

UNICE GENERAL REMARKS ON SECURITY

**EUROPEAN BUSINESS CONTRIBUTION
TO THE FIGHT AGAINST TERRORISM**

Executive summary

UNICE fully supports the fight against all forms of terrorism. It is a threat to lives, political stability as well as prosperity. European business is ready to participate in initiatives proposed to counter it.

This document is UNICE's preliminary contribution to the debate under way and notably to the 16-17 December 2004 European Council. It focuses on the implications of terrorism for EU economic operators and proposes a constructive partnership between the public and the private sectors, which both share an interest in a secure climate in Europe.

To favour an environment which reconciles business activity with the new security requirements, UNICE would like to underline the following issues:

- The EU should strengthen its coordinating action in the fight against terrorism. Member States should, for their part, make all possible efforts to implement the initiatives contained in the revised EU Plan of Action on Combating Terrorism.
- Security should be a relevant issue in EU cooperation with third countries and should be considered in all aspects of the EU's external relations. Cooperation is of particular importance with the US.
- UNICE supports initiatives for private-public cooperation. To that end, a platform could be set up with participation of representatives from the EU institutions and European business. This platform should facilitate exchange of information, discussing new EU proposals and possible ways of cooperation, ensuring that security measures do not harm companies' competitiveness.
- UNICE firmly believes that security and trade facilitation must be mutually supportive and not in competition. Increased security should not hinder the legitimate flow of goods.
- Technology plays an important role in dealing with the new security challenges. UNICE welcomes the proposal to establish a European Security Research Programme (ESRP) from 2007 onwards with funding of at least €1bn a year.
- The security and protection of the EU critical infrastructure is of vital importance. Preventing access by terrorists to financial resources is also a key feature to fight terrorism.

UNICE looks forward to working closely with the EU institutions and other interested partners on these matters.

1 December 2004

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UNICE fully supports the fight against all forms of terrorism. It is a threat to lives, political stability as well as prosperity. European business is ready to participate in initiatives proposed to counter it.

This document is UNICE's preliminary contribution to the debate under way and notably to the 16-17 December 2004 European Council, where implementation of the EU strategy on anti-terror will be reviewed. It focuses essentially on the implications of terrorism for economic operators from an EU-wide perspective and proposes a constructive partnership between the public and the private sectors, which both share an interest in establishing a secure climate in Europe.

The environment in which companies operate is undergoing dramatic changes shaped by increased security concerns. These concerns and responses to them have an increasingly strong impact on business operations worldwide.

1. The EU: key role in promoting security

Terrorism prevention and fighting organised crime remains a national affair for European countries, and responsibilities are in the hands of a variety of ministries, agencies and authorities in each country. However, to counter international, cross-border terrorism and organised crime, efforts against global networks demand intensive cooperation between countries. The **EU institutions should coordinate** efforts in this field.

EU work takes place on the basis of the **revised EU Plan of Action on Combating Terrorism**, a comprehensive strategy to implement the security measures agreed by European Heads of State and/or Government. Among its main strategic objectives, the following have a direct impact on the private sector:

- reduce the access of terrorists to financial and economic resources;
- protect the security of international transport and ensure effective border controls;
- enhance the capacity to deal with the consequences of a terrorist attack.

The approach including concrete deadlines for action and indicating the competent body for its development seems appropriate. However, for the Plan of Action to produce concrete results, EU Member States should make all possible efforts to **implement** the initiatives it contains for which they are responsible at national level. The Plan of Action must be seen in the context of The Hague Programme, which deals with EU policies related to freedom, security and justice.

Action

- The EU should develop an **integrated strategy**, ensuring that all instruments and means available are fully used in the fight against terrorism and the reduction of its possible impact. Priority should be given to reinforcing existing structures and strengthening their coordination and exchanges.

