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

**on Strengthening Chemical, Biological, Radiological and Nuclear Security in the
European Union – an EU CBRN Action Plan**

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(Text with EEA relevance)

1. INTRODUCTION

Over the past ten to fifteen years, the threat of a terrorist group acquiring Chemical, Biological, Radiological or Nuclear (CBRN) materials has led governments and international organisations to adopt far-reaching regulations¹ and programmes to defend populations against the associated risks. The concerns these programmes aim to address have been fuelled by a number of well-documented instances of the interest of certain terrorist groups in acquiring such materials. Although fortunately the number of incidents involving such materials has been limited, the commonly held view is that the risks involved are such, that coordinated action in terms of prevention, detection and response is indispensable.

Even though many experts agree that there are considerable difficulties for terrorists to overcome in order for them to "successfully" develop and deploy such materials in their attacks, and that the probability of such attacks occurring is therefore rather low, it is clear that no public authority can afford to ignore this threat given its potentially very significant consequences in terms of human life, and its economic effects. There is also a consensus amongst experts that the case of a somewhat limited attack needs to be carefully considered, because the psychological, health and economic effects on the population of even a small-scale attack using such materials would be significant.

Tackling terrorist access to CBRN material is currently considered a key priority for the European Union. This is acknowledged by the European Union Counter-Terrorism Strategy adopted by Council on 1 December 2005, and by the "EU Strategy against proliferation of weapons of mass destruction and their means of delivery (WMD)" adopted by the European Council on 12 December 2003². In addition, the JHA Council adopted specific Conclusions in 2007 that called for further EU level work on CBRN security³.

2. DEFINITIONS

There are no commonly accepted definitions of CBRN materials, threats or incidents – for example earlier EU policy documents in this domain merely refer to CBRN incidents without defining what these incidents could be. Other terminology related to CBRN materials refers to terrorist attacks using unconventional means - as opposed to the more conventional means of explosives and arms. In the military context, the terminology mainly refers to the use of non-conventional weapons, or WMD.

¹ Such as UN Security Council Resolution 1540.

² 15708/03 and SN 400/03, no 68. See also *infra*, paragraph 7.

³ 16589/07, of 17 December 2007.

For the purpose of this communication, however, it is most useful to use a rather broad description of the terrorist threat concerning CBRN materials: all uses of chemical, biological, radiological or nuclear substances and materials for terrorist purposes. An approach which looks at all possible ways in which terrorists can use these materials is the only one acceptable from a point of view of prevention and detection, since all possible risks concerning these materials should be covered.

However, when considering preparedness and response in this context, it is unavoidable to start from an all-hazards approach, since no matter whether a CBRN incident is accidental or intentional, man-made or not, the response in terms of civil protection and health is likely to be similar. The CBRN policy package is therefore broadly based on an all-hazards-approach, but with a strong emphasis on countering the terrorist threat, in particular with regard to preventive actions.

3. RECENT CBRN DEVELOPMENTS AT NATIONAL AND EU LEVEL

The CBRN policy outlined in this Communication builds on a number of different measures which have been taken forward recently both by Member States and by the European Union.

3.1. National measures

The Member States are primarily responsible for many of the areas of work which are covered by the current policy package. They are responsible for protecting their citizens from CBRN threats by a host of different measures, and with the involvement of a wide range of responsible authorities. It is their law enforcement, civil protection and medical services which will be first on the scene of an incident, and it is their ambulances, hospitals and stockpiles of counter-measures which will need to provide both for emergency medical assistance as well as aftercare. National forensic capabilities will also be called upon to assist in the determination of the cause of any incident, as well as help in the identification of perpetrators in the case of an intentional attack. Overall, many Member states are relatively well prepared to deal with a CBRN threat, and all have found their own solutions to the significant coordination and other challenges posed by preventing, detecting and eventually dealing with a CBRN incident within their national context.

3.2. EU level measures

The Ghent European Council of 2001 instigated the first steps in countering the CBRN threat at the EU level⁴, followed by the adoption of the "Programme to improve cooperation in the European Union for preventing and limiting the consequences of chemical, biological, radiological or nuclear terrorist threats" in December 2002⁵. The Programme was superseded by the Council and Commission's EU Solidarity Programme of 3 December 2004 on the consequences of terrorist threats and attacks, that widened, revised and replaced the 2002 CBRN Programme following the attacks in Madrid on 11 March 2004⁶. The relevant elements of the Solidarity Programme were included in the overall Strategy and Action Plan on Combating Terrorism established in 2005 after the London attacks⁷.

⁴ SN 4292/01 REV 2.

