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COMMUNICATION FROM THE COMMISSION

**A STRATEGY ON THE EXTERNAL DIMENSION OF THE AREA OF FREEDOM,
SECURITY AND JUSTICE**

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I. Introduction

Building on the Hague Programme on “Strengthening Freedom, Security and Justice in the European Union”¹, the European Council of 16-17 June 2005 stated that:

Given the growing importance of the external dimension of the area of freedom, security and justice, [the Action Plan implementing the Hague Programme] will be supplemented at the end of the year by the strategy to be adopted by the Council on a proposal from the SG/HR and the Commission.

The projection of the values underpinning the area of freedom, security and justice is essential in order to safeguard the internal security of the EU. Menaces such as terrorism, organised crime and drug trafficking also originate outside the EU. It is thus crucial that the EU develop a strategy to engage with third countries worldwide.

This Communication will outline the main external challenges facing the area of freedom, security and justice identify the objectives of the EU’s external actions in this field, identify the issues to be addressed worldwide, the instruments at the EU’s disposal and the principles for selecting appropriate actions, outline how the strategy could be applied by geographic area and make some recommendations to facilitate implementation of the strategy.

II. CHALLENGES

At Feira in June 2000, the European Council agreed a programme of priorities, objectives and measures to develop the external dimension of justice, freedom and security policies. Five years later, a wide range of external activities with a growing number of third countries and regions have already been developed which contribute to the strengthening of the area of freedom, security and justice.

Since 2000, policies within the EU’s area of freedom, security and justice have matured considerably and evolved to meet the concerns and needs of European citizens. As a result, the *acquis* has developed significantly through the adoption of legislation on migration and asylum, border management and visas, the fight against organised crime and terrorism, drugs, police and law enforcement cooperation, corruption, data protection, and judicial cooperation in criminal and civil matters. This *acquis* provides a broad basis for cooperating with third countries.

The external dimension of the area of freedom, security and justice is developing to address the principal external challenges, namely:

- Terrorist attacks, such as those on 11 September 2001, 11 March 2004 and 7 July 2005, have led to an increased international commitment to combat terrorism, as exemplified by the EU’s decision on 13 July 2005 to accelerate implementation of the Action Plan on Combating Terrorism². The EU is reaching out to third countries, regional and international organisations to develop and deepen cooperation to combat terrorism.

¹ Adopted by the European Council of 4-5 November 2004.

² Council Decision of 13 July 2005.

- The ever-growing sophistication in organised crime, including money laundering and other financial crimes, and cross-border trafficking in drugs, persons and arms can only be countered through improved law enforcement and judicial cooperation, both within the EU and externally, and through support for capacity-building in third countries.
- Illegal immigration is set to continue, confronting the EU with the need to elaborate a comprehensive approach. It must address not only issues such as admission and reception, but also the root causes of immigration and its impact on countries of origin and transit.
- The failure of institutions, such as the judiciary and law enforcement bodies, in weak states and hotspots throughout the world creates a vacuum which can be exploited by organised crime. The EU is supporting the transformation of weak or non-existent law enforcement institutions in certain third countries into properly-functioning bodies.
- The need for legal certainty and predictability in relation to cross-border transactions in an increasingly global economy. These challenges have the potential to facilitate the situation of businesses and citizens in Europe and significantly to improve the protection of children worldwide.

III. OBJECTIVES

The purpose of this Communication is to demonstrate **how the external dimension of justice and home affairs contributes to the establishment of the internal area of freedom, security and justice and at the same time supports the political objectives of the European Union's external relations**, including sharing and promoting the values of freedom, security and justice in third countries. Although the instruments covering the external aspects of the EU's policies on freedom, justice and security are in place, the EU is for the first time organising them around defined principles and guidelines into a strategy. This strategy must form an integral part of the EU's external relations policy but within it, the justice, freedom and security aspects should be reinforced. Only by following clearly defined principles and priorities, and by working systematically towards the objectives set out below, can the EU efficiently assist third countries in responding to growing challenges and thus to fulfil their expectations.

