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COMMISSION STAFF WORKING PAPER

Taking stock of EU Counter-Terrorism Measures

Accompanying document to the

**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT AND THE COUNCIL**

**The EU Counter-Terrorism Policy:
main achievements and future challenges**

{COM(2010) 386 final}

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TAKING STOCK OF EU COUNTER-TERRORISM MEASURES

This document provides more detailed information on the main EU level measures (legislation, policy measures) which are specifically aimed at fighting terrorism in the EU. It is complementing the Commission's Communication on the Internal Dimension of the EU Counter-Terrorism Policy: main achievements and future challenges (COM (xxx)final).

Area	Instrument/Measure & Objectives	Implementation/Key actions & achievements/ Specific evaluations	Comments
1. PREVENT:			
1.1. Addressing Radicalisation and Recruitment leading to terrorism:			
1.1.1. Legislation:	<p>Council Framework Decision (FD) 2008/919/JHA of 28 November 2008 amending FD 2002/475/JHA¹ ensures EU-wide criminalisation by approximating the national provisions on:</p> <ul style="list-style-type: none"> - public provocation to commit a terrorist offence, - recruitment for terrorism and - training for terrorism. 	<p>Deadline for transposition is 9 Dec. 2010.</p> <p>In 2010 COM will organise one or two expert meetings to exchange experiences and discuss issues related to the transposition/implementation of the FD.</p>	<p>As the deadline for the transposition of this FD has not yet expired, it is still too early to assess its practical impact.</p>
1.1.2. Policy measures:	<p>Council strategy and action plan on radicalisation and recruitment (2005/8):</p> <ul style="list-style-type: none"> - to disrupt the activities of networks and individuals who draw people into terrorism, - to ensure that voices of mainstream opinion prevail over those of extremism and - to promote—yet more vigorously—security, justice, democracy and opportunity for all. <p>The subsequent Action Plan (AP) updated under SE-Presidency covers the following issues/areas:</p>	<p>Initiation of 7 "work-streams" by CTC:</p> <ul style="list-style-type: none"> - Handbook on preventing radicalisation in prisons (AU,DE,FR); - Work-stream on media and strategic communication (UK); - Work-stream on imam-training (ES-event planned for the first quarter of 2010) - Work-Stream on community policing (BE/SE) - Work-Stream on the role of local authorities in preventing radicalisation (NL). - Work-Stream on prevention of radicalisation leading to violence and disengagement particularly among young people (DK). 	<p>The implementation of the strategy is subject to regular reporting by the CTC. COM funds five of the seven work-stream projects through the ISEC-programme. They aim at facilitating the exchange of good practice and thus the approximation of levels of experience within EU-MS</p> <p>In an ISEC-funded project a list of media platforms (a list of</p>

¹ OJ L 330/21.

² The report is entitled "Radicalisation processes leading to acts of terrorism" and is available at: http://www.rikcoolsaet.be/files/art_ip_wz/Expert%20Group%20Report%20Violent%20Radicalisation%20FINAL.pdf.

³ The Studies are available at: http://ec.europa.eu/justice_home/fsj/terrorism/prevention/fsj_terrorism_prevention_prevent_en.htm.

	<p>A. Reducing the threat by:</p> <ul style="list-style-type: none"> effectively addressing grievances; improving research and analysis concerning radicalisation; empowering mainstream voices increasing the capacity of citizens to challenge violent extremists improving communication strategy; promoting dialogue <p>B. Adapting the response by:</p> <ul style="list-style-type: none"> closer internet monitoring early detection of networks enhancing information exchange better training for law-enforcement and other staff focus on places of radicalisation updating of the legal framework assistance to third countries international cooperation. <p>Expert Group on Violent Radicalisation was set up by COM in 2006 and produced a report in 2008 on the state of play of academic research in the field.</p> <p>Four comparative studies were contracted out by COM and published in Sept. 2008</p>	<p>- "Exploring the Islamist Extremist Web of Europe – Analysis and Preventive Approaches" (DE, NL, UK, CZ). Project has been finalised in October 2009 and has contributed to the Public-private dialogue initiated by COM in November 2009 (1.2.2.)</p> <p>- In 2008 a new European Network of Experts on Radicalisation (ENER) was set up by COM and became operational in 2009. ENER serves as a provider of expertise for the COM and policy-makers in the MS to gather and critically assess knowledge and expertise on the subject. A website which is to inform on activities in countering radicalisation and facilitating communication is planned to be launched soon. COM will continue its work in providing the MS with fora to discuss policy tools, tap into academic knowledge networks to develop fact-based new approaches and to enhance cooperation</p> <p>The Expert-group report was shared with the MS in September 2008² and provides a good overview and informed the subsequent setting-up of ENER</p> <p>The studies focus on:</p> <ul style="list-style-type: none"> the factors that may possibly trigger or affect violent radicalisation processes, particularly among youth; the beliefs, ideologies and narrative of violent radicals; the methods through which violent radicals mobilise support for terrorism and find new 	<p>relevant websites, blogs and information portals in the southern Mediterranean for media outreach activities) has been established⁴.</p> <p>ENER work is ongoing and looks promising with regard to future policy development in this area</p> <p>The studies are of high quality and still contain valid suggestions for policy-making in the field.</p>
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⁴ www.mmc2000.net/darmed_archivio.php?tipo=2&lettera=p&pg=1), see also the Council of Europe project: www.miramedia.nl/media/files/Media%20and%20diversity%20in%20Europe%202008.pdf.

