



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 10 June 2004

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**PESC 503
CODUN 9
CONOP 24
COARM 15**

NOTE

from : Secretariat
to : Council

Subject : EU Strategy against proliferation of Weapons of Mass Destruction
- Draft Progress Report on the implementation of Chapter III of the Strategy

1. The EU Strategy against Proliferation of Weapons of Mass Destruction was adopted on 12 December 2003 by the European Council which declared its development and implementation a matter of priority. According to the Strategy, the External Relations Council should have a six monthly debate on its implementation.
2. The PSC had, at its meetings of 3 and 8 June 2004, an in-depth discussion on the matter on the basis of a Progress Report established by the Personal Representative of the HR on Non-Proliferation of WMD, in cooperation with the Commission and in contact with the Presidency. This report, as contained in annex, sets out the current status of implementation of the EU Strategy against proliferation of WMD and was endorsed by the PSC. The PSC agreed to recommend to the Council to take note of the Progress Report and welcome the results achieved.

3. In view of the above, Coreper agreed, at its meeting of 10 June, to suggest to the Council to adopt, following the six monthly debate as provided for by the Strategy, the following conclusions:

"The Council took note of the Progress Report on the implementation of the EU Strategy against proliferation of weapons of mass destruction and welcomed the results achieved".

DRAFT PROGRESS REPORT
on the implementation of Chapter III
of the Strategy

1. Following co-ordination between the Office of the Personal Representative for non-proliferation of WMD and the Commission, the following Progress Report has been established. Initiatives taken or suggested are in bold in the text below, under the headings of the measures contained in chapter III of the European Strategy against the proliferation of WMD adopted on 12 December 2003 by the European Council.

2. **On the implementation of chapter III of the Strategy**
 - A) *Rendering multilateralism more effective by acting resolutely against proliferators.*
 - 1) *Working for the universalisation and when necessary strengthening of the main treaties, agreements and verification arrangements on disarmament and non-proliferation.*
 - Carrying out diplomatic action to promote the universalisation and reinforcement of multilateral agreements, in implementation of Council Common Position 2003/805/CFSP of 17 November 2003:
 - = **On the basis of terms of references agreed by written procedures or by Working Groups, démarches have been carried out in order to promote accession to CTBT, HCOC, CWC and BTWC. The Presidency, on behalf of the EU, has presented the results of the démarches on the CWC to the OPCW.**

= **The WMD Strategy and its provisions are highlighted in the common statements which are made by the Presidency on behalf of the EU in relevant fora e.g. meetings of States Parties of relevant treaties. These statements have emphasised the EU's commitment to the multilateral system, the importance of full compliance with existing treaty obligations and the willingness of the EU to work to strengthen these treaties where necessary.**

2) *Fostering the role of the UN Security Council, and enhancing expertise in meeting the challenge of proliferation.*

- Working inter alia to enable the Security Council to benefit from independent expertise and a pool of readily available competence in order to carry out the verification of proliferating activities that are a potential threat to international peace and security. The EU will consider how the unique verification and inspection experience of UNMOVIC could be retained and utilised, for example by setting up a roster of experts.

= **On 28 April 2004 the UNSC adopted Resolution 1540. EU Member States which are members of the Security Council, co-sponsored the draft Resolution and contributed actively to its adoption by consensus. On 22 April 2004, the Presidency delivered a common statement to the Security Council in which it expressed the EU's strong support for this initiative to address the problem of the potential acquisition of nuclear, chemical or biological weapons or materials by non-state actors.**

= **The CODUN Working Group had a first exchange of views in March 2004 on the issue of an international inspection and verification capability to be established within the UN on the basis of a Swedish non-paper. The discussion is still ongoing.**

3) *Enhancing political, financial and technical support for verification regimes*

- *Now that all EU Member States have ratified the IAEA Additional Protocol, the EU will redouble its efforts to promote their conclusions by third States.*

- = **On 30 April 2004 the Commission notified the IAEA Secretariat that all the arrangements for implementation of the Additional Protocol in the EU have been finalised.**

- = **The EU has emphasised the importance of the universalisation of the Additional Protocol in its troika meetings with third countries. Terms of reference for a global démarche on this issue are in the process of being finalised in CONOP.**

- Fostering measures aimed at ensuring that any possible misuse of civilian programmes for military purposes will be effectively excluded.