⁵ 14627/02.

⁶ 15480/04.

⁷ 14469/4/05, paras 20 and 31.

As referred to above, the JHA Council Conclusions of 6 December 2007 "addressing Chemical, biological, radiological and nuclear risks and on bio-preparedness" provide the most recent EU-level overview of the ongoing activities. The JHA Council states in these conclusions that it: "Considers that effective policies to address CBRN risks should be further developed (...)". The Conclusions also "Invite the Commission, in accordance with its competences, to continue its work in the CBRN field together with the Member States and relevant stakeholders, avoiding duplications and building on good practices across Member States (...)".

On the external side, this operational and cross-pillar approach, which involves close coordination and cooperation between Member States and the Commission, is reaffirmed by the implementation of the EU WMD Strategy and of Community instruments such as the Instrument for Stability, the Instrument for Nuclear Security and Cooperation (INSC) and the Instrument for Pre-Accession (IPA).⁸

3.3. EU response mechanisms

Whilst the responsibility for responding to CBRN incidents rests with the Member States, robust crisis management procedures and tools to support the Member States in case of a crisis with cross-border implications have been developed at the EU level. The European Union reinforced its capacity to ensure a coordinated approach and support between Member States in cases when a disaster actually happens. This cooperation takes place through the Community Mechanism for Civil Protection⁹. The main role of this Mechanism is to facilitate co-operation in civil protection assistance interventions in the event of major emergencies which may require urgent response actions. Through the Monitoring and Information Centre (MIC), the Commission actively supports the mobilisation, transport and coordination of civil protection assistance to countries affected by major emergencies.

In addition, the Crisis Coordination Arrangements (CCA) provide a cross pillar approach to crisis management and are relevant both to external crises and crises within the EU. The Commission participates in these arrangements through its ARGUS crisis management system, which *inter alia* allows for an immediate exchange of information among Commission rapid alert systems such as the ECURIE system for radiological emergencies, the Early Warning and Response System (EWRS) for communicable diseases, the RAS-BICHAT for biological and chemical health threats and the Monitoring and Information Centre (MIC) on civil protection issues. Also, the Health Security Committee plays an important role in responding to health threats, notably in terms of crisis preparation, exercises on CBRN events, as well as drawing up a list of pathogens and chemicals which pose a health threat, whilst the European Centre for Disease prevention and Control (ECDC) provides risk assessments for communicable diseases and biological incidents.

⁸ See also the Commission Communications on "Addressing the international challenge of nuclear safety and security", COM (2008) 312 final of 22.5.2008, and on nuclear non-proliferation, COM (2009) 143 final of 26.3.2009.

⁹ Council Decision of 23 October 2001 – recast by Decision 2007/779/EC (OJ L 314, 1.12.2007, p. 9).

4. THE EU CBRN ACTION PLAN

4.1. Development of the EU CBRN Action Plan - the CBRN Task Force

In order to prepare the present CBRN policy, in February 2008 the Commission established a CBRN Task Force. One of the strongest characteristics of the work of the Task Force was its multi-disciplinary and multi-agency approach. Participants came from a broad range of national authorities and organisations, ranging from many different Ministries such as Internal Affairs, Justice, Defence and Health, to representatives of national response organisations, civil defence, radiation protection authorities and other first responders, as well as forensic institutes and nuclear safeguards authorities. Representatives of EU bodies also participated, in particular Europol and Eurojust. This demonstrated the strong interest of many stakeholders in being involved in the development of further policy measures at the European level.

The final report of the Task Force was published in January 2009 and contained 264 separate recommendations, confirming not only that there was still a lot of work to be done, but also that there was a strong consensus amongst experts on how the existing issues could best be tackled. The EU CBRN Action Plan is based on this final report.

4.2. Overall goal and core measures

The overall goal of the new CBRN policy proposed is to reduce the threat and damage from CBRN incidents to the citizens of the European Union, by way of a coherent, prioritised EU CBRN Action Plan, which involves all relevant stakeholders, including industry representatives. Coherence and complementarity will be sought with relevant Community and CFSP instruments, in particular the Instrument for Stability¹⁰, the INSC and the IPA, which pursue CBRN risks mitigation and preparedness outside the EU, as well as relevant Euratom treaty provisions and secondary legislation.

This goal will be achieved by concentrating efforts and resources on minimising the likelihood of CBRN incidents occurring and limiting their consequences should they materialise. Some of the core measures to achieve these goals are:

- Deploying a risk-based approach to CBRN security in the European Union. This entails the use of risk-assessments to drive the prioritisation of security measures;
- Ensuring that CBRN materials are well protected and the potential for their diversion is limited;
- Strengthening the exchange of information between Member States on CBRN security issues in order to react more swiftly to emerging threats;
- Improving the development and use of detection systems across the EU; and
- Providing responders with the necessary tools to save lives and limit damage to property in case of CBRN incidents.