Freedom, security and justice issues lie at the heart of maintaining international stability and security both outside and inside the European Union. The promotion of free movement within the EU, generally more open borders and increased global integration have added a new dimension to international cooperation. Efficient border management is vital to fight threats such as terrorism and organised crime, while also contributing to good relations between neighbouring states. Independent and efficient judiciaries are indispensable to uphold the rule of law and to ensure the protection of human rights; co-operation between judiciaries is vital both to facilitate international business transactions and to ensure that criminal suspects cannot remain beyond the reach of justice. Fully-functioning asylum systems are necessary to ensure protection for refugees no matter where they may be in the world. Efficient and effective police forces, which can cooperate with their counterparts in other countries, are essential to combat all forms of terrorism and organised crime and to ensure security for citizens in their daily lives. To achieve these objectives requires hard work, time and concerted efforts both by the Commission and the Council. It is important that the EU develops initiatives and proposes solutions to the ever growing number of challenges in this area.

Fostering the rule of law externally through cooperation is essential to reinforce the area of freedom, security and justice internally. There is a general recognition that internal and external aspects of EU security are intrinsically linked. Societies based on common values such as good governance, democracy, the rule of law and respect for human rights will be more effective in preventing domestic threats to their own security as well as more able and willing to cooperate against common international threats. Moreover, these principles have also been identified by the international community as critical factors in reaching the Millennium Development Goals. Development, security and human rights reinforce each other; strengthening the rule of law – both domestically and internationally - is not only an end in itself but essential for sustainable development and must be pursued through external actions.

Within its borders, the EU has developed a wide-ranging framework for regulating the area of freedom, security and justice. While structures naturally differ enormously between countries, the area of freedom, security and justice can nevertheless act as an inspiration for third countries. External policies have a crucial role in promoting security and stability. Enlargement means the transposition of the *acquis*, as well as the transformation of institutions, in the candidate and potential candidate countries. The strengthening of institutions such as the judiciary and the police makes a decisive contribution to consolidating the rule of law and respect for human rights in the candidate countries. By the same token, these aspects underpin cooperation in this field with the European Neighbourhood Policy partners.

The EU can do more to strengthen capacities and cooperation throughout the world. Instant results cannot be expected; reforming a judicial system or establishing an effective asylum system takes years, not months. Yet the issues confronted by the EU, by its neighbours and indeed by all countries worldwide are similar. The EU's experience and success in issues such as border management, migration management and fighting organised crime represent a useful point of reference for third countries which face similar challenges.

The EU should continue to encourage regional cooperation. Cross-border challenges, such as migration, border management and organised crime, can often best be addressed through concerted action at regional level. Drawing on its own experience and the type of issue facing the regions concerned, the EU should support regional dialogue and cooperation on freedom, security and justice issues in regions such as Eastern Europe and the Middle East or with regional organisations such as the African Union.

At multilateral level, recent years have seen the adoption of important international legal instruments creating new norms (e.g. UN Convention on Trans-national Organised Crime and its Protocols, UN Convention against Corruption), as well as increasing attention paid to international standard setting, such as the FATF's Recommendations on Money Laundering. The EU stands ready to support multilateral approaches to strengthen policies in these areas, in order both to enhance its role in international bodies and to encourage the development of further international instruments.

In fact, strengthening cooperation and supporting capacity building in third countries is already providing results. Close cooperation with the Turkish authorities has led to record drug seizures through controlled deliveries in the EU in recent months. The EU is working with Morocco to strengthen border management and is introducing twinnings on money laundering and trafficking in persons. A border management mission will start work in December to help the Ukrainian and Moldovan authorities stamp out smuggling and trafficking across their

common border. Visa facilitation and readmission agreements will be signed shortly with Russia, which will cut unnecessary bureaucracy for legitimate travellers while also speeding up the expulsion of illegal immigrants. These activities are already producing tangible results for individuals both inside and outside the EU; the adoption of this strategy will enable the EU to intensify its efforts in this field.

IV. ISSUES

A number of **political priorities** can be derived from the Hague Programme and its Action Plan³, which provide the overall basis for relations with third countries, while thematic priorities are set out in specialised Strategies and Action Plans (e.g. the EU Action Plan against Terrorism⁴; the Strategic Concept on Organised Crime⁵).