- = **CONOP Working Group is discussing this issue in the context of proposals which have been made, notably by some Member States, by the US and by IAEA Director General, within the framework of the Treaty on the Non-Proliferation of Nuclear Weapons, the Nuclear Suppliers Group and the G8. In particular, the Commission Services provided a position paper on the compatibility with Community Law of the US proposal to constrain enrichment and reprocessing technologies. This paper can serve as a basis for developing positions of the EU and its Member States in the Nuclear Suppliers Group, in the context of the NPT and at G8 level.**

- Releasing financial resources to support specific projects conducted by multilateral institutions (inter alia. IAEA, CTBTO Preparatory Commission and OPCW) which could assist in fulfilling our objectives.

- = **Following first contacts between the Personal Representative and the IAEA Secretariat and subsequent work carried out by its office, Commission Services and IAEA Secretariat, a Joint Action was adopted by the Council on 17 May 2004.**

- = **Following contacts between the Personal Representative on WMD and the OPCW Director General's Private Office, a Draft Joint Action has been put forward on support for OPCW activities under its Action Plan and in the framework of the implementation of the EU WMD Strategy. This draft Joint Action will be examined soon by the relevant Council bodies.**

- Promoting challenge inspections in the framework of the Chemical Weapons Convention and beyond. This issue will be addressed in the CWC competent bodies as well as in the framework of political dialogue with third States.

- = **Austria is organising a seminar on challenge inspections on 24-25 June 2004 in Vienna. EU Member States as well as many key EU partners (parties to the CWC) will attend this seminar. The Personal Representative has been requested to make a contribution at the opening of the seminar. With a view to this seminar, the EU is working in CODUN WG in order to reach a common position on challenge inspections.**

- Reinforcing the BTWC and the CWC and, in this context, continuing the reflection on verification instruments. The BTWC does not contain at present a verification mechanism. The EU must find ways to strengthen compliance. A group of experts to give advice on how this could be done. The EU will take the lead in efforts to strengthen regulations on trade with material that can be used for the production of biological weapons. The EU will also take the lead in supporting national implementation of the BTWC (e.g. in providing technical assistance). The EU will consider giving support to states with administrative or financial difficulties in their national implementation of the Chemical Weapons Convention and the BTWC.
- = **Programmes by Member States, the EU and the Community are already ongoing and will continue, in particular the EU Joint Action to help the Russian Federation in its responsibility to fulfil the CWC destruction deadlines. A draft Joint Action renewing the EU Joint Action, including for Russia, has been put forward by the Commission for discussion by the relevant Council Working Groups.**
- = **The examination of information provided by Member States on bilateral assistance programme leads to the conclusion that EU Member States are not very active in the field of biological weapons. Consideration should be given to EU initiatives.**
- = **The Personal Representative will put forward, in the context of her list of priorities, suggestions on how to promote universalisation and implementation of the BTWC. These suggestions will complement the demarches recently carried out.**

4) *Strengthening export control policies and practices in co-ordination with partners of the export control regimes; advocating, where applicable, adherence to effective export control criteria by countries outside the existing regimes and arrangements; strengthening suppliers' regimes and European co-ordination in this area.*

- Making the EU a leading co-operative player in the export control regimes by co-ordinating EU positions within the different regimes, supporting the membership of acceding countries and where appropriate involvement of the Commission, promoting a catch-all clause in the regimes, where it is not already agreed, as well as strengthening information exchange, in particular with respect to sensitive destinations, sensitive end-users and procurement patterns.

= **EU coordination has been systematically organised prior to and, where necessary, during the meetings of the export control regimes, facilitating agreement on EU statements at regime meetings as well as EU proposals on certain issues, Where an EU proposal is agreed it is presented in the regimes by the Presidency.**

= **In particular, the Presidency and the troika have focussed on the inclusion of all new EU Member States in the export control regimes building on the work of the Italian Presidency. This issue has been raised at all the regime meetings and at the highest political level with relevant third countries. On 26 and 27 May 2004 respectively all new EU Member States were accepted as members of the Australia Group and the Nuclear Suppliers Group. Applications of new EU Member States are still under consideration in the Missile Technology Control Regime and the Wassenaar Arrangement. The EU will continue its pro-active policy of support with demarches to relevant third countries.**

- = **Further to EU initiatives, catch-all mechanisms are now, following the NSG Plenary Meeting in Gothenburg, included in the guidelines of all four regimes.**

- = **CONOP has been discussing how to promote a further strengthening of the information exchange in the regimes. In the context of the Nuclear Suppliers Group (NSG), the Plenary meeting in Gothenburg (24-28 May 2004) made substantial progress on the principle of strengthening information exchange on the basis of an EU proposal. The same meeting also endorsed an EU proposal on modernising the NSG's outreach activities.**

- = **The Council Secretariat and Commission Services have regularly attended the relevant export control regime meetings. They are both part of the Presidency delegation in those regimes where the Commission does not have observer or participant status.**

- Reinforcing the efficiency of export controls in an enlarged Europe, and successfully conducting a Peer Review to disseminate good practices by taking special account of the challenges of the enlargement.