These aims will be achieved through the implementation of the 133 measures described in the EU CBRN Action Plan, which is part of the current policy package.

¹⁰ Regulation (EC) No 1717/2006 (OJ L 327, 24.11.2006, p. 1).

The EU CBRN Action Plan is not a legal instrument. Therefore, immediate legal and budgetary consequences for the EU could only derive from possible future legal instruments implementing the Action Plan, which would be subject to separate prior impact assessment - including an assessment of their impact on economic sectors and research environments and systematic and rigorous monitoring to ensure compatibility with the Charter of Fundamental Rights of the European Union.

4.3. Main Areas of Work

The Action Plan foresees three main areas of CBRN security work:

- Prevention - ensuring that unauthorised access to CBRN materials of concern is as difficult as possible;
- Detection - having the capability to detect CBRN materials in order to prevent or respond to CBRN incidents;
- Preparedness and response - being able to efficiently respond to incidents involving CBRN materials and recover from them as quickly as possible.

These three areas of work are supported by a number of horizontal measures, which are broadly applicable to all CBRN work.

4.4. Prevention

Preventive measures constitute the main focus of activity of the CBRN Action Plan. This entails that efforts should be concentrated on a limited number of vulnerabilities, which could be exploited for malicious purposes, on the basis of robust risk-assessment processes. Consequently, one of the first activities to be undertaken under the CBRN Action Plan should be the prioritisation of high-risk CBRN materials based on a thorough risk-assessment. This will be a prerequisite for many further measures targeted specifically at high-risk CBRN materials.

Subsequent actions will concentrate on the security of CBRN materials and facilities, control over CBRN materials, developing a high-security culture of staff, strengthening the identification of suspicious transactions and behaviours in relation to high-risk CBRN materials, improving the security of transport, information exchange, import and export regimes and strengthening cooperation on the security of nuclear materials.

4.5. Detection

Detection capacity is an indispensable supplement to prevention. Detection is also crucial for ensuring an appropriate response to a CBRN incident, since without detection it is impossible to ascertain which materials were involved in the incident. In a European Union without internal frontiers, detection systems should be installed and used both at external borders and within each Member State. Proper and immediate detection may save thousands of lives and provide the necessary background for a proper response.

European Union level efforts concerning the use of detection equipment for CBRN materials will concentrate on developing minimum detection standards to be applied across the entire EU, establishing trialling, testing and certification schemes for CBRN detection and improving the exchange of good practices on the detection of CBRN materials.

4.6. Preparedness and response

Further work should be undertaken in order to strengthen existing measures, in particular with regard to malicious CBRN incidents. Specific attention needs to be paid to CBRN emergency planning, strengthening countermeasure capacity, reinforcing information flows, developing better modelling tools and improving criminal investigation capacity.

4.7. Horizontal actions

The horizontal actions set out in the CBRN Action Plan concentrate on international cooperation, communication with the public, information tools, training, personnel security, research and criminalisation of CBRN acts.

5. IMPLEMENTATION

5.1. Existing Structures

The implementation of the Action Plan should be taken forward primarily by way of existing structures. Although the EU Action Plan envisages the establishment of a small number of new working structures, these are mainly intended as temporary working arrangements, which have specific and time-limited goals.

In the field of civil protection, work will be taken forward under the Community Civil Protection Mechanism and the Civil Protection Financial Instrument to enhance preparedness for CBRN incidents. This includes workshops, training (at least once a year), exchange of experts, simulation exercises, scenario development and capability assessment. Further steps are required to increase EU CBRN response capability, notably by improving the availability of civil protection modules and exploring the need for new types of modules and the feasibility of prepositioning key modules in the event of major public events. The different strands of work under the Mechanism will be streamlined through the launch of an EU CBRN Resilience Programme, bringing together the various civil protection activities included in the EU CBRN Action Plan and ensuring a consolidated contribution from the Civil Protection Mechanism to the overall implementation of this Action Plan.

In the Health sector, an extensive framework has already been developed. The Health Security Committee and existing information exchange mechanisms such as the EWRS, RAS BICHAT and the RASFF will play an important role in the implementation of health related measures of the Action Plan.