- **Coordination should be streamlined between the different Commission services** engaged in the security field under DG Justice, Freedom and Security. Efforts have to be developed to make sure terrorism concerns are taken into account in the different EU policies which are affected by it. The Commission should clearly communicate its actions and initiatives to the relevant stakeholders, indicating the responsible persons/institutions.
- **The EU has to be given resources** to promote a secure environment. Its budget has to recognise the EU political priority given to security, strengthening it in those parts which could contribute to implementing the political objectives established in the EU Action Plan to Combat Terrorism. This is of particular importance with a view to discussions on the forthcoming Financial Perspectives for the period 2007-2013. In this respect, the proposal to include a specific heading on freedom, security and justice in the Financial Perspectives and to increase the funds available is welcome.
- **Reinforce cooperation in Member States**, at the judicial level in criminal matters, and also between their law enforcement agencies, by promoting the exchange of information. Harmonisation of laws should result in preventing criminals from finding safe havens in EU Member States. Cooperation should be pursued as regards both mutual assistance and the enforcement of judgments in criminal matters, respecting the Member States' different legal traditions.
- The work of the **EU Counter-Terrorism Coordinator**, Mr Gijs de Vries, must be supported to mobilise EU Member States on the need to reinforce cooperation and to implement the initiatives agreed at EU level.
- Pursue work evaluating the different systems to fight terror in the Member States. Reports are being prepared including recommendations on reinforcing national structures. The **peer evaluation**, which should be concluded by end-2004 for EU 15 (end-2005 for the 10 new Member States), should lead to a final report assessing the situation at national level and proposing concrete areas for improvement and cooperation.
- Implement, in Member States, the measures of the Framework Decision on the **European Arrest Warrant** to facilitate the transfer a person from one Member State to another for conducting a criminal prosecution or executing a sentence or detention order.
- The **EU AGIS programme**, aiming at strengthening cooperation on criminal matters and the fight against crime, is a good tool to favour the creation of networks and increased cooperation in the security field. The programme should be more closely related to business interests by reinforcing the priority given to cooperation with the private sector.
- **Europol** (European Police Office) and **Eurojust** (European Judicial Cooperation Unit) should further develop their abilities in the fight against cross-border terrorism and crime, strengthening their cooperation with the EU institutions and appropriate bodies in the Member States, and maximising its operational capacity. In concrete terms:
 - Member States' law enforcement bodies have to provide Europol and Eurojust with the relevant criminal intelligence.
 - Europol and Eurojust must reinforce their cooperation.
 - Eurojust should pursue coordination with the European Judicial Network.

2. International coordination

A coherent effective policy against terrorism requires cooperation at the international level. Security should be a relevant issue in EU cooperation with third countries and should be considered in all aspects of the EU's external relations. Third countries have to be encouraged to develop the appropriate action in the security field based on prevention.

Cooperation is of particular importance with the US. The Transatlantic economic relationship is by far the deepest and broadest between any two continents. Cooperation between the administrations concerned on both sides of the Atlantic and mutual recognition of each other's implementing measures are the way forward pending concerted developments and agreed measures at the international level.

Business must be closely consulted at an early stage because otherwise bilateral initiatives could lead to new regulation/measures with negative effects on trade.

European business is already engaged in cooperation with some of its partners around the world in the security field. This is the case, for instance of the TABD (Transatlantic Business Dialogue) which in its last plenary meeting in June 2004 produced specific views on open trade and security.

Action

- Encourage EU Member States to **ratify the 12 main International Conventions** against terrorism and promote their ratification by third countries.
- Include security objectives in **EU agreements with third countries**. Cooperation should be developed in the law enforcement and judicial field. The EU can offer its expertise and/or technical assistance on these matters.
- Cooperate in the **development of standards related to all aspects of international transport security** (definition, application, audit, insurance, liability, etc) by the appropriate international organisations such as the IMO (International Maritime Organization), ICAO (International Civil Aviation Organization) or WCO (World Customs Organization). These standards should not hinder the logistics chain and the legitimate flow of trade.
- Promote regulatory cooperation and **technical standards** internationally through international standardising bodies. Standards could contribute to higher competitiveness while ensuring increased security, safety and quality.
- Establish **strong coordination with the US** and other key countries (notably, those taking part in the European Neighborhood Policy) at political and technical level, further developing joint structures to deal with security issues, which should regularly report to the bilateral summits/ministerial meetings.
- Encourage development of internationally and domestically harmonised traffic **data storage rules**. Measures have to be focused and limited to what is essential to protect society. Business should be consulted on initiatives in this field to avoid negative impact on consumer confidence but also on business competitiveness.

3. Public-private cooperation: UNICE contribution

Promoting security in the EU requires the establishment of strong synergies between the public and the private sectors, which both have a strong joint interest in preventing terrorism. With that in view, **public-private cooperation and modes of concrete coordination should be sought**. Security remains a primary responsibility of the state, but cooperation between governments and companies will ensure that security measures and economic objectives reinforce each other.

Initiatives proposed to fight terrorism should be followed by relevant information to companies, including preparedness to reduce vulnerability, while defining the responsibilities and liabilities of the different actors. This implies increasing the cooperation between business and the public authorities (government and security services).

UNICE is aware of the different initiatives of public-private cooperation taken at **national level** in EU Member States, and very much supports them. In this respect, it welcomes the work carried out under coordination of the European Commission, Dutch and Irish Governments which has led to a Model Protocol for the establishment of public-private cooperation in the field of organised crime in the EU Member States. What is now important is that these protocols are developed and implemented at national level, taking into account the specific circumstances and existing partnerships.