- = **A methodology for the implementation of the “Peer review” was adopted on 3 February 2004 on the basis of the proposals made by the Task Force created to that end (membership in the Task Force consists of Council Secretariat, Member States (Finland), Commission services). A programme of visits to all 25 Member States has been adopted and is under implementation. More than two thirds of the total of visits planned have taken place and final reports of the visits including recommendations to the Task Force are due by end July 2004. Oral and written interim reports have been made to the Dual Use Working Party; the visits have been generally valuable and productive, providing an opportunity to establish contacts and provide "new" Member States with practical clarifications concerning the implementation of the Dual Use Regulation, and bringing to light “best practices” and areas where improvements might be made, while “old” Member States have had the opportunity to review differences of approach. Final reports from each "cluster" should be available by the end of July; subsequently a global report will be produced.**

- = **Member States attention has been drawn to the current unsatisfactory situation with regard to the communication of denial information. “Old EU MS” are required to communicate to the “new EU MS” all their active denials. This should be completed by end May, but progress has been limited.**

- Setting up a programme of assistance to States in need of technical knowledge in the field of export control.

- = **The Commission held a coordination meeting with the US to share information on respective assistance programmes in the field of Border Management, Border Security and Export Control. The Council Secretariat, the Presidency and the incoming Presidency attended the meeting. A report was prepared by the Commission and tabled at CONOP. As a result of the meeting, further coordination will be needed in the specific field of export control to ensure complementarity and avoid duplication. A TACIS project for Russia to foster the development of effective Dual Use Export Control is under development.**

- = **The Office of the Personal Representative and the Commission Services will compile a prioritised list of third countries that could benefit from EU assistance in the field of export control. Proposals for assistance programmes would be made in light of the available budget. Such programmes are crucial in order to foster the implementation of the WMD Clause, one element of which refers to the establishment and implementation of effective export controls.**

= **Following contacts with the Chinese authorities, the Personal Representative will suggest that:**

- **an ad hoc meeting on export controls be organised in China before the end of the year, with the participation of the Peer Review experts as well as other EU Member States' national experts;**
 - **an assistance programme, in the form of training in export controls, be prepared for next year for China.**
- Working to ensure that the Nuclear Suppliers' Group make the export of controlled nuclear and nuclear related items and technology conditional on ratifying and implementing the Additional Protocol.

= **There have been extensive discussions on this issue in the CONOP Working Group. While there is consensus on the concept of making the Additional Protocol as Condition of Supply, there is as yet no agreement on the scope of those nuclear items which should be covered in any such proposal within the NSG.**

- Promoting in the regimes reinforced export controls with respect to intangible transfers of dual-use technology, as well as effective measures relating to brokering and transshipment issues.
 - = **Work has been carried out in export control regimes on the strengthening of provisions concerning intangible transfers. Germany will host a seminar on the issue of Intangible Technology Transfer, which will enable the sharing of best practices among export control regimes (14 June 2004 in Berlin).**
 - = **The text to be adopted in June by the European Council concerning criminal sanctions will apply also to intangible transfers as well as to brokering.**
 - Enhancing information exchange between Member States. Considering exchange of information between the EU Situation Centre and like-minded countries.
 - = **The Situation Centre is reflecting on appropriate modalities.**
- 5) *Enhancing the security of proliferation-sensitive materials, equipment and expertise in the European Union against unauthorised access and risks of diversion.*
- Improving the control of high activity radioactive sources. After the adoption of the Council Directive on the control of high activity sealed radioactive sources, Member States should ensure its fast implementation at national level. The EU should promote the adoption of similar provisions by third countries.

- = **Following the adoption by the Council of the Directive on the control of high activity sealed radioactive sources, terms of reference for démarches to strengthen the safety and security of radioactive sources and to underline the importance of the commitment to abide by the IAEA Code of Conduct were agreed. These démarches have now been completed and the results will be shared with the IAEA. The issue of the safety and security of radioactive sources has also been highlighted in EU statements delivered by the Presidency in appropriate fora, notably at the NPT PrepCom in April 2004.**

- Enhancing, where appropriate the physical protection of nuclear materials and facilities, including obsolete reactors and their spent fuel.