	<p>Fighting radicalisation and terrorism in cooperation with partner-countries and International organisations.</p> <p>COM contributes to EU-cooperation with partner countries and international organisations regarding CT- and counter-radicalisation work which is also a standing agenda item in JHA- Ministerial meetings with strategic partners (Troikas) and in other fora such as the UN and the G8.</p>	<p>recruits;</p> <ul style="list-style-type: none"> • best practices in cooperation initiatives between authorities and civil society with a view to the prevention of and response to violent radicalisation³ <p>- Participation in the G8 Terrorism practitioner's Group</p> <p>- An EU-US seminar on preventing radicalisation leading to terrorism took place on 16/17 June 2010</p>	
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1.2 Use of the Internet for terrorist purposes

1.2.1. Legislation	Council FD 2008/919/JHA of 28 November 2008 amending FD 2002/475/JHA⁵	Deadline for transposition is 9 Dec. 2010	See 1.1.1.
1.2.2. Policy measures	<p>- supporting MS-cooperation to counter the use of Internet for terrorist purposes more efficiently</p> <p>- increasing cooperation with the private sector – in particular internet service providers (ISPs) – in order to in order to develop a European Agreement Model allowing for smooth cooperation between law enforcement and internet industry in the fight against illegal use of the internet, including the use of the Internet for terrorist purposes (DG JLS F1 and F2, DG INFSO)</p> <p>- increasing monitoring of terrorist activities in the WWW. The "Check the web" (CTW-) is a portal/data-base run by</p>	<p>DE-project "Exploring the extremist Islamist web of Europe - Analysis and preventive approaches", co-financed by COM, mapped Islamist extremist websites of Europe and studied possibilities of co-operation with internet providers and presented a catalogue of best practices in this area.</p> <p>COM organised a conference on 27 Nov. 2009 to launch the platform for reinforced dialogue between law enforcement and internet industry. Follow-up in 2010 in order to develop a European Agreement Model (first draft of a set of principles on public private cooperation to fight online illegal activities will be presented in spring 2010).</p> <p>Europol implemented the 2nd phase of CTW by the end of 2009:</p>	<p>The DE-project has produced an interesting, however restricted report which has contributed to the initiative of a European Agreement Model with ISPs</p> <p>There is strong support for the continuation of this public private dialogue by all stakeholders involved.</p>

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OJ L 330/21.

	<p>Europol of Islamist extremist websites and relevant translations and analysis to be shared among law-enforcement authorities from EU-MS. It can thus provide key information to understand terrorist trends, anticipate terrorist actions and prevent attacks.</p> <p>Exploring policy measures on enhancing law enforcement authorities' capacities and expertise to counter the use of the Internet for terrorist purposes (through adequate training, the support of experts and efficient equipment, software tools).</p>	<p>- Additional technical enhancements have been included in the portal, like storage of audio and video files, accreditation up to EU RESTRICTED, etc.</p> <p>- CTW was moved in the environment of an Analysis Workfile (AWF) to allow the storage of personal data. Consequently the possibility to store Europol and/or MS assessment was implemented as well with the deployment of the new portal.</p> <p>On the operational side, a UK investigation that was supported by the CTW team led to the conviction of a suspect.</p> <p>In order to achieve these goals, COM has contracted two studies in 2009 under the ISEC-Programme:</p> <ul style="list-style-type: none"> • on non-legislative measures to prevent the distribution of violent radical content on the Internet and • on methodologies or adapted technological tools to efficiently detect violent radical content on the Internet. 	
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1.3. Access to terrorist financing (Countering the financing of Terrorism)⁶

<p>1.3.1. Legislation:</p>	<p>Third Money Laundering Directive of 26 October 2005⁷ (AML-Directive) which expressly extends the scope of the EC money laundering regime to terrorist financing and requires registration/licensing of alternative remittance systems.(DG MARKT)</p> <p>Regulation on controls of cash entering or leaving the EU</p>	<p>The great majority of EU-MS have implemented the AML-Directive and communicated their respective legislation. DG MARKT initiated infringement proceedings against Member States which failed to do so.</p>	<p>DG MARKT (in co-operation with DG JLS) has just awarded a contract to an external consultant to conduct a study on the application of the AML Directive.</p>
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⁶ This topic is often addressed under the "Pursue-strand" of the CT-Strategy although it primarily makes reference to preventative measures.

⁷ Directive 2005/60/EC of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, OJ L 309/15.

	<p>of 26 October 2005 requiring a declaration of cash or equivalent in excess of €10.000 entering or leaving the EU⁸ which is applicable in MS as of 15 June 2007.</p> <p>Regulation on Funds Transfers adopted 25 October 2006 implements the Financial Action Task Force (FATF) international standard (Special Recommendation VII) to ensure that identifying information accompanies wire transfers (or is at least available on request⁹).</p> <p>Payments Services Directive of 13 November 2007¹⁰ was adopted implementing FATF Special Recommendation VI on alternative remittances and entered into force in December 2007. The Directive, which had to be transposed by 1 November 2009, seeks to harmonise the regulatory requirements for carrying on the business of money remittance.</p> <p>Council Regulation EC 881/2002 implemented at EU-level UN Security Council Resolution 1390 on the freezing of terrorist assets, which sets out a sanctions regime to cover individuals and entities associated with Al-Qaida, Osama bin Laden and/or the Taliban. The annex of this Regulation is continuously adapted to developments at UN level. Following the ECJ judgment in the Kadi/Al Barakaat case Council Regulation (EU) No. 1286/2009 of Dec. 2009 has modified Regulation 881/2002 to take account of the fundamental rights of persons and entities listed as required by the.</p>		<p>In the light of ECJ-judicature there is a big challenge in striking the right balance between due-process and the need for effective implementation of the freezing provisions at UN as well as at EU-level.</p>
1.3.2.	Policy Implementation of the Revised Strategy on Terrorist		Ongoing activity. The

⁸ Regulation (EC) No 1889/2005 of 26 October 2005 on controls of cash entering or leaving the Community, OJ L 309/9.

⁹ Regulation (EC) No 1781/2006 of 15 November 2006 on information on the payer accompanying transfers of funds, OJ L 345.

¹⁰ Directive 2007/64/EC of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC, OJ L 319.