- **Human rights:** promote human rights in third countries in line with international standards and ensure that human rights are placed at the heart of law enforcement policies; support the development and training of independent and impartial judiciaries upholding human rights and the rule of law.
- **Strengthening institutions and good governance:** strengthen the law enforcement institutions and their ability to cooperate internationally; strengthen the fight against corruption; promote transparency, accountability and sound management of government institutions.
- **Migration, asylum and border management:** improve third countries' capacity for migration management and refugee protection in accordance with international law; support their operational border management capacity; enhance document security; prevent illegal migration; encourage synergies between migration and development; provide refugees with better access to durable solutions; ensure the return of illegal migrants.
- **Fight against terrorism:** provide support to third countries for institution building and implementation of international instruments; work with third countries to address terrorist recruitment and financing; continue to support the key role of the UN; build on the relationship with the US to enhance cooperation.
- **Organised crime, including trafficking in persons, drugs and human organs, counterfeiting, economic and financial crime and cybercrime:** support the development of institutional capacity and develop operational cooperation.

V. PRINCIPLES

Principles must be set to guide policy towards third countries as follows:

- **Geographic prioritisation:** priorities must be set, within the enlargement, development and external relations policies and reflecting the EU's special relations with third countries or regions. To this end, comprehensive policies encompassing all aspects of justice, freedom and security will be developed with priority countries, such as candidate or neighbourhood

³ COM(2005) 184, 10.6.2005.

⁴ Adopted by the European Council in June 2004.

⁵ COM(2005) 232, 2.6.2005.

countries, while with other countries cooperation will focus on specific issues.

- **Differentiation:** there can be no ‘one size fits all’ strategy. A tailored approach is required to respond to the particular situation of individual countries and regions.
- **Flexibility:** programming must retain sufficient flexibility so that in times of crisis or changing circumstances the EU can respond swiftly to new priorities.
- **Cross-pillar coordination:** external action concerning freedom, security and justice is at times cross-pillar, touching not only on fields of Community competence, but also the CFSP or on police and judicial cooperation, thus requiring close coordination between the Council and the Commission to ensure coherence of the EU’s external activities. Community competences must be preserved in relation to negotiations with third countries.
- **Partnership:** in line with the principles underpinning EU enlargement, external relations and development policies, cooperation concerning freedom, security and justice must be developed in close partnership with third countries, respecting the principle of ownership.
- **Relevance of external action:** there should be a clear link between internal activities aimed at creating an area of freedom, security and justice and external actions to support this process, fully in line with policy coherence as adopted by the European Council in June 2005.
- **Added value:** a regular exchange of information on activities in third countries between Member States and the Commission is essential to avoid overlapping or duplication and to ensure complementarity between actions.
- **Benchmarking:** all actions must include evaluation mechanisms to assess progress made in third countries and the relevance of the action for the EU’s external relations objectives.

VI. POLICY INSTRUMENTS

The broad range of policy instruments at the EU’s disposal represents a significant strength enabling the EU to tailor its external cooperation to the situation of each country. Engaging with third countries entails drawing on the following instruments in a coherent and coordinated way.

(1) Bilateral agreements

Association or Partnership and Cooperation Agreements, including provisions on freedom, security and justice subjects; readmission agreements; visa facilitation agreements; mutual legal assistance and extradition agreements.

For some countries, a visa facilitation agreement is an important issue. A strategy is under preparation, in the context of readmission policy.

(2) Enlargement and pre-accession processes

The enlargement process with Croatia and Turkey, and the Stabilisation and Association Process with the Western Balkans include justice, freedom and security priorities.

(3) European Neighbourhood Policy (ENP) Action Plans

Action Plans with substantial justice, freedom and security components have been concluded with Ukraine, Moldova, Morocco, Tunisia, Israel, Jordan and the Palestinian Authority and are under preparation with Egypt, Lebanon, Armenia, Azerbaijan and Georgia.

(4) Regional cooperation

Regional organisations such as the Baltic Sea Task-Force, ASEM and the Euro-Med process bring together actors on justice, freedom and security issues of common concern.

(5) Individual arrangements

With the US, justice, freedom and security issues are covered under the New Transatlantic Agenda but also in a special format at ministerial level in the Policy Dialogue on Border and Transport Security. These issues are discussed with Canada, Australia, Japan and China in the context of a horizontal dialogue. There are justice, freedom and security ministerial meetings with Russia (Permanent Partnership Council), Ukraine and the Western Balkans Forum.

