



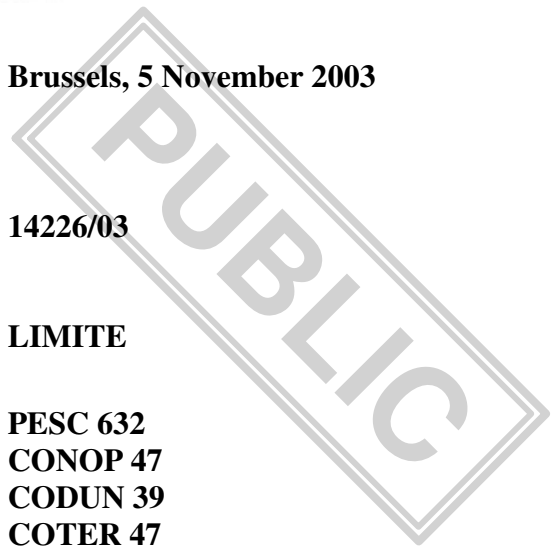
**COUNCIL OF
THE EUROPEAN UNION**

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NOTE

From: High Representative

To: Coreper/Council

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Subject : Action Plan for the Implementation of the Basic Principles for an EU Strategy
against Proliferation of Weapons of Mass Destruction
- Progress Report

Delegations will find attached the progress report on the implementation of the Action Plan prepared by the Personal Representative of the High Representative, in cooperation with the Commission, and endorsed by the Political and Security Committee.

I. INTRODUCTION

The Action Plan for the Implementation of the Basic Principles for an EU Strategy against Proliferation of Weapons of Mass Destruction was adopted by the Council on 16 June 2003 and then endorsed by the European Council which declared development and implementation of this Action Plan a matter of priority.

On 16 September the PSC took note of a preliminary report on the state of execution of the Action Plan.

The present note sets out the current status of implementation of the Action Plan.

II. ACTION ALREADY COMPLETED:

- Promoting a catch-all clause in the export control regimes (item 7 of Action Plan)

The CONOP Working Group agreed on a catch-all mechanism to be included in the NSG and MTCR guidelines. The same approach has been adopted for the Wassenaar Arrangement.

This proposal was tabled by the Presidency on behalf of the EU at the MTCR Plenary (Buenos-Aires, 22-26 September), became a joint EU-US-Russian Federation-Japan proposal and was adopted by consensus.

On the basis of an EU Presidency proposal, the NSG Consultative Group (Vienna, 15-17 October 2003) agreed in principle to recommend that the May 2004 Plenary (Gothenburg) should agree to include a catch-all mechanism in the NSG part 2 guidelines.

At the Wassenaar Arrangement General Working Group in Vienna (21-24 October) agreement in principle was reached that a catch-all mechanism should be included in the WA “initial elements” at the December Plenary (Vienna).

- **Providing the IAEA with adequate budget increase for implementing its safeguards tasks (item 5 of Action Plan)**

An adequate budget increase has been agreed by the IAEA Board of Directors and been validated at the IAEA General Conference on 16-19 September 2003 in Vienna.

III. ACTION IN THE PROCESS OF BEING CARRIED OUT:

- **Supporting the membership of acceding countries in the export control regimes (item 7 of Action Plan)**

A strategy for achieving this objective was proposed by Commission and supported by CONOP. This strategy included encouraging all Acceding Countries to apply, Presidency actions to lobby the Regime Chairs for expeditious consideration of Acceding Countries applications, and support by EU MS through concerted lobbying, including bilateral demarches, of key Regime Members. The MTCR example has been followed at the NSG Consultative Group in October 2003 and will be utilised at the Wassenaar Plenary in December 2003. Each application will be examined on a case by case basis in each Regime.

For the MTCR, Cyprus, Estonia, Latvia, Lithuania, Malta, Slovakia and Slovenia had submitted applications. The Troika held meetings with main non EU members of the MTCR to support the membership request of the Acceding Countries as well as the Candidate Countries Bulgaria and Romania. MTCR Participating States deemed it necessary to have additional time to study the eleven applications for membership. They noted the Chair's intention to launch, in due course, a silence procedure for official acceptance of each applicant, on a case by case basis, which will expire no later than the first day of RPOC 2004 (Reinforced Point of Contact, meeting in Paris before end of April 2004).

As regards the NSG, Lithuania, Estonia and Malta entered their request for membership prior to the Consultative group meeting. The Troika had bilateral meetings with US and Russia. No formal way forward was discussed as to the follow-up towards the next plenary of the NSG.

For the Wassenaar Arrangement, the Presidency supported the Acceding Countries' applications to these regimes during recent general working group meetings in Vienna.