Measures:	Financing in particular: - improving cooperation of the Financial Intelligence Units (FIU's) at EU level, - investigating the risk of an abuse of new and alternative payment systems (payments via the internet, prepaid stored value cards, mobile payments) by terrorists. - preventing abuse of non-profit sector/organisations (NPO) for terrorist financing purposes.	<p>The currently COM-funded FIU platform meets regularly in Brussels, chaired jointly by DG MARKT and DG JLS. 22 MS participate currently in FIU.net, a common data base for direct information-exchange between FIUs. New funding decision FIU.net will probably be taken in Mar. 2010.</p> <p>A study commissioned by COM was finalised in 2009. In addition, COM actively participates in the new FATF project team on new and alternative payment methods, where the practical and actual abuse of these methods is assessed. Under ISEC 2010: a study on alternative /new payment systems, like stored value cards or payment methods used on the internet, and the possibilities and experience regarding their abuse for terrorist financing purposes (€150 000)</p> <p>Under ISEC 2009: Establishing an EU NPO Observatory feasibility study on mapping out which actors and through which tools and steps could create an NPO Observatory in the EU that would launch projects enhancing NPO capacities against financial criminal or terrorist financing abuse (€100.000);</p> <p>On the basis of COM communication on NPOs (Nov. 2005) which built on the Special Recommendation VIII of the Financial Action Task Force (FATF)). In April 2008, a first COM funded study provided an insight into the extent and forms of financial crime present in the NPO-sector including terrorist financing. Another study, finalised in Feb. 2009, maps public and self-regulatory transparency and accountability initiatives in the non-profit sector in the EU. Based on these studies and in accordance with the Stockholm Programme, COM currently examines the possibility of drafting voluntary guidelines for NPOs to address the threat of a potential abuse of NPOs for terrorist</p>	implementation of the strategy is subject to regular reporting by the CTC.
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	Cooperation with third countries	<p>financing purposes.</p> <p>There is a regular dialogue with key strategic partners on countering the financing of terrorism (CFT). For example with the US, troika meetings on terrorist financing take place twice per year and there is also a yearly EU US workshop for practitioners on CFT. Another important international dimension is given by active participation in meetings of relevant international organisations, such as the Financial Action Task Force on Money Laundering and Terrorist Financing, the global standard setter in the CFT field.</p>	
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2. Protect

2.1. Protection of Critical Infrastructure

2.1.1. Legislation:	<p>Council Directive 2008/114/EC of 8 December 2008 on the Identification and Designation of European Critical Infrastructure (ECI) and the assessment of the need to improve their protection¹¹.</p> <p>Council Framework Decision on attacks against information systems (200/222/JHA)</p>	<p>Transposition deadline is 12 January 2011.</p> <p>The identification and designation process described in the Directive will take place through a cooperative effort between the relevant MS and the COM. The Directive also requires that designated owners/operators of ECI prepare Operator Security Plans (an advanced business continuity plan) and designate Security Liaison Officers (linking the owner/operator with the national authority responsible for critical infrastructure protection). Under the Directive, each MS shall in addition inform the COM at a generic level of the threats, vulnerability and risks present in particular critical infrastructure sectors.</p> <p>An update is in preparation.</p>	<p>The directive will be reviewed in the course of 2012, to assess its impact and the need to include other sectors within its scope - inter alia the Information and Communication Technology (ICT) sector.</p>
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¹¹ OJ L 345, 23.12.2008, p. 75–82.

<p>2.1.2. Policy Measures</p>	<p>European Program for Critical Infrastructure Protection (EPCIP)¹²</p> <p>Road map for the creation of a European Reference Network for Critical Infrastructure Protection (ERN-CIP) is currently prepared by DG JLS with the JRC .</p> <p>Proposal for Critical Infrastructure Warning and Information Network (CIWIN). CIWIN will facilitate the exchange of information on Critical Infrastructure Protection within the EU. CIWIN will be a secure voluntary/opt-in multi-level communication system dedicated to the exchange of CIP ideas, studies and best practices.</p> <p>COM-Communication on Critical Information Infrastructure Protection: "Protecting Europe from large scale cyber-attacks and disruptions: enhancing preparedness, security and resilience"¹³ following the JHA-Council Conclusions on a 'Concerted Work Strategy and Practical Measures Against Cybercrime' adopted on the 27/28 Nov.2008.¹⁴</p> <p>Developing an external dimension and partner-cooperation with third countries under the CIP</p>	<p>ERN-CIP is part of the EPCIP and aims at linking together existing laboratories and facilities in the EU in order to carry out CIP related security experiments as well as tests of new technology, such as detection equipment.</p> <p>CIWIN is part of EPCIP. COM has adopted the proposal for a Council decision on CIWIN in autumn 2008. The CIWIN pilot phase will be launched in the first half of 2010. A decision on possible follow-up for the system is in preparation in the course of 2010.</p> <p>COM and the ES-EU-Pres organised the first EU-US expert meeting on Critical Infrastructure Protection in Madrid on 4-5 March which constituted the opening event for the future EU – US cooperation process in the field of CIP.</p>	<p>In a first preparatory phase of 12 months a task force will carry out a feasibility study on which basis a decision will be taken whether the project should enter into the implementation phase.</p> <p>A review of the usage of the system is foreseen for 2010</p> <p>Implementation of the Action Plan adopted as part of the CIIP communication is ongoing.</p>
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¹² COM (2006) 786 final.

¹³ COM/2009/149 final of 30 March 2009.