(6) Operational cooperation

Europol, Eurojust, the European Police College and the Borders Agency are or will develop agreements and working arrangements with counterparts in third countries. Networks of liaison officers drawn from the Member States are being established in some third countries.

(7) Institution building and twinning

Developing institutions and implementation capacity in third countries are central to activities with many third countries. Twinning between Member State institutions and counterpart institutions in third countries are a highly useful mechanism in capacity building, while expert missions can provide expertise on particular issues.

(8) Development Policy

Development is an effective long-term response to concerns in the justice, freedom and security area. The Commission proposal for a new EU Development Policy identifies governance and human rights as complementary aims to the overriding objective of poverty reduction⁶.

(9) External aid programmes

Projects on justice, freedom and security issues are financed under the external relations assistance programmes (e.g. CARDS, TACIS and MEDA). Under the new financial perspectives, the proposed external relations instruments include appropriate provisions for these actions. The Commission has proposed a thematic programme for migration and asylum as successor to the current AENEAS programme, which provides assistance for migration management⁷.

(10) International organisations

⁶ COM(2005) 311, 13.7.2005.

⁷ COM(2005) 324, 3.8.2005.

The EC and Member States are key players in international organisations (e.g. UNHCR, UNODC, Council of Europe, FATF, UNIDROIT, UNCITRAL, Hague Conference on Private International Law), which provide a useful basis for promoting common values and priorities. The EU encourages third countries to ratify and implement international conventions, which become a cornerstone for developing international cooperation.

(11) Monitoring

Evaluation mechanisms should be adapted to respond to evolving situations. Current examples include the European Partnerships for the Western Balkans, the Action Plan on Organised Crime with Russia, the EU-Ukraine Justice and Home Affairs (JHA) Action Plan, the monitoring and evaluation mechanism for third countries in the fight against illegal immigration, sub-committees and expert missions.

VII. GEOGRAPHIC EXAMPLES OF THE WAY AHEAD

The main tenets of a strategy covering external aspects of the EU's policy on freedom, security and justice are largely in place, notably as regards neighbouring countries which are the first natural partners for closer cooperation. Cooperation on these issues is spreading swiftly to other third countries, including India and China, as well as to developing countries.

With the US, a strong **security partnership** is being developed, based on common values, which has focused on the fight against terrorism since 11 September 2001. Much of the cooperation in this area has broken new ground such as the mutual legal assistance and extradition agreements, and transatlantic relations concerning justice, freedom and security issues have blossomed due to the shared interest in tackling new challenges. Since this dimension is relatively new, the EU increasingly needs to define its security interests, based on reciprocity, and to promote vigorously its policy objectives such as **extending the Visa Waiver Programme to all Member States**. The need to **work together on border security and law enforcement opens up new avenues of cooperation for the EU and the US**, always with a view to closing the security gap.

Cooperation with the **Western Balkan countries** is intensive with the aim of **strengthening stability** in the region in the light of the countries' European perspective. Within the Stabilisation and Association Process, the EU is supporting the Western Balkans countries, through the CARDS programme, to develop their performance in the four priority areas of police and organised crime, integrated border management, judicial reform, and asylum and migration. Progress towards the conclusion of agreements on readmission and visa facilitation will signal mutual commitment to further cooperation.

Cooperation has also developed in response to specific concerns such as organised crime, through, for instance, the development of regional cooperation between prosecutors or cooperation to combat money laundering. Other measures support the development of key capacities in each country including setting up financial intelligence units and specialised teams of prosecutors and judges to deal with organised crime cases. **Further cooperation with Europol, Eurojust as well as the development of the Regional Centre for Combating Transborder Crime (SECI), and the liaison officers' network will help improve the way the EU uses its instruments in the area of police and criminal justice cooperation to fight organised crime in the Western Balkans.**

As regards **Russia**, justice, freedom and security has become a central feature of the **strategic partnership** as reflected in **the wide-ranging Common Space on freedom, security and justice**, which **will now need to be implemented effectively** in priority areas such as the rule of law, the fight against terrorism and organised crime, including money laundering, corruption and trafficking of persons and drugs, the fight against child pornography on the Internet, data protection, document security and border demarcation and management. Besides a rich dialogue at many levels, the Europol/Russia agreement as well as the Action Plan on Organised Crime, contacts with Eurojust and the liaison officers' network provide a practical basis for closer operational links. **The conclusion of agreements on readmission and visa facilitation signals a strong commitment to further cooperation** and will at the same time help discussions on the long-term prospect of visa-free travel.