- **Adoption of a firm engagement for the promotion of the universalisation and reinforcement of multilateral agreements (item 2 of Action Plan)**

A draft Council Common Position covering the NPT, the IAEA Additional Protocol, the CWC, the BTWC, the CTBT and the HCOC was agreed at working group level on 24 October, endorsed by PSC meeting on 31 October and will be forwarded to the COREPER with a view to its final adoption by the Council in November.

On the universalization of CTBT, the Presidency made demarches in all non-signatory and non-ratifying Countries to promote accession and ratification to the Treaty on the basis of the Council Common Position adopted on 21 July.

- **Mainstreaming non-proliferation policies into the EU's wider relations with third countries (item 8 of Action Plan)**

A note to PSC/Coreper has been prepared on mainstreaming non-proliferation policies into the EU's wider relations with third countries. Suggestions will be submitted to the Council.

- **Prolongation of the EU co-operation programme on disarmament and non-proliferation in the Russian Federation (item 3 of Action Plan)**

Council Joint Action 1999/878/CFSP of 17 December 1999 on the EU co-operation programme for non-proliferation and disarmament in the Russian Federation was amended by Council Joint Action 2003/472/CFSP of 24 June 2003 in order to extend its period of application by one more year. This was done following the extension for one year of the Common Strategy on Russia (2003/471/CFSP extending 1999/414/CFSP).

The CONOP Working Group of September 2003 agreed in principle on the technical scope for three new projects under the Joint Action:

- “Provision of equipment required to support the building of the chemical weapons destruction facility in Kambarka”.
- “Support of the programme of ex-weapons plutonium disposition in Russia”.
- “Support to the department for export control of the Russian Federation to improve the enforcement of the Russian dual use export control regulation”.

In parallel, discussions on the adaptation of the Financing Agreement, following the changes in the EC Financial Regulation (2002), are ongoing between the Commission and the Member States foreseen for hosting the implementation of the projects. For the projects one and two, an agreement might be reached soon with Germany and France respectively. These projects would then be financed from the 2003 CFSP budget, after a Council Decision. If an agreement cannot be reached in time, the financing could occur under the 2004 CFSP budget. For the project three, no Member State seems willing at this stage to host the project implementation. This might lead to further delays in the start of the project, its transfer to the Community Tacis programme or its cancellation. This last option would be a major drawback for a project in an area judged as of top priority for both non proliferation and EU-US relations.

- **Ratification and implementation of the IAEA Additional protocols
(item 4 of Action Plan)**

An EU statement has been delivered by the Presidency at the IAEA General Conference (Vienna, 15-19 September 2003), stressing the fact that the EU strongly supports the necessity of strengthening the safeguards system of the IAEA.

All EU Member States have signed Additional Protocols and have either ratified them or are in the process of doing so before the end of 2003.

- **Make the EU a leading co-operative player in the export control regimes
(item 7 of Action Plan)**

The Commission's papers on ensuring co-ordinated EU positions and on the modalities for the Commission's involvement in the export control regimes have been endorsed by CONOP. These recommendations are being implemented in the Council Groups and the export control regimes meetings. The co-ordination by Member States of their position in the export control regimes is considered a priority for the success of this action.

- **Adoption by Member States of common policies related to criminal sanctions for illegal export or brokering of WMD related materials (item 11 of Action Plan)**

Preliminary reflection is going on this issue with a view to submitting to the Council (a) draft instrument(s) imposing on member states the obligation of providing in their national legislation for legal sanctions.

The Dual Use Working Group has reported that all Member States have adopted sanctions for illegal export of dual use items (under art 19 of Regulation 1334/2000). However the definition of brokering is not covered by Regulation 1334/2000. Current discussion in the Dual-Use Working Group is focussing on whether the Regulation could cover illegal brokering of dual use items.

- **Support for a stronger role for the UN Security Council in handling the threat of the WMD (item 13 of Action Plan)**

UK Delegation has circulated in PSC a paper with ideas for a Draft UNSC resolution. PSC will proceed to an examination of prospects for such a resolution, also in the light of US and Russian proposal.

- **Reinforcing the BTWC and the CWC (item 17 of Action Plan)**

Regarding Best Practices on national implementation of BTWC, the CODUN Working Group drafted a compendium of the relevant national legislation on the implementation of BTWC obligations and on security and oversight of pathogens that was tabled as an EU common paper at the recent meeting of experts of BTWC States Parties. The EU will support the adoption of model national legislation at the forthcoming meeting of States Parties (Geneva, 1-14 November 2003).

- **Reinforcing the efficiency of export controls in an enlarged Europe (item 20 of Action Plan)**

The Dual-use Working Group has addressed specific measures for the reinforcement of the efficiency of export control in an enlarged Europe. The Commission services have sought Member States comments on a first draft proposal regarding the improvement of the identification of items (with customs labelling). The consensus view was that a correlation between the lists will be useful for customs purposes.