¹⁴ Council Document 15569/08

2.2. Aviation and Maritime transport security

<p>2.2.1. Legislation:</p>	<ul style="list-style-type: none"> - Regulation 2320/2002 established a framework for numerous technical detection standards in the field of aviation security. It will be fully repealed by Regulation 300/2008 on common rules in the field of civil aviation security as of 29 April 2010. Regulation 300/2008 and its implementing acts introduce even more detailed requirements for staff qualifications and security training requirements, including updates on terrorist and threat information. This will also create a new framework for existing and new detection methods where work is ongoing, such as on liquid explosives, trace detection and the use of explosives detection dogs (DG MOVE). - Regulation 725/2004 transposed the International Ship and Port Facility Security Code into European law (DG MOVE); - AGREEMENT between the European Community and the United States of America on intensifying and broadening the Agreement on customs cooperation and mutual assistance in customs matters to include cooperation on container security and related matters of 30 September 2004 (OJ L 304/34); - Directive 2005/65/EC on enhancing port-security set out measures to establish a security system for all port areas (DG MOVE); - Commission Regulation (EC) No 324/2008 of 9 April 2008 lays down revised procedures for conducting Commission inspections in the field of maritime security, while a Commission Decision of 23 January 2009 amended Regulation (EC) No 725/2004 in relation to the IMO Unique Company and Registered Owner Identification Number 	<p>An evaluation report of the transposition has been produced – see COM (2009) 2 final.</p> <p>More than 400 inspections have been carried out by Commission inspection teams at administrative authorities, maritime companies, recognised security organisations and ports and port installations.</p>	<p>Regulation 300/2008 will fully repeal Regulation 2320/2002 as of 29 April 2010. The body of implementing legislation, based on 2320/2002, is in the final stages of revision, and will in principle enter force also on 29 April 2010</p>
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	Scheme (DG MOVE).		
2.2.2. Policy Measures:	COM started in 2010 a debate and exchange of best practices on the detection of explosives in the Expert Group on Urban Transport Security .	In order to provide practical information for detection personnel, a tender for a practitioner (end-user) focused handbook (classified at appropriate level) is foreseen under the ISEC program.	
2.3. Access to explosives			
2.3.1. Legislation:	<ul style="list-style-type: none"> - Council FD 2008/919/JHA of 28 November 2008 amending Framework Decision 2002/475/JHA ensures EU-wide criminalisation of providing instructions (incl. through the internet) to make or use explosives, firearms or noxious or hazardous substances for the purpose of committing a terrorist act. It also entails the approximation of penalties for distributing bomb making experience over the Internet. Proper implementation needs to be ensured and promoted (see 1.1.1) - Directive 76/769/EEC imposes limitations on the access of the general public to highly concentrated ammonium nitrate in fertilisers which can be misused for producing improvised explosive devices (DG ENTR). - Council Directive 93/15/EEC of 5 April 1993 on the harmonisation of the provisions relating to the placing on the market and supervision of explosives for civil uses seeks to ensure that each MS has formal systems for authorising, regulating and licensing the manufacture, storage, sale, use and possession of explosives including by private persons. Its proper implementation, incl. adequate approach to private persons needs to be ensured (DG ENTR). - COM-Directive 2008/43/EC setting up, pursuant to Council Directive 93/15/EEC, a system for the identification and traceability of explosives for civil uses was adopted in April 2008, with transposition by April 2009 and 	<p>Deadline for transposition is 9 Dec. 2010</p> <p>A practical tool for enhancing traceability in cross-border, intra-EU transport is now in the final stage of development and deployment (extending existing system) as a project led by Spanish company INDRA with the backing of</p>	See 1.1.1.

	application from April 2012. Its objective is to ensure the identification and tracing of explosives. This will reduce unauthorised access incl. during transport. (DG ENTR)	Guardia Civil and supported by COM-funding ("Explosives Control and Protection System to Prevent and Fight against Terrorism" (SCEPYLT)).	
2.3.2. Policy measures:	<p>The 'EU Action Plan for the Enhancement of the Security of Explosives' was adopted by the Council in April 2008.¹⁵ It contains a list of ca. 50 measures to enhance the security of explosives, arranged along the strands of prevention, detection and response, as well as horizontal measures. The priorities include:</p> <ul style="list-style-type: none"> • development of a European Bomb Data System (EBDS) for the exchange of information incidents involving explosive devices, incendiary devices and CBRN by EUROPOL to be available 24/7 for competent MS government services; • establishment of an Explosives Ordnance Disposal units network (EEODN) with structured exchange of information and 	<p>In June 2009 COM presented an interim report¹⁶ on the implementation of the Action Plan on Enhancing the Security of Explosives¹⁷.</p> <p>The rollout of the EBDS including data on incidents related to explosives, improvised explosive devices (IEDs), improvised incendiary devices (IIDs) and CBRN¹⁸ issues is expected by the first half of 2010. The EBDS, hosted in the Europol Secure Network, will include an incident database, a library for storing technical reports and discussion fora. It would improve the exchange of information and intelligence between experts in the fields of explosives and CBRN. The project is led by EUROPOL and co-funded by COM under the ISEC Program.</p> <p>The EEODN is operational. Last year two experts of the EEODN received training by the US Agency ATF in the USA. Europol, in partnership with SE & ES, has requested grants under the ISEC Program for the implementation of the EEODN activities, including training for the EEODN experts.</p>	The EU-AP on Explosives is a major achievement. Its implementation progresses swiftly and as scheduled.

¹⁵ Council Document 8311/08 (adopted by the Council in April 2008).

¹⁶ Council Document 11056/09.

¹⁷ Council Document 8109/08.

¹⁸ CBRN stands for "Chemical, Biological, Radiological and Nuclear".