5.2. The CBRN Advisory Group

Given that the CBRN Task Force has been indispensable in the establishment of the current policy package, the Commission will continue to work with Task Force members also in the implementation phase, through establishing and chairing a CBRN Advisory Group. The sub-groups dealing with issues related to Chemicals, Biological materials and Radiological/Nuclear materials could meet twice a year to discuss the implementation of the Action Plan after its adoption, including reporting from the few working groups mentioned above addressing specific issues. These sub-groups could then report to the overall Advisory Group, dealing with all horizontal issues, which could meet once or twice a year, depending on the need. Naturally, an exchange of information and coordination with existing structures,

such as relevant Council working parties, the Health Security Committee and groups established under the Euratom treaty, must be ensured.

5.3. Commission financial support

The main financial tools available to the Commission to support the implementation of the current policy package are the existing Financial Programmes, in particular the specific programme 'Prevention, Preparedness and Consequence Management of Terrorism and other Security related risks', as well as the specific programme "Prevention of and Fight against Crime"¹¹. These specific programmes will cover the period until December 2013. The Annual Work Programmes of both financial programmes will specify the amounts available for the implementation of the current policy package. It is foreseen that up to 100 million euro will be made available in support of the implementation of the CBRN Action Plan over the period 2010-2013.

Additional funding stemming from the following programmes and instruments will also contribute to the CBRN Action Plan implementation.

The Civil Protection Financial Instrument¹² provides for funding to "support and complement the efforts of the Member States for the protection, primarily of people but also of the environment and property, including cultural heritage, in the event of natural and man-made disasters, acts of terrorism and technological, radiological or environmental accidents and to facilitate reinforced cooperation between the Member States in the field of civil protection"¹³. This Instrument also runs until 31 December 2013.

In the area of research, the Seventh Framework Programme for Research, Technological Development and Demonstration Activities¹⁴, in particular the part related to security research, provides significant funding opportunities for the areas of research prioritised through the EU CBRN Action Plan. CBRN related results (detection, crisis management) of the first calls for proposals are already, progressively, made available. Like the other financial programmes mentioned, this Framework Programme runs until 31 December 2013. Further Security research priorities will be informed by the work of the European Security Research and Innovation Forum (ESRIF), the report of which will include indications on the future threats of CBRN materials and the research and innovation efforts deemed necessary to counter them.

The EU Health Programme 2008-2013 will continue to support the work of the Health Security Committee and support actions on preparedness and response to CBRN threats to public health.

Finally, for cases where a CBRN incident has actually taken place, the European Commission has proposed an expansion of the scope of the existing European Union Solidarity Fund so that it could be used to assist the Member State(s) affected to deal with its consequences¹⁵.

¹¹ OJ L 58, 24.2.2007, pp. 1 and 7.

¹² OJ L 71, 10.3.2007, p. 9.

¹³ Decision establishing the Civil Protection Financial Instrument (OJ L 71, 10.3.2007, p. 9).

¹⁴ Decision 1982/2006/EC (OJ L 412, 30.12.2006, p. 1).

¹⁵ Proposal for a Regulation of the European Parliament and of the Council establishing the European Union Solidarity Fund COM(2005) 108 final, 6.4.2005.

One of the specific modalities of using the funds available to implement the CBRN Action Plan could be to provide grants to a single Member State or to a group of Member States to undertake the development and implementation of particular actions. Naturally, this concept can only be implemented in as far as it respects the respective competencies of the Member States and the Commission and in accordance with the applicable financial rules.

5.4. Timeframe, reporting and review

The EU CBRN Action Plan will be reviewed in 2013. This period should be long enough for significant progress to be achieved, and fits in well with the timeframe of the financial programmes supporting its implementation. Over the course of this period, regular reporting and monitoring of the implementation will take place through the continued involvement of the Advisory Group as described above, including reports to the respective Council Working Group(s) dealing with CBRN issues. A mid-term report will be provided by the Commission as well. Given the flexible nature of an Action Plan, adaptations to the established priorities and other changes can be agreed at any time in the course of the implementation.

6. BRIDGING SECURITY AND HEALTH – AN OVERVIEW OF BEST PRACTICES

One of the conclusions of earlier work on bio-preparedness, taken forward by the Commission together with Europol and national law enforcement and health authorities, was that further cooperation and coordination between the many different actors which are involved in preventing and reacting to CBRN incidents should be developed. Although all these actors work for the public benefit, and their first priority is always the safeguarding of human lives, it is unavoidable that they will approach an incident mainly from the perspective of their own responsibility. All activities of these authorities are likely to take place in an environment which will be greatly disturbed due to a traumatic event having just taken place, possibly with mass casualties involved. These sort of situations need to be managed well and trained very regularly for the overall response to be as well-coordinated and effective as the public has a right to expect.

