

EU-NON PROLIFERATION CONSORTIUM

First Consultative Meeting ("Kick-off-Meeting")

"New Lines for Action" implementation:
Where are the Gaps?

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Introduction: Framing the issue

- The EU has identified the proliferation of WMD and their delivery means as potentially the biggest threat to European and international security.
- There are about twenty-five countries are actually suspected of having NBC weapon programs or stockpiles.
- These estimations include about a dozen countries with offensive biological weapons (BW) programs, and approximately the same with chemical weapons (CW).
- That number could grow, as new technologies are developed and the international flow of information, goods, expertise, and technology continues.
- Nevertheless, although during the last decade can be appreciate an increase of countries in possession or developing nuclear weapons (and ballistic missiles to deliver them), this is **not the case** with respect to the chemical and biological arsenals. Many countries have abandoned their aspirations to possess an offensive biological program.

Defining the Threat

- The possible access of terrorist groups to such weapons adds a critical dimension to this threat.
- The risk of proliferation has grown in recent years, with new countries interested in nuclear energy.
- Sensitive know-how and technology can be used for nuclear power generation purposes, but also for nuclear weapons.
- The advances in biological sciences may also increase the potency of biological weapons and bioterrorism.
- Finally, a large chemical industry could also potentially contribute to proliferation.
- The risk of radiological terrorism remains another concern, taking into consideration that radioactive sources, for example in hospitals, are in many cases not properly secured and they could be used for radiological disperse devices, the so called “dirty bombs”.

EU Position on the issue: Activities

- In December 2008 the Council adopted the "New Lines for Action by the EU in combating the proliferation of weapons of mass destruction and their delivery systems".
- The "New Lines for Action" were adopted five years after the adoption in 2003 of the EU Strategy against Proliferation of Weapons of Mass Destruction, with the objective to prevent, deter, halt and where possible, eliminate WMD proliferation programmes of concern worldwide.
- The main aims are to increase the effectiveness and impact of the EU's approach and make it even more operational.
- They are not intended to replace the EU WMD Strategy, but rather to increase its efficiency by achieving greater coordination within the EU in order to maximise the impact of EU action.

Implementation of the “New Lines for action” (1)

- The EU identifies the following deliverables:
 - **Knowing and anticipating**: an updated risk and threat evaluation document , in which the benefit from a network of independent European non-proliferation “think-tanks” is recognised (Six-monthly Progress Report on the implementation of the EU Strategy Against the proliferation of WMD - 2010/II);
 - **Measures to combat intangible transfers of knowledge and know-how**: protection of scientific and technical assets; mechanisms of cooperation in terms of consular vigilance; awareness in scientific and academic circles and adoption of codes of professional conduct;
 - **Efforts to combat against tangible transfers of technology, goods and equipment through the improvement of national export control procedures**;
 - **Prevention and punitive action against the financing of proliferation**: Strengthening consultation and international instruments; models for awareness of financial institutions and strengthening machinery for combating the financing of proliferation; improvement of the implementation of financial sanctions, in accordance with international legal obligations arising in particular from UNSC resolutions;

Implementation of the “New Lines for action” (2)

- **To combat trafficking in CBRN substances and strengthening systems for intercepting proliferation flows:** interception of proliferation flow; strengthening international and multilateral instruments to impede proliferation flows; Agreement at European level to make illegal exports, brokerage and smuggling of WMD and material subject to criminal sanctions;
- **Cooperation and support:** more systematic definition of geographical areas and priority areas for technical cooperation; increasing assistance and cooperation with regard to combating the proliferation of WMD; promoting a security culture in the CBRN area; strengthening diplomatic leverage through better use of the WMD clause;
- **Coordination:** Creation of a high-level training course for European officials dealing with proliferation; improving the coordination of all players and resources within the EU; raising the profile of European Union measures and their assessment;

State of affairs

- The EU Institutions and the EU member States have not yet succeeded in implementing all requested measures foreseen in the “New Lines for Action”.
- In fact, they are still far away for fulfilling their objectives and in making non-proliferation of WMD a truly cross cutting priority in the EU foreign action.
- There has been a growing awareness in the last years that the EU action must be stepped up and expanded to other policy fields if we want to combat proliferation in a effective way.
- Non-proliferation will continue to be a central part of the EU foreign and security policy, but it is also much more.
- It is a cross-cutting issue that affects a broad range of fields: visa-issuing, academic cooperation, financial supervision, etc.
- Therefore, there is the necessity to pay more attention to the domestic front, to strive towards greater coordination between relevant stakeholders and national and EU level.