	<ul style="list-style-type: none"> • installation of an EU-wide Early Warning System (EWS) e.g. on threats and missing explosives; • establishment of the Standing Committee on Precursors (SCP) which focuses on a tighter regulatory regime for high-risk chemical precursors to explosives to reduce their accessibility to the general public on the market. • • • • • definition of common security standards and techniques for production, storage, transport and use of explosives in the civilian sector, including employees' security vetting; • definition of identification codes and reporting systems for the traceability of industrial explosives and detonators; 	<p>The EWS is currently being developed by ES in partnership with Europol. The presentation, implementation and deployment to all the MS is expected to take place by mid-2010. COM is co-funding the project under the ISEC Program.</p> <p>Based on the work of the SCP, which started in 2008, COM is now in the process of preparing a proposal on future measures such as:</p> <ul style="list-style-type: none"> • legislation, including a complete ban on sales of certain chemical precursors above concentration assessed as critical, • introduction of a registration schemes or • voluntary measures like reporting suspicious transactions and raising awareness among sellers of these chemicals. <p>COM-Directive 2008/43/EC setting up, pursuant to Council Directive 93/15/EEC, a system for the identification and traceability of explosives for civil uses was adopted in April 2008, with transposition by April 2009 and application from April 2012.</p> <p>A practical tool for enhancing traceability in cross-border, intra-EU transport is now in the final stage of development and deployment (extending existing system) as a project led by ES-company INDRA with the backing of Guardia Civil and supported by COM-funding (SCEPYLT-"Explosives Control and Protection System to Prevent and Fight against Terrorism").</p> <p>An expert working group, established in Oct. 2008, is regularly convened and shall also consider the development of common minimum detection standards based on relevant</p>	<p>The SCP contributed to preparing a COM legislative proposal scheduled for October 2010. This instrument in combination with elaborate & encompassing voluntary schemes for industry has a high potential to reduce the risk of incidents with improvised explosive devices.</p>
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	<ul style="list-style-type: none"> • development of a scenario-based approach to detection of explosives. • development of cooperation with third countries on improving the security of explosives 	<p>scenarios and threat assessments.</p> <p>A "Network on Detection of Explosives (NDE)" was contracted to provide COM with technical support and advice. The NDE consists of various national research institutes and law enforcement agencies. It produces analysis and policy briefs on relevant detection issues.</p> <p>Two EU-/US-seminars were held in Dec. 2008 and Feb. 2010 on explosives security. The cooperation will be strengthened subject to approval by the EU-US JHA Ministerial Troika in April 2010</p>	<p>The expected outcome (2010) is a matrix of what is desired and what is currently possible in terms of the detection of explosives for the various scenarios elaborated by the group.</p>
2.3. Supply Chain Security			
2.4.1. Legislation:	<p>- Regulations 648/2005 and 1875/2006 – the so-called security amendments to the Community customs legislation introduced measure to strengthen the security of the supply chains by means of introducing advance cargo information requirements, a Community risk management framework and the authorised economic operator programme.</p> <p>- Agreement between the European Community and the United States of America on intensifying and broadening the Agreement on customs cooperation and mutual assistance in customs matter to include cooperation on container security and related matters of 30 September 2004 (OJ L 304/34)</p>		
2.4.2. Policy measures:	<p>Communication on the strategy for the evolution of the Customs Union (COM(2008) 169) which confirms the crucial role customs play in protecting EU citizens.</p>		

	Endorsed by the European Parliament in its resolution of 19 June 2008 on the 40 th anniversary of the Customs Union.		
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3. Pursue

3.1. Measures in the field of criminal law, criminal procedure and judicial cooperation

3.1.1. Legislation:	<p>FD 2002/475/JHA of 13 June 2002 on combating terrorism harmonises the definition of terrorist offences in all MS and ensures that they establish for natural and legal persons having committed or being liable for such offences penalties and sanctions which reflect the seriousness of such offences. It sets out jurisdictional rules to guarantee that terrorist offences may be effectively prosecuted and adopts specific measures with regard to victims of terrorist offences because of their vulnerability.</p> <p>The European Arrest Warrant (EAW) of 2002, and the Council FD 2008/978/JHA of 18 December 2008 on the European evidence warrant for the purpose of obtaining objects, documents and data for use in proceedings in criminal matters¹⁹;</p> <p>Council Decision setting up Eurojust²⁰ was amended by Council Decision 2009/426/JHA of 16.12.2008²¹ to strengthen the role of Eurojust in assisting MS in the fight against serious organised crime. The new instrument sets out a minimum level of competences of national members of Eurojust, enhances information sharing between MS and Eurojust and establishes the Eurojust National Coordination System.</p>	<p>Under Article 11 of the FD, COM drew up two reports on the measures taken by MS to comply with this instrument (Two successive reports from COM as well as the respective COM staff working papers associated with these reports were adopted on 8 June 2004 and 6. Nov. 2007)</p> <p>Based on the principle of mutual recognition, the FD on the EAW replaces traditional extradition procedures and greatly contributes to speeding up the prosecution of terrorists and other serious criminals operating within EU territory.</p> <p>To ensure the availability of Eurojust on 24/7 basis an On-Call Coordination is to be established.</p> <p>In addition, Eurojust has established an Informal Working Party on Implementation, which meets regularly in order to assist MS in the implementation process.</p>	<p>Implementation by most MS is generally satisfactory but some MS fail to transpose correctly Art. 1 (terrorist offences, fundamental rights and principles); Art.5.3 (penalties for offences relating to terrorist groups), and Article 7 (liability of legal persons).</p> <p>MS have until June 2011 to implement the new Eurojust Decision into their national legal systems.</p>
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¹⁹ OJ L 350 of 30.12.08, p.72.

²⁰ 2002/187/JHA of 28 February 2002.

²¹ OJ L 138, 4.6.2009, p. 14.

	<p>Council Framework Decision 2008/978/JHA of 18 December 2008 on the European evidence warrant for the purpose of obtaining objects, documents and data for use in proceedings in criminal matters entered into force on 19-1-2009. The European evidence warrant (EEW) is a judicial decision, whereby objects, documents and data may be obtained from other Member States. The EEW is issued by competent authorities designated by the Member States. An issuing authority may be a judge, court, investigating magistrate, public prosecutor or other judicial authority. Member States must also designate the competent authorities for recognising and executing the EEW.</p>		<p>Member States have until 19.1.2011 to implement the Framework Decision.</p>
<p>3.1.2. Policy Measures</p>	<p>Counter terrorism action is part of all major fields of Europol activities:</p> <ul style="list-style-type: none"> - operational analysis and operational support in case of a terrorist attack²²: (AWF, Joint Investigation Teams, cross-border operations) and the First Response Network - FRN). - promoting use of Joined Investigation Teams (JITs) 	<p>On 1 Oct. 2009 Europol and Eurojust have signed the revised coop-agreement, which the Council requested by the end of 2008.</p> <p>In July 2009 Eurojust launched a JITs Funding project, financed under the Specific Programme of "Prevention of and Fight against Crime"²³, which provides for financial and logistic support of JITs until December 2010</p>	<p>Europol's new status as EU agency²⁴ has increased its visibility as a EU-actor also in respect of fighting terrorism.</p> <p>It is expected that the revised co-operation agreement will enhance cooperation between the two bodies in fighting serious crime and terrorism in particular via an improved exchange of information/data</p>

²² Europol Working Programme 2010, doc. 13788/09.

