreements will allow for the information to be released pursuant to an authorisation at an appropriate level to that effect. The countries involved are Norway, Switzerland, United States of America, and Canada as well as other relevant third countries, as appropriate.

The Presidency will invite these countries to make an equivalent designation, if they have not already done so.

- **Preparation of Meetings/Substantive Discussion**

12. Member States could consider providing details of national contact points.
13. The Presidency, on an ad hoc basis or at the request of a Member State, may notify delegations, normally 15 days in advance of the CH meeting, that a particular individual, group or number of groups will be the subject of a substantive discussion.
14. Presidency may invite a representative from EUROPOL to attend a CH meeting and make a presentation of some elements of background information in order to facilitate substantive discussion on a particular subject, without prejudice to the fact that decisions on the addition and/or maintenance of persons or groups on the list are the sole responsibility of the Council.

- **Letters challenging designation**

15. Where the Council Secretariat receives a letter from a designated person, group or entity, or a representative of a person, group or entity on the list, that challenges a designation, receipt of the letter will be acknowledged by the Secretariat and the letter will be transmitted to the Presidency which will circulate it to delegations for information.

- **Review of Listing**

16. Each Presidency must initiate a thorough review of the list in Annex at least once, in accordance with part IV (1) of the working methods of the CH agreed by COREPER¹.

¹ **Doc. 11693/02 RESTREINT**

Statement agreed by the Council on 27 December 2001

"The Council points out, with regard to Article 1(6) of the Common Position on the application of specific measures to combat terrorism, and Article 2(3) of the Regulation on specific restrictive measures directed against certain persons and entities with a view to combating terrorism, that any error in relation to the persons, groups or entities in question shall entitle the injured party to seek legal redress.

The Council would also point out that, where the precise information or file material as referred to in the aforementioned Articles are provided by a third country (which is not an EU Member State), it will check in particular whether the case complies with the fundamental principles and procedures of the rule of law and respects human rights, inter alia the right to an effective remedy and to a fair trial, the presumption of innocence and the right not to be judged or punished twice for the same offence".