Some relevant EU activities (1)

- **Updated risk and threat evaluation:**

- The SITCEN has completed a geographical analysis of overall WMD priorities and continues to provide regular analysis of key countries of concern.
- Set up of the “EU Non Proliferation Consortium” (Decision 2010/430/CFSP).

- **Preventing; strengthening measures to combat intangible transfers of knowledge and know-how:**

- A list of disciplines in the scientific field has been established by the Working Party of CONOP and CODUN.

- **Cooperation in terms of consular vigilance:**

- The Visa Information System (VIS) is now expected to be operational in mid-2011. The new system will facilitate the visa application procedure and consultation by Member States' authorities and by Europol.

Some relevant EU activities (2)

- **Improvement of national export control procedures:**
 - Joint meeting of the Article 23 Coordination Group and the Customs 2013 group (September 2010).
 - Dual-use e-system (launched by the Commission) which will provide licensing and enforcement officials in all EU Member States with real-time access to denial information.
 - Discussions in the Council and the EP on the draft new Community General Export Authorisations which were proposed by the Commission in December 2008.
 - Proposal to amend the dual-use control list (Annex I of the Dual-Use Regulation) in line with decisions taken in the international export control regimes.

Some relevant EU activities (3)

- **Prevention and punitive action against the financing of proliferation:**
 - Contribution (the Commission + Member States) to the work of the Financial Action Task Force (FATF) on proliferation financing. The FATF Plenary adopted a report: on "Combating Proliferation Financing: A status report on Policy Development and Consultation." (2/2010).
 - EU measures against Iran, including the financial sector.
 - Study on "Financial vigilance and sanctions" (under the Instrument for Stability).
- **Interception of proliferation flow:**
 - Proposal for amendment of Commission Decision C (2009) 2601 of 15 April 2009 establishing common risk criteria for export and exit operations (still not adopted?).
 - The DG TAXUD and DG TRADE) were liaising to strengthen the enforcement side of export controls. A questionnaire was prepared for Member States' customs administrators in order to clarify the actual availability of information on denials to the customs.

Some relevant EU activities (4)

- **Increasing assistance and cooperation with regard to combating the proliferation of WMD:**
 - Support to the work of IO (UN/UN SC Resolution 1540, IAEA, OPWC...).
- **Promoting a security culture in the CBRN area:**
 - EU CBRN Action Plan;
 - Seminars and training activities organized by the EU Joint Research Centre (JRC);
 - Study on a European Nuclear Security Training Centre (27 Member by means of a questionnaire, through on-site visits and during a workshop held at JRC-ITU in May 2010).
 - JRC ITRAP+10 project (Illicit Trafficking Radiation Assessment programme).

Some relevant EU activities (5)

● Coordination:

- Pilot training course organised in Brussels in October 2010 by the Defence College (ESDC), with the sponsorship of France, Germany and the United Kingdom. The aim is to establish the course as a permanent training activity within the ESDC;
- Projects to strengthen the capacities of third countries to address threats such as CBRN risk mitigation, organised crime or counter-terrorism;
- The Office of the EU Representative on non-proliferation, DG RELEX and all EU Member States have designated contact points for the implementation of New lines for action;

Challenges ahead

- The **implementation period** of the “New Lines for Action” was extended by the Council on 13 December with another two years, until **December 2012**:
 - *“The Council welcomes the ongoing efforts towards implementing this action plan, but realises that some of the objectives of the action plan need further efforts. The Council encourages competent EU Institutions and Member States to take further initiatives to achieve the complete implementation of the action plan in each policy sector by the end of 2012 and underlines the importance of preventing proliferation through targeted and coordinated action not just in the foreign and security policy, but in all key policies”.*