²³ Council Decision of 12 February 2007, OJ L 058, 24.2.2007, p.7.

²⁴ OJ L121, 15.5.2009, p 37.

3.2. Information Exchange/Access to information			
3.2.1. Legislation:	<p>The Decision on the exchange of information and cooperation concerning terrorist offences²⁵ reinforces the cooperation between the organisations responsible for combating terrorism, stressing the coordinating role of both Europol and Eurojust. In particular, the Decision lays down that each MS must transmit information with respect to prosecution and conviction for terrorist offences which affect two or more MS to Europol, Eurojust as well as to the national contact points of other affected MS.</p> <p>TFTP A provisional EU-US international agreement based on Art. 24 and 38 TEU on the transfer of data to the US Treasury's Terrorist Finance Tracking Programme (TFTP) was adopted on 30 Nov. 2009 and has been suspended following a negative vote in the EP. In March 2010 the Commission adopted a new Recommendation to the Council to authorise the opening of negotiations and draft negotiation directives. The EP issued its Resolution on a future EU-US TFTP agreement on 5 May. A revised TFTP agreement was approved by the European Parliament on 8 July and will enter into force on 1 August.</p>	The Decision also requires MS to take the necessary measures to ensure that all requests for mutual legal assistance, recognition and enforcement of judgments in connection with terrorist offences are dealt with as a matter of urgency and are given priority.	
3.2.2. Policy Measures	<p>- information sharing and information exchange:</p> <p>- European PNR: COM has made a proposal for a FD for European PNR on 6 November 2007 with the aim of creating a coherent legal framework at EU-level which would oblige air carriers on international (non intra-EU) air travel to</p>	<p>Europol Information System, TE-SAT, "Check the web" (CTW, s. 1.2.2.), Situation Report on Illicit Trafficking in Nuclear and Radiological Substances, CT Monthly Reports, cyber-crime platform, Europol Bomb Database (see 1.3.2);</p> <p>Discussions in Council have started in February 2008. Most MS are supportive of the proposal (the JHA Council has reaffirmed its support at several occasions).</p>	

²⁵ Council Decision 2005/671/JHA of 20 September 2005 on the exchange of information and cooperation concerning terrorist offences, OJ L 253, 29.9.2005, p. 22–24 (ES, CS, DA, DE, ET, EL, EN, FR, IT, LV, LT, HU, NL, PL, PT, SK, SL, FI, SV) and OJ L 168M , 21.6.2006, p. 350–352 (MT).

	<p>transmit passenger information to the relevant law enforcement authorities for the purpose of preventing, investigating, detecting and prosecuting organised crime and terrorism.</p> <p>- PNR-Agreements with 3rd countries:</p> <ul style="list-style-type: none"> • In July 2007 the EU has concluded a PNR agreement with the USA which followed the 2006 interim PNR agreement. • A PNR-agreement has been signed with Canada. The COM adequacy decision has expired on 22/9/09, but following an exchange of letters between COM and Canada the agreement continues to be applied. • A PNR- agreement with Australia was signed on 30 June 2008 and became provisionally applicable from that date. The agreement will be valid for seven years. Under the TFEU the EP needs to give its consent before Council can conclude the agreement. 	<p>The US PNR agreement is with the EP for its consent before the Council can conclude the agreement.</p> <p>With the entry into force of the Lisbon Treaty preparations for a new agreement will start soon with the aim to conclude an agreement in 2010. In November 2008 a joint review on the operation of the EU-Canada PNR agreement was carried out.</p> <p>The AUS PNR agreement is with the EP for its consent before the Council can conclude the agreement.</p>	
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4. Respond			
4.1. Crisis Management			
4.1.1. Legislation:	<p>COM Decision (2006/25/CE) of 23 Dec. 2005 establishing a general rapid alert system (ARGUS) to enhance its capacity to react quickly, efficiently and in a coordinated manner, in its domain of competence, to crises of a multi-sectoral nature covering several policy areas and that require action at the EU level, whatever their cause.</p> <p>ARGUS consists of an internal communication network (Argus phase I) enabling (via an IT tool) the COM services to share in real time relevant information on emerging multi-sectoral crises or foreseeable or imminent threat thereof and to coordinate appropriate response within the domain of competence of COM.</p> <p>Argus phase II provides for coordination in the event of a major crisis A Crisis Coordination Committee is the specific operational crisis management structure established to lead and coordinate the response to the crisis, bringing together representatives of all relevant COM services.</p>	<p>COM is responsible for a wide range of response instruments, along with alert and coordination mechanisms: Management of the Rapid Alert Systems ('RAS') to provide swift and efficient responses to specific sectoral disasters, ranging from bio-chemical attacks to communicable epidemics and animal diseases, oil spills or marine pollution</p> <p>The Instrument for Stability provides for 'exceptional assistance measures' to enable timely responses to disasters in addition to political crises.</p> <p>The RELEX Crisis Platform, established after the 2004 Tsunami, contributes to the political coordination between COM and MS during external crisis situations.</p>	<p>The system should be reviewed in the light of experience acquired and technological progress to ensure inter-linkage and coordination of existing specialised networks.</p>
4.1.2. Policy Measures:	<p>EU emergency and crisis coordination arrangements (EU-CCA): Following the JHA Council Declaration of 13 July 2005 to develop arrangements for political coordination at EU level in response to any emergency inside or outside the Union affecting a number of MS or which engages the entire EU. Practical interim arrangements for meetings of a Crisis Support and Steering Group, supporting structures including standard operating procedures (SOPs) have been put in place in 2006. These crisis co-ordination arrangements provide a generic arrangement applicable for all types of crises.</p>	<ul style="list-style-type: none"> • 	<p>CCA arrangements are currently undergoing revision (lead: informal group of Friends of the Presidency) to simplify SOPs and possibly make the arrangements more flexible.</p>