For **Ukraine**, extending **stability** to the neighbours of the extended EU and supporting the reform process lies behind the increasingly close cooperation. Through the European Neighbourhood Policy and the soon to be updated EU-Ukraine JHA Action Plan, the EU is promoting capacity building such as a fundamental overhaul of the judiciary, and the development of border management and an asylum system in line with European standards. To take an example of institutional reform, Commission support for developing the capacity of the Ukrainian Financial Intelligence Unit assisted in bringing about Ukraine's removal from the FATF money laundering "blacklist". **Negotiations for an agreement with Eurojust are envisaged. Readmission negotiations are underway, and negotiations on visa facilitation are expected to be launched shortly.** Priorities are reviewed annually at ministerial Troika level, and implementation is measured in a Scoreboard.

With the **Mediterranean countries**, strengthening **good governance and the rule of law** as well as improving **migration management** and **security** are the main goals. The ENP has given a new impetus to cooperation in this region, already a feature of the Barcelona process. At regional level, the programme on migration, police and judicial cooperation represented a step forward by supporting institutional capacity building and by promoting cooperation among officials, demonstrating the value of encouraging regional cooperation. **The start of the new justice, freedom and security regional programme, as well as the reinforcement of the high level dialogue on terrorism, will accompany the launching at the next Barcelona Summit of an ambitious work programme to create an area of mutual cooperation on justice, security, migration and social integration**

At the bilateral level, the MEDA programme supports projects on migration, judiciary and law enforcement cooperation in several countries, including twinnings in Morocco on money laundering and in Jordan on the judiciary. The entry into force of new agreements creates a climate of cooperation, including subjects such as the fight against terrorism, organised crime and drugs as well as child protection. **Migration and border management are at the top of the agenda, and partnerships should be strengthened in the region with countries of origin and transit. Further progress is necessary on readmission agreements, and efforts to develop the dialogue with Libya on migration should be pursued.**

VIII. Next Steps

The purpose of the strategy on the external dimension of the area of freedom, security and justice is two-fold: firstly, to contribute to the successful establishment of the internal area of

freedom, security and justice by creating a secure external environment, and secondly to advance the EU's external relations objectives by promoting the rule of law, democratic values and sound institutions.

Areas for cooperation with third countries have been clearly set out in the Hague Programme and its Action Plan. The EU has a broad range of implementing instruments at its disposal, which will be applied according to the particular needs of the partner country concerned.

Promoting the rule of law outside the EU is essential to underpin domestic and international security, stability and development. The external dimension of the area of justice, freedom and security cannot be seen as an independent policy area but must be part of the EU's external policy activities.

Several steps should be taken to facilitate implementation of the strategy:

Setting priorities and monitoring implementation

- The Commission should set priorities and define appropriate courses of action within the scope of its responsibilities.
- To facilitate the monitoring of practical results against the objectives and priorities set, the Commission should produce a consolidated review and continuously monitor implementation.
- As the external dimension of the area of freedom, security and justice is growing rapidly and assuming greater significance in relations with third countries, the Council should, on a regular basis, review progress and priorities.

Effectiveness and coherence

- Coordination between geographic Council working groups and groups dealing with justice, freedom and security matters could be improved. Coreper also has an important coordinating role in this area.
- Coherence of the EU's external actions: Improved coordination is required to ensure coherence and effectiveness at EU level between different policies and instruments, bearing in mind the Commission's competence. At the same time, Member States must be closely involved.
- Rapid reaction: In addition to long-term support for institution building, the EU needs to develop further its capacity to react quickly to sudden needs or emerging threats. There are a growing number of situations where the EU should promote its ability to deliver swift assistance.
- International organisations: the Commission must play its full role in international organisations, in coordination with the Member States, to stimulate the development of new tools. Appropriate steps should be taken to ensure greater visibility for the action of the EU in international bodies.
- Regional cooperation: the Commission must strengthen its efforts to support regional cooperation on justice, freedom and security issues, through support for existing bodies

such as the African Union, and encouraging new initiatives in areas where regional cooperation is weak, such as the Middle East or Eastern Europe.