Some recommendations/policy options: Strengthening legal means and consular vigilance (1)

- There are **still difficulties to consider the transfer of knowledge on sensitive issues.**
- Therefore, **efforts should be focused on preventing those activities** (i.e. via police and consular vigilance).
- Such activities can only be considered as **criminal acts** if there is a **serious intention aimed at helping terrorists or at contributing to develop of a WMD** is clearly stated.

Some recommendations/policy options: Strengthening legal means and consular vigilance (2)

- The **SIAC consultation** should be put into practice also in cases of long term visa refusals due to proliferation risks.
- Such a risk might be included in the **EU visa Handbook**. Until now no measures have been taking to add a proliferation risk as a separate category in the European Handbook for processing visa applications.
- At the same time, Member States should also have the possibility to issue electronic alerts in the **SIS II** in cases of proliferation risk, like the one applied for persons engaged in terrorist activities.

Some recommendations/policy options: Strengthening legal means and consular vigilance (3)

- The **consular vigilance** to prevent intangible transfers of knowledge and know-how should be increased.
- **Some EU Member States** that receive a high number of foreign students, have developed a **national consular vigilance procedure** that could serve as an **interesting model to other countries**.
- In some EU Member States, all foreign students (except EU/EEA nationals) must apply and receive a non-proliferation clearance before they can apply for a student visa.

Some recommendations/policy options: Strengthening legal means and consular vigilance (4)

- Two specific factors, namely the country of the visa applicant and the suggested field of scientific activity, may give a reason for closer scrutiny.
- It would be also useful if Member states could notify each other of visa denials based on the proliferation risk (like now in the export control denials).
- Some EU Member States have prepared a questionnaire to identify existing national measures to exercise consular and scientific vigilance. The results of the questionnaire could be taken as a model in order to harmonise common national procedures on this issue.

Some recommendations/policy options: export controls - awareness in undertakings (1)

- To continue enhancing export controls to prevent tangible transfers of goods, technology and equipments. Export controls can be made more effective with more resources to implement and enforce at national level.
- The idea is not to limit the trade of dual use goods, but to assure the trade in a responsible manner.
- Most of the undertakings involved in the production and trade of dual use and sensitive material are not only well aware on the risks and apply the law on the issue, but they also put into practice preventive mechanisms of physical protection, internal control, final user and final destination of the product, etc.
- Therefore, **only a small number of undertakings act intentionally out of the legal controls.**

Some recommendations/policy options: export controls - awareness in undertakings (2)

- EU Member States should make greater efforts to raise awareness among undertakings and exchange best practice.
- The **Guidelines** of this issue (“Outreach to industry checklist”) were agreed at EU level in 2005. They should be implemented and further developed.
- In the biological field, controls are not as good as in the nuclear and chemical ones. It might be of great use to establish a similar institution to the OPCW, able to keep a national control on the dual use of biological agents production.

Some recommendations/policy options:

Awareness by scientific and academic circles (1)

- Not to restrict academic freedom and the autonomy of universities and research institutes, but to make sure that these actors are fully aware of the risks related to their activities.
- In order to facilitate scientific vigilance, the EU member States prepared in 2009 a complete list of sensitive disciplines, which is of application for NW and fissile material production, missiles and other delivery systems, CW and BW.
- This list of sensitive disciplines, could be useful for consular officials, when deciding on visa applications coming from countries of special concern.

Some recommendations/policy options:

Awareness by scientific and academic circles (2)

- It could be also used by universities and by government officials when deciding whether a research fellows from a particular country should have access to a sensitive research facility or laboratory, technical assistance visit or training activity; and by the European Commission in the European programs with third countries.
- In some EU Member states, a prior consultation or even, a prior authorisation by the MFA is required before accepting any scientific or technical cooperation project.
- **Developments of Codes of Conduct** (international or national level).