	<p>Implementation of Art. 222 TFEU – solidarity clause, 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. Following Article 222 (3) a joint proposal from COM and the High Representative should be presented in view of a decision of the Council on the arrangements for the implementation of the Solidarity Clause.</p>		<p>First preliminary reflections on the solidarity clause have been launched inside COM to identify main legal and policy issues</p>
<h2>4.2. Civil Protection and Crisis Response</h2>			
<p>4.2.1. Legislation:</p>	<p>Council Decision of 8 November 2007 establishing the Community Civil Protection Mechanism.</p> <p>Council Decision of 5 March 2007 establishing the Civil Protection Financial Instrument.</p> <p>Council Decision 2008/617/JHA on the improvement of cooperation between the special intervention units of the EU-MS in crisis situations provides a legal basis for the ATLAS-Network of Special Forces with the ultimate goal of dealing effectively with all possible kinds of specific or large-scale crisis situations involving (with highest likelihood) a criminal offence or resulting from acts of terrorism and requiring special intervention. The Council Decision enables MS to request the assistance of another MS in such crises.</p>	<p>Coordination of the civil protection assets of the MS through the Community Civil Protection Mechanism created in 2001 to respond to disasters that occur within the EU and outside the EU in the event of major emergencies, including terrorist attacks. Specific projects are funded through the Civil Protection Financial Instrument.</p> <p>The ATLAS network of special intervention units from EU MS was created in the wake of the attacks of 11 September 2001 under the umbrella of the European Police Chiefs Task Force (ECPTF). The network has been financially supported by COM (225.000 EUR in 2006, 600.000 EUR in 2007, 900 000 EUR in 2008 and 1.000.000 EUR in 2009). The activities of the network include regular meetings, seminars, working groups and common exercises.</p>	<p>Evaluation of COM legislation in the field of civil protection expected by mid-2010</p>

	<p>COM-Communication on "Reinforcing the Union's Disaster Response Capacity" of 5 March 2008 made proposals to reinforce the EU's disaster response capacity. These proposals are a first step on the road to a comprehensive and integrated EU response and are aimed at reinforcing and creating synergies between existing instruments, and at strengthening coordination between them.</p>	<p>Four main pillars to reinforce EU disaster response capacity have been identified:</p> <ul style="list-style-type: none"> • Reinforced inter-institutional cooperation • Strengthening European Humanitarian aid capacity • European civil protection • Strengthening capacity across Community policies and instruments 	
<p>4.2.2. Policy Measures:</p>	<p>The EU Civil Protection Mechanism follows an all-hazard approach, covering prevention, preparedness and response.</p> <p>Council encouraged MS to enhance their civil protection capabilities through a European mutual assistance system aiming at a further development/identification of civil protection modules and to register them as soon as possible, to improve their interoperability and to further accelerate the setting up of a core group of assessment and coordination experts who could be deployed rapidly.</p> <ul style="list-style-type: none"> - enhancing the preparedness of civil protection and other emergency relief actors, - responding to cyber and biological attacks and an international hostage taking were parts of the 2009 exercise on the Emergency and Crisis Coordination Arrangements (CCA) successfully carried out in Brussels end of September 2009. - responding to CBRN-risks 	<p>By Oct.2009, a total of 105 modules and 8 technical and assistance teams (TAST) have been registered covering different areas, e.g. water purification, high capacity pumping, urban search and rescue, aerial forest fire fighting, CBRN detection, search and rescue, forest fire fighting, and medical assistance</p> <p>COM is developing Disaster Management Training Arrangements, which would include a network of EU Disaster Management Training Centers.</p> <p>Under the Civil Protection Financial Instrument COM has proposed to carry out more exercises and to facilitate inter-agency response to CBRN incidents bringing together national civil protection health, law enforcement investigators, civil military responders and European civil protection modules.</p>	<p>A major field exercise has taken place in ES in June 2010 under the EU Rapid Response Capability 7, one of the projects financed under the Preparatory Action</p>
<p>4.3. Access to CBRN-material</p>			
<p>4.3.1. Legislation:</p>	<p>Most of the existing EU-legislation on CBRN-materials focuses on safety concerns rather than on potential security threats related to terrorism. A large framework of safety-</p>	<p>In the framework of the EU CBRN Action Plan (see 1.4.2) COM is currently looking into the potential legislative gaps regarding CBRN security. A recently awarded study on</p>	<p>Since this initiative is very recent, it is too early to assess its impact.</p>

	related measures exists (Seveso II, REACH, Nuclear safety legislation etc.). Although some of these safety-related measures also have an effect on enhancing security, their aim is rather to limit the toxic impact of such material on people and the environment. (DG ENV, DG ENTR)	"biological preparedness" will provide a comprehensive overview of bio-safety and bio-security legislation. It will also provide suggestions how to fill security gaps. A similar study on "the applicability of existing chemical industry safety provisions to enhancing the security of chemical facilities" will be launched in 2010. At this stage it is too early to indicate concrete legislative proposals, other than a likely legal instrument on security vetting of person having access to CBRN materials (or explosives).	
4.3.2. Policy Measures:	<p>Following the 2009 Communication on 'Strengthening Chemical, Biological, Radiological and Nuclear Security in the European Union' - an EU CBRN Action Plan was adopted by the Council on 1 Dec. 2009.²⁶</p> <p>The Action Plan focuses inter alia on:</p> <ul style="list-style-type: none"> - developing EU lists of high-risk CBRN materials; - enhancing the security of high-risk CBRN materials and facilities; - enhancing control over high-risk CBRN materials; - contributing to the development of a high security culture of staff; - improving the identification and reporting of suspicious transactions and behaviour; - enhancing the security of transport; - strengthening the import/export regime; - strengthening cooperation on the security of nuclear materials. 	The CBRN Action plan contains around 130 different actions, a number of which have been identified as key actions, to be started in 2010. The implementation phase of the Action Plan will be assisted by the CBRN Advisory Group and its sub-groups.	Since this initiative is very recent, it is too early to assess its impact. However the positive reception by MS demonstrates that there is support and need for EU-wide action.
4.4. Solidarity with victims of terrorism			
4.4.1 Legislation	<p>The Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism, Article 10(2)</p> <p>The Council Framework Decision 2001/220/JHA of 15</p>		

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Council Document, 1505/1/09 Rev 1.