- = **Member States have ratified (and are therefore obliged to abide by the provisions of) the Convention on Physical Protection of Nuclear Materials.**

- = **On a voluntary basis, interested EU Member States could invite the IAEA to conduct International Physical Protection Advisory Service (IPPAS) and International Nuclear Security Advisory Service (INSServ) and, as a result of such evaluation, to make recommendations as appropriate.**

- = **The Joint Action in support of IAEA adopted by the Council on 17 May 2004 includes projects aimed at improving physical protection of radioactive sources in countries of South-East Europe, Central Asia and the Caucasus.**

- = **Improvement of physical protection of a nuclear facility in Russia will be the subject of a first project under the draft EU Joint Action on a Cooperation Programme for Non-Proliferation and Disarmament of WMD put forward by the Commission.**

- Strengthening of EC and national legislation and control over pathogenic micro-organisms and toxins (both in Member States and in Acceding Countries) where necessary. Co-operation between public health, occupational health and safety and the non-proliferation structures should be reinforced. The creation of an EU Centre for Disease Control and the task that it would perform should be analysed.

- = **The EC Treaty identifies most public health issues as competencies of the Member States. A high level Health Security Committee composed of representatives of Member States Health Ministries together with the Commission serves as instrument for co-operation and planning, for countering deliberate releases of biological and chemical agents within the EU. Within the Health Security Committee, the Commission and the Member States will discuss how legislation to control pathogenic micro-organisms and toxins can be strengthened, where necessary. The setting up of the EU Centre for Prevention and Control of Diseases to be based in Stockholm was decided by the Council on 12 December 2003.**

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

- = **The Commission has, with regard to dialogue with the EU Biotech industry, considered that, in line with practice recognised in the context of implementation of Regulation 1334/2000 (in particular under Article 4 regarding the role of the dialogue between governments and exporter), that it would be appropriate to start with an assessment of the modalities and results of the EU Member States national contacts with their industry before carrying out an exercise at EU level. The Commission would like also to draw attention to the importance of raising awareness of the research sector as a matter of priority, given the significant activity in this sector.**

- = **The issue will be raised at the appropriate Council working groups (Dual-Use WG, CONOP WG).**

6) *Strengthening identification, control and interception of illegal trafficking¹*

- Adoption by Member States of common policies related to criminal sanctions for illegal export, brokering and smuggling of WMD-related material.

- = **Office of Personal Representative has prepared a reflection note on the matter. Following orientation debate in PSC, a draft text has been prepared for adoption by the European Council of June 2004.**

- Considering measures aimed at controlling the transit and transshipment of sensitive materials.

- = **The Personal Representative with Commission Services will prepare a reflection note on the question whether an EU initiative is needed in order to improve within the EU the control of transit and transshipment.**

¹ Due account to be taken of the fact that nuclear materials are fully covered, at EU level, by the Euratom Treaty).

- Supporting international initiatives aimed at the identification, control and interception of illegal shipments.

= **A public EU statement in support of PSI was adopted by the General Affairs and External Relations Council of 17 May 2004. All EU Member States were invited to the PSI First Anniversary meeting (31 May to 1 June 2004). Following PSC agreement, the Office of Personal Representative on WMD and Commission services attended PSI core group meetings and exercises as part of the incoming Presidency's national delegation. They were invited to attend the PSI First Anniversary Meeting in Krakow (31 May to 1 June 2004) as guests. 61 countries which expressed support for the PSI, also known as the Krakow initiative, participated in the Meeting. The EU public statement in support of PSI was distributed as a document of the Meeting.**

Several EU Member States hosted exercises in the context of the PSI to which all EU Member States, Commission services and Council Secretariat were invited.

= **Commission Services circulated a note to the PSC on 19 March 2004 on the PSI and the European Community, including a preliminary assessment of the impact on Community competencies. This assessment is expected to be further developed based on several PSI exercises which will be carried out. Further consideration of the issue will take place in the appropriate Council bodies.**

B) Promoting a stable international and regional environment

1) Reinforcing EU co-operative threat reduction programmes with other countries, targeted at support for disarmament, control and security of sensitive materials, facilities and expertise.

- Prolonging the Programme on disarmament and non-proliferation in the Russian Federation beyond June 2004.

= **The Commission circulated in CONOP WG on 19 May a draft Joint Action on the prolongation of the former Joint Action on Russia, integrating the CONOP proposal to broaden the geographical scope.**

- Increasing EU co-operative threat reduction funding in the light of financial perspectives beyond 2006. The creation of a specific Community budget line for non-proliferation and disarmament of WMD should be envisaged. Member States should be encouraged to contribute also on a national basis. These efforts should include measures aimed at reinforcing the control of the non-proliferation of WMD related expertise, science and technology.