Regarding dialogue with industry, the Commission is reflecting on how to upgrade the current exchanges.

Regarding information exchanges and communication of denials, the Commission and the Council Secretariat are working on suggestions on strengthening information exchanges with a particular focus on denials.

- **Peer Review of Member States' and Acceding Countries export control systems
(item 21 of Action Plan)**

The PSC endorsed the Commission's document proposing a way forward for the Peer Review of Member States' and Acceding Countries export control systems.

An extraordinary meeting of the Dual Use Working Party took place on 6 October with the aim of setting up the Peer Review Task Force and Cluster Teams. The Commission presented a paper proposing the composition and mandate of the Task Force. The Presidency submitted comments on the proposed work plan.

The Presidency urged delegations to explore at national level which experts might be available to participate in the Task Force and the Peer Review teams, and invited written suggestions on the scope of the Review, with a view to the next meeting of the Dual Use Working Party on 7 November.

However Members States have not yet at this stage appointed experts for the Task Force (in particular a Team Leader) and for the Peer Review Cluster Teams. No written comments on the Commission proposals have been received.

- **Detailed plan of diplomatic action (item 1 of Action Plan)**

Fight against WMD proliferation is now being inserted on the agendas of all political dialogue meetings. The plan of diplomatic action will need to be further developed. Council agreement on the non proliferation clause and identification of possible areas for co-operation with the US in the framework of the June 2003 EU-US Summit Declaration on Non Proliferation will constitute useful elements.

- **Improve the control of high activity radioactive sources**
(item 15 of Action Plan)

The Presidency has included in the EU speech at the IAEA General Conference (Vienna, 15-19 September) a statement urging all Countries to strengthen regulatory controls of high-risk sources, within their territories and to observe the principles contained in the IAEA Code of Conduct on the Safety and Security of Radioactive Sources.

At the EU level, the proposal for a Council Directive on the control of high activity sealed radioactive sources (COM/2003/0018 final), adopted by the Commission on 24th January 2003 and which is being discussed at the Council, aims to harmonise and strengthen control in place in the Member States. Traceability of sources will reduce the risk of misuse, eg for criminal purposes. The Council should adopt this directive as soon as possible, and Member States should assure its fast implementation at national level. The opinion of the European Parliament is expected soon. It is hoped that the Council will be able to adopt the proposal before the end of 2003.

IV. ACTION TO BE TAKEN IN FUTURE:

- **Promotion of challenge inspections within the Chemical Weapons Convention**
(item 6 of Action Plan)

The CODUN Working Group agreed to continue discussing the issue of promotion of challenge inspections in the framework of the Chemical Weapons Convention, on the basis of the ideas and remarks put forward respectively by the Presidency, Germany, France, as well as several other delegations.

- **Retaining the verification and inspection expertise of UNMOVIC**
(item 12 of Action Plan)

Sweden circulated a non-paper on "retaining the verification and inspection capacity of UNMOVIC with regard to biological weapons and missiles" .

- **Special focus on the WMD proliferation at the Mediterranean Level
(item 10 of Action Plan)**

A first WMD threat assessment focused on the Mediterranean area has been carried out at PSC level. Non-proliferation issues will be included in the EU dialogue with Mediterranean countries. The study of the implications for the Mediterranean area of the proposal for a WMD free area in the Middle East needs to be undertaken. The WMD threat assessment will need to be updated.

- **Setting up of a monitoring centre on the WMD disarmament and non-proliferation
(item 14 of Action Plan)**

The issue, the scope of mission and possible modalities of a monitoring centre still need to be addressed.

- **A policy not to export nuclear related materials and equipment to countries not having
ratified the IAEA Additional Protocol (item 16 of Action Plan)**

This issue has been discussed by the CONOP Working Group. Discussion will be resumed at its meeting on 6 November.

- **Strengthening of national legislation and control over pathogenic micro-organisms and
toxins (both in Member States and in Acceding Countries) (item 18 of Action Plan)**

A high level Health Security Committee made of representatives of the Member States Health Ministries and a Task Force of national experts and Commission officials serve as the instruments for cooperation and planning of countering deliberate releases of biological and chemical agents within the EU. Committee members are linked with a round-the-clock network of alert and information exchange, and advise the Commission on public health preparedness and response issues at EU level.

Co-operation between the public health and the non-proliferation structures should be reinforced. In this perspective, contacts have been established and meetings have been held with the OPCW; Commission officials have attended the last BTWC meeting in August. These will be followed up in the future.

- **EU-US (biological) industry dialogue (item 19 of Action Plan)**

An initiative will be taken in order to promote firstly, a dialogue with EU Industry with a view to raising the level of awareness of problems related to the WMD and secondly, a dialogue between EU and US industry.