	<p>March 2001 on the standing of victims on criminal proceedings.</p> <p>Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims</p> <p>These three instruments apply to victims of terrorism. However, only the first one addresses specifically victims of terrorism, the other two apply to the broader category of victims of crime. Art. 10(2) of the FD on combating terrorism complements the existing general rules in the FD on the standing of victims in criminal proceedings by obliging MS to take all measures possible to ensure appropriate assistance for the families of victims of terrorism.</p> <p>The FD on standing of victims in criminal proceedings sets out minimum standards for the treatment of victims of crime (and their families) that apply throughout the EU, covering a wide range of issues: hearings, and provision of evidence; right to receive information; communication safeguards; specific assistance to the victim; victims' expenses with respect to criminal proceedings; right to protection; right to compensation in the course of criminal proceedings; penal mediation in the course of criminal proceedings; victims resident in another MS; cooperation between MS; specialist services and victim support organisations; training for personnel involved in proceedings or otherwise in contact with victims; practical conditions regarding the position of victims in proceedings.</p> <p>The Directive relating to compensation to crime victims does not have the same wider scope. It deals with the compensation of crime victims where there is a cross-border element.</p>	<p>Under Art. 11 of the FD on combating terrorism, COM has drawn up two written reports on the measures taken by MS to comply with this instrument. These evaluation reports indicate that only some MS have provided concrete provisions or detailed information concerning the assistance for the families of the victims.</p> <p>According to Art. 18 of FD on the standing of victims in criminal proceedings, COM published a first report on 16 Feb. 2004 and the second one on 20 April 2009. The latter report concluded that the implementation of this FD is not satisfactory and that national implementing legislation contains numerous omissions.</p> <p>Following this report, COM is working on an impact assessment which focuses on victims' rights and the unsatisfactory implementation of the FD on the standing of victims on criminal proceedings. Taking into account the Stockholm Program COM will also examine the feasibility of a single, comprehensive legal instrument merging Directive 2004/80 on the compensation to victims and the FD on the standing of victims in criminal proceedings.</p>	
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<p>4.4.2. Policy Measures:</p>	<p>COM has since 2004 co-financed projects led by organizations - private or public - and associations representing victims which helped victims and their families to recover from the consequences of their ordeal by means of social or psychological support, trained practitioners, or contributed to raising awareness of the European public against the terrorist threat. This has been done, first of all, through a pilot project which saw a call for proposals in 2004 and one in 2005. There followed a preparatory action in favor of victims in 2006. From 2007 to 2009, the Criminal Justice program has provided funding to such projects. As of 2010, the ISEC program will co-finance projects. In particular, the promotion of solidarity with the victims and their role in the prevention of terrorism will link the protection of victims to the policy on preventing radicalization and recruitment.</p> <p>Additionally in Dec. 2008 COM has set up a European Network of Associations of Victims of Terrorism to stimulate trans-national co-operation between associations of victims of terrorism and enhance the representation of victims' interests at EU-level. The latest event successfully organized by the Network was a seminar in Paris on "society and victims of terrorism" in September 2009. All of these events were attended by victims' associations from an important number of MS and were well attended by the media.</p> <p>The Network will help COM to meet the Union's goal of providing aid and protection to victims of terrorism by providing for first hand information as regards the current aid and protection offered to victims of terrorism in the EU and proposing actions to extend best practices and address identified gaps.</p> <p>Furthermore, in the next years COM will intensify its efforts to promote solidarity with the victims of terrorism through a volunteers' programme as well as the dissemination of</p>	<p>The evaluation of the Pilot Project in favour of Victims of Terrorist Acts, carried out by Centre for Strategy and Evaluation Services on Dec.2006. The evaluation report concluded:</p> <p>The following points were identified by COM as key messages or needs:</p> <ul style="list-style-type: none"> • Collective Forum to represent EU interests at wider international level • System for the exchange of experience • European guarantee fund • Standardisation of legislation is not necessary • Standardisation of basic status of victims, minimum rights, legal assistance, where to go etc. • Results of projects should be disseminated, larger scale projects should be encouraged and networks set up for collaboration and exchange of experience. <p>A targeted call for proposals "Radicalisation leading to terrorism and the role of victims of terrorism in preventing radicalisation" (March 2010) offers financial support initiatives promoting the dissemination of testimonies of victims of terrorism in order to help to further sensitise EU citizens and provide platforms for victims to counter and delegitimize the violence narrative of terrorism.</p>	
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	testimonies of victims of terrorism. These actions are intended to sensitise EU citizens and disseminate a powerful message of democratic values countering violent narratives and radicalisation.		
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4.5. Evaluation of National Crisis Response capacities

	All MS have been evaluated in the framework of the second round of the peer evaluation of national counter-terrorism arrangements focusing on preparedness and consequence management in 2008/9. The main authorities participating in the exercise have been the police forces, security and intelligence services, and civil protection bodies such as fire departments or the civil defense.	In July 2009 an interim report including the state-of-play and the main findings was published on the peer evaluation ²⁷ .	The final report is due in the first half of 2010.
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²⁷ Council Document. 12287/09.