In order to assist the Member States in bringing their work in these areas forward, the Commission collated the results of three separate regional workshops, where such issues were discussed among practitioners from the Member States into a document laying down what had been confirmed by the experts to be the current best practices, in particular in the chemical and biological field. This document is solely intended to support the Member States in their current efforts to improve their CBRN preparedness.

7. EXTERNAL RELATIONS

The most important part of current EU external relations policy related to the CBRN threat is the EU Strategy against Proliferation of Weapons of Mass Destruction - also known as the EU WMD strategy, adopted in December 2003. This Strategy was recently updated and reviewed, resulting in the adoption by the Council of "New lines for action by the European Union in combating the proliferation of weapons of mass destruction and their delivery systems" in December 2008¹⁶. These new lines for action and the current EU CBRN package will, together with relevant Community Instruments, in particular the Instrument for Stability, have

¹⁶ 17172/08, 17 December 2008.

a mutually reinforcing effect on reducing the risks from CBRN materials. From its side, the Commission will ensure a consistent and coordinated approach to their implementation. In March 2009, the Commission issued a Communication presenting its views on nuclear non-proliferation¹⁷ and possible ways to strengthen it looking in particular from the point of view of nuclear security related Euratom treaty provisions.

Through the Instrument for Stability, the Commission supports third countries to develop training and assistance on CBRN risk mitigation and preparedness. EU assistance is progressively expanding from the countries of the Former Soviet Union into new regions of concern, including South-East Asia, the Middle East and parts of Africa, in particular in the nuclear and biological fields. The implementation of the UN Security Council Resolution 1540 will be furthered strengthened by supporting the IAEA, engaging former WMD scientists, tackling nuclear smuggling, including deceptive financial practices, and contributing to more efficient export control and border monitoring systems. Regional “centres of CBRN excellence” will be instrumental in order to exchange best practices, support capacity building and share experiences gathered at an EU level with key regions. With about €300 million for the period 2007-2013, the Instrument for Stability seeks to develop a CBRN safety and security culture throughout the world.

A key feature of the Instrument for Stability is the close involvement of Member States’ experts through a new mechanism: the Expert Support Facility. Together with the Commission, Member States’ experts conducted a series of missions and workshops over the past year to identify priority areas. The development of new sectors in emerging economies and the associated risks of CBRN proliferation, in particular in the context of the so-called “nuclear renaissance” and biotechnology, poses a major challenge. To tackle such risks the Commission is supporting the initiative to establish multilateral nuclear fuel banks. The possibility of terrorists trying to exploit pandemics is also a major security and health concern. To this end, the Commission intends to promote specific measures including early warning systems and exchange of best practices involving regional organisations. The regional CBRN centres for excellence will be at the fulcrum of these initiatives. Issues related to the threat of CBRN materials are also discussed in a significant number of international fora¹⁸, and are dealt with by international organisations such as the International Atomic Energy Agency (IAEA), the Organisation for the Prevention of Chemical Weapons (OPCW), the BTWC Conference, Interpol and the Global Health Security Initiative (GHSI). Fully in line with article 19 of the Treaty on European Union, one of the core recommendations of the EU CBRN Action Plan is that the European Union should make a stronger effort to present a coordinated view in such international fora and at meetings of these international organisations.

In a more general sense, counter-terrorism efforts form part of many co-operation agreements in place or being negotiated between the EU and third Countries. The Council decided in 2002 that a standard counter-terrorism clause should be inserted in all agreements with third countries. Additionally, since November 2003, WMD clauses have been inserted in all new or renewed mixed agreements now covering almost 100 countries. Work on CBRN issues with strategic partners such as the United States can be further developed based on the current policy package as well.

¹⁷ COM(2009) 143 final, 26.03.2009.

¹⁸ Such as the Global Initiative to Counter Nuclear Terrorism (GICNT), and dual-use export control regimes such as the Nuclear Suppliers Group, the Wassenaar Arrangement, the Australia Group and the Missile Technology Control Regime.

From the public health perspective, the Commission will continue to participate in and support the work of the Global Health Security Initiative, and intends to present a Communication on health security in 2009, outlining the internal and external aspects of health security.

8. CONCLUSIONS

Protecting the population of the European Union from terrorism and other criminal threats is a high priority for the Commission. As exemplified by events around the world, there is continuous interest of terrorists in acquiring chemical, biological, radiological and nuclear (CBRN) materials. The European Union is committed to ensuring that such non-conventional threats do not materialise. The EU CBRN Action Plan will strongly contribute to implementing this commitment.