= **The issue of creating a specific Community budget line for non-proliferation and disarmament of WMD will have to be addressed. Commission to launch the process in 2004. The Financial Framework prepared for the June GAERC with a view to the European Council does not contain any mention of non-proliferation.**

- Setting up of a programme of assistance to States in need of technical knowledge in order to ensure the security and control of sensitive material, facilities and expertise.

= **Member States were asked to provide information to the Office of the Personal Representative before 15 December 2003 about their assistance programmes to third States regarding non-proliferation of WMD (physical protection of nuclear facilities, protection of radioactive sources, export controls and also programmes in related areas such as assistance to legislation or law enforcement, border controls). 11 Member States have sent information to the Office of the Personal Representative. The Personal Representative is preparing a list of priorities for assistance programme in the light of the available information.**

2) *Integrate the WMD non-proliferation concerns into the EU's political, diplomatic and economic activities and programmes, aiming at the greatest effectiveness.*

- Mainstreaming non-proliferation policies into the EU's wider relations with third countries, in accordance to the General Affairs and External Relations Council conclusions of 17 November 2003, inter alia by introducing the non-proliferation clause in agreements with third countries.

= **Personal Representative has participated in several Council geographical working group meetings, in order to promote awareness to the Strategy as well as to the insertion of the non-proliferation clause in agreements with third countries. The Commission has also informed its geographic desk officers.**

= **The non-proliferation clause has been inserted in the agreement with Tajikistan. It is being negotiated with Syria. Discussions are under way in the context of negotiations of an agreement with Mercosur and the review of the agreement with ACP. On the occasion of the recent decision to conclude the Co-operation Agreement with Pakistan, the Council has declared its intention to negotiate a parallel instrument with Pakistan incorporating the non-proliferation clause and the terrorism clause.**

- Increasing Union efforts to resolve regional conflicts by using all the instruments available to it, notably within the framework of CFSP and ESDP.

= **Council and Commission to implement this policy on a general level.**

C) *Co-operating closely with the United States and other key partners*

1) *Ensuring adequate follow up to the EU-US declaration on non-proliferation issued at the June 2003 Summit.*

= **Comparison on EC and US inventories of assistance programmes in the field of border management, border security and export control has been carried out and led to the conclusion that programmes are rather complementary.**

= **Co-operation in export control regimes and in the implementation of the G8 Global Partnership will continue.**

= **EU-US dialogue meetings as well as contacts between the US authorities and the Commission and/or the HR's Personal Representative on WMD have assisted in identifying new areas of co-operation.**

= **A new Joint Statement is under discussion ahead of the EU-US June summit.**

2) *Ensuring co-ordination and, where appropriate, joint initiatives with other key partners.*

The Presidency and the troika have used all opportunities to advise third countries of the WMD Strategy and its provisions at both working and political level.

= **Following the Personal Representative's informal visits to Moscow, Beijing and Tokyo and informal talks with Canadian authorities, practical steps to enhance co-operation will be suggested:**

- **For China an ad hoc meeting of export controls experts could be organised before the end of 2004, with the participation of our Peer Review Task Force as well as other EU Member States' national experts. This meeting could be followed next year by an assistance programme (training).**
- **For Japan, a Joint Statement is under discussion ahead of the June EU-Japan Summit , specifying areas of co-operation.**
- **For Russia, more ad hoc meetings should be foreseen.**
- **For Canada, more ad hoc meetings as well as an exercise of comparing notes in the field of assistance programmes to third countries should be foreseen.**

D) *Developing the necessary framework within the Union*

1) *Organising a six monthly debate on the implementation of the EU Strategy at the External Relations Council.*

= **Presidency is scheduling the debate at the June General Affairs and External Relations Council.**

2) *Setting up, as agreed in Thessaloniki, a unit which would function as a monitoring centre, entrusted with the monitoring of the consistent implementation of the EU Strategy and the collection of information and intelligence, in liaison with the Situation Centre. This monitoring centre would be set up at the Council Secretariat and fully associate the Commission.*

= **The issue, the scope of mission and possible modalities of a monitoring centre is still to be considered on a basis of a paper established by the Office of the Personal Representative, in contact with the Commission services.**

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E) *Exchange of information and analysis with NATO*

= **Reference to exchange of information and analysis with NATO, within the agreed framework arrangements, is made in the Strategy in chapter II para. 28. In implementation of this para. 28, the item "fight against proliferation of WMD" has been put on the agenda of the 10 march 2004 PSC/NAC meeting. The PSC-NAC discussed the follow-up to the staff to staff exchanges in the field of non-proliferation. It was agreed that staff to staff contacts will continue to take place.**