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NOTE

from : Presidency
to : Delegations

Subject : EU Critical Infrastructure Protection (CIP)

Delegations will find, in the Annex, a paper prepared by the Presidency to facilitate discussion on the Protection of Critical Infrastructure within the EU that will take place at the Civil Protection Working Party reinforced with experts in critical infrastructure protection.

EU Critical Infrastructure Protection

Introduction

On 17-18 June 2004, the European Council asked the Commission to prepare an overall strategy to enhance the protection of critical infrastructures.¹ In response, the Commission transmitted on 22 October 2004 a Communication "Critical Infrastructure Protection in the Fight against Terrorism"² putting forward suggestions to enhance European prevention, preparedness and response to terrorist attacks involving critical infrastructures (CI).

The Commission's intention to propose a European Programme for Critical Infrastructure Protection (EPCIP) and a Critical Infrastructure Early Warning Information Network (CIWIN) was accepted by the 16-17 December 2004 European Council³ in its approval of the Council conclusions on prevention, preparedness and response to terrorist attacks⁴ and of the Solidarity Programme⁵, that had both been adopted by Council on 2 December 2004.

On 13 April 2005, the Commission issued a Communication proposing the establishment of a Prevention, Preparedness and Consequence Management of Terrorism Programme, under the new financial perspectives for 2007-2013, within the framework programme on Security and Safeguarding liberties.⁶

¹ 10679/2/04 REV 2, no. 19.

² 13979/04, COM (2004)702.

³ 16238/1/04 REV sub 5, bullet 6.

⁴ 15232/04, no. 17.

⁵ EU Solidarity Programme of 2 December 2004 on the consequences of terrorist threats and attacks (revised/widened CBRN Programme), 15480/04; see nos. 24 and 25 and Annex, no. 2.

⁶ Communication from the Commission to the Council and the European Parliament establishing a framework programme on "Security and Safeguarding Liberties" for the period 2007-2013, *containing a Proposal for a Council Decision Establishing the specific Programme "Prevention, Preparedness and Consequence Management of Terrorism" for the Period 2007-2013*, doc. 8205/05 (COM(2005) 124 final + ADD 1).

The revised Action Plan on Terrorism of 10 June 2005⁷ confirmed the Council expectation that the Commission would prepare by the end of 2005 an overall strategy to enhance the protection of CI, and that the Council would have examined the Commission proposal to establish a programme for protection of critical infrastructure with potential trans-boundary effects.

Following the July London attacks, the Council adopted, on 12 July 2005, the Declaration on the EU response to the London bombings⁸, re-affirming its intent to agree a European Programme on the protection of critical infrastructure by the end of 2005 to raise standards across Member States.

Current Position

The Commission has held two seminars (6-7 June and 12-13 September 2005) to elicit the views of Member States, with the intent of issuing a Communication which will provide an overview of how the Commission proposes to respond to the Council's request to establish EPCIP.

The formal Communication is now unlikely to be issued by the Commission until 2006. Instead, the Commission are intending to publish a Green Paper in November 2005 which would detail the key issues, and outline options for the Council to move the work forward. A discussion has taken place in the Civil Protection Working Group (supplemented by experts) on 6 October, and Coreper held a discussion on protective security in a counter-terrorism context on 13 October.

Drawing on the seminars and discussions in the Council, this paper sets out the Presidency's thoughts on:

- the areas of the Programme that have met with broad agreement amongst Member States, and/or progress already achieved;
- issues that require priority attention prior to the full launch of EPCIP;
- issues to be addressed by EPCIP during 2006.

⁷ 9809/1/05 REV 1 + ADD 1 and 2, see ADD 1 no. 4.7.

⁸ 11158/1/05 REV 1, see no. 6.

Agreements/Achievements

Some level of agreement, not precluding the Council from going further at a later stage should it so desire, was achieved on the following:

1. The importance of protective security as part of a balanced counter terrorism strategy has been recognised. Protection of critical infrastructure against attack forms an integral part of Member State's protective security arrangements, in addition to the protection of other terrorist targets such as crowded places and soft targets.
2. The form and framework for EPCIP will be predicated on the assessment of risk, based on analysis of the impact and the likelihood of the threat.
3. There is recognition that Member States have ultimate responsibility for managing arrangements for protection of critical infrastructure within their national borders.
4. Many Member States have existing national and bi-lateral arrangements providing a high level of protection for their critical national infrastructure and it is important to support and complement the work of Member States in this area. The confidential nature of information on infrastructure needs to be maintained for security reasons.
5. While recognising the threat of terrorist attack as a priority, the analysis of critical infrastructure protection should also take a pragmatic approach to protecting against the effects of other hazards ('all hazards' approach).
6. The protection afforded to critical infrastructure across Europe will be increased through enabling Member States improve their ability to identify and protect elements of their own infrastructures.
7. There is general support for the Commission to facilitate the contact network of CIP experts and it is expected that the links created by this will provide Member States with valuable experience through contacts between experts in the field.

8. The Commission is encouraged to take forward EPCIP through the sharing of best practice between Member States and the establishment of a common understanding of definitions and terminology across the EU, covering both public and private sectors, and taking into account other work within the EU on CIP.
9. Elements of critical national infrastructure have trans-border interdependencies which might benefit from a general EU framework for information exchange, to be facilitated by EPCIP.
10. The Commission is encouraged to continue hosting seminars on CIP topics to improve information exchange and identify Member State priorities for Commission activity.

Key outstanding Issues to be agreed prior to launch of EPCIP

- Definition of Terms

The key terms associated with CIP need clear unambiguous definitions to be agreed so that the Programme proceeds based on a common understanding across all MS and the Commission. Some of these definitions, including Protection, Prevention, Preparedness and Response/Consequence Management are already under discussion in the Civil Protection Working Party (ProCiv).

- Scope of European critical infrastructure

The extent to which any infrastructure can be identified as benefiting from special classification as 'European Critical Infrastructure' and what that would imply is not resolved. When an agreed initial definition of European CI is available, EPCIP can then start to address the measures and mechanisms that Member States would like to be considered in order to best ensure appropriate protection, e.g. peer reviews of protective security measures.

Issues to be addressed by EPCIP during 2006

- The extent that improvements to CIP across Europe can be achieved through self-regulation and the extent to which EU level regulation/legislation might be appropriate. EU regulations on transport security have proved effective but there is no agreement on whether this kind of arrangement would benefit CIP.
- How differences between the various sectors that form the critical infrastructure, and the nature of their interdependencies, may result in different approaches being appropriate.
- Clarification of the nature of the roles of the key players in EPCIP, namely the Commission, the Member States, and the rights and obligations of the owner/operators of the infrastructure (who are mostly Private Sector).
- The extent to which national security sensitive information relating to vulnerabilities of critical infrastructure should be shared across the EU, and how such information should be protected.
- The value from a terrorist threat warning network across the EU.
- What are the characteristics that define European critical infrastructure and the arrangements for its protection?
- What does 'trans-border effect' mean? And at what point does an effect become a pan-EU issue?
- Could an event within a single MS require an EU response? What would be the threshold for this?
- Should Member States adopt a common approach in their work with the owner/operators of their infrastructures? If so, what form should this take?

Issues for ProCiv Consideration

Questions that ProCiv may wish to consider are:

- (a) Does ProCiv agree with the points listed in Agreements/Achievements above?
 - (b) What criteria should be used to define European CI?
 - (c) Is ProCiv the correct forum for future considerations of EPCIP?
 - (d) How do we ensure that EU-level work on security issues, including research, flows from the priorities set in the future EPCIP?
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