Action

Cooperation should also be developed at EU level, building on existing structures for consultation with the private sector. UNICE welcomes the Commission proposal for a Public-Private Security Dialogue. It could be developed in the form of an informal **platform**, which could be established under the following conditions:

Participants

1. Participation of representatives from the **EU institutions, UNICE, other relevant business associations and companies** at a technical level. This initiative could be officially launched at a high-level conference to send a strong message on the priority given by both private and public actors to the need to reinforce their cooperation.
2. To tackle specific issues, sectoral business experts should be associated through **working groups** reporting to the platform. They should be established taking into account and recognising the role of the existing structures, avoiding the creation of new ones. The platform should oversee the work of the working groups, which are responsible for the discussions on substance.

Aims

3. The platform and the related working groups should act as an engine for **exchange of information and cooperation between public authorities and business on security initiatives without harming companies' competitiveness**. They should discuss proposals for new EU initiatives and the possibility of innovative solutions at a pre-regulatory stage, aimed at simplifying and improving the regulatory environment. They should make sure that increased protection does not lead to excessive and disproportionate requirements for companies.
4. Work should be developed on the basis of the measures contained in the **Plan of Action on Combating Terrorism**, EU initiatives in the security field and other international measures having an impact on the activities of EU companies.

5. Joint work should lead to **effective and cost-efficient security initiatives**, which at the same time do not unnecessarily damage competitiveness of business. Extra burdens on companies, in the form for instance of extra declarations or inventories, over and above what is necessary to achieve the security objective in view pursued should be avoided. The existing information companies have to administer in the field of safety could be used.
6. Discussions could also deal with **preparedness and continuity plans of companies** to cope with a terrorist attack. Guidelines could be developed on how to deal with security and alleviate consequences of terror, encouraging models for security plans in companies, and exploring the possibilities of developing training for employees. The platform and its related working groups could also serve to discuss prevention measures.

Action at national level

7. **Information** in the platform and related working groups **should be then transferred to national level** using the networks of the European actors involved so as to ensure a coordinated approach in the EU, exchange of information at all levels and the promotion of best practices by companies in the security field.

Assessment / Resources

8. **The platform should not be seen as an end in itself**, but as a means to develop concrete initiatives of public-private cooperation in the security field. Resources for the functioning of the platform should be limited to avoid diversion of (already scarce) resources from other key areas. Its effectiveness should be assessed at a later stage.

4. Trade and security

Security concerns and responses to them have an increasingly strong impact on international trade. UNICE firmly believes that **security and trade facilitation must be mutually supportive** and not in competition. Increased security should go in parallel with economic growth and trade and investment needs, ensuring that negative effects of security initiatives are minimised and avoiding excessive costs for international trade transactions. The fluidity of the flow of goods must be preserved.

Action

To promote an environment where the smooth flow of legitimate trade is not negatively influenced by new security requirements, UNICE would support the following actions:

- Ensure that additional security **measures do not hinder EU trade** with third countries, avoiding unilateral initiatives that could give other EU competitors a potential advantage.
- A **WTO Agreement on Trade Facilitation** to reduce risk by improving efficiency and reducing unnecessary delays. This agreement should be a framework integrating existing international instruments, based on the WCO Revised Kyoto Convention, and should not be overburdened with security issues.

- Incorporate the “**facilitation**” **aspect in the Community Customs Code** and its implementing provisions, particularly taking into account initiatives on pre-notifications for international shipments.
- Develop work on the basis of the EU-US customs cooperation agreement to improve transatlantic security guaranteeing the **right balance with trade facilitation**. European business must be closely consulted at an early stage to avoid new regulation/measures with negative effects on trade.
- Pursue work on the concept of **authorised economic operator** (AEO) for the customs area. This proposal aims at establishing reinforced cooperation between authorities and companies. The AEO status must confer genuine advantages for operators of all sizes, taking into account SME needs. They must be eligible for all simplifications in trade procedures and costs should be reduced. It will enable companies to make their import/export process much more efficient, at the same time freeing resources on the side of customs to concentrate on more serious potential risks.

5. Security and research

Technology plays a key role in dealing with the new security challenges, ensuring a higher level of protection. Technology itself cannot guarantee security but security without the support of technology is impossible.

Proposals to establish a **European Security Research Programme (ESRP)** from 2007 on with funding of at least €1bn a year under the EU budget are very important to contribute to the protection of Europe’s citizens and economy. Funding should be additional to the proposed increased budget for the 7th EU Research Framework Programme. UNICE welcomes the approach taken to prepare this proposal following the recommendation given by the so-called “Group of Personalities” comprising business representatives *inter alia*.

Learning the lessons of previous Framework Programmes, and taking into account European business needs, the ESRP should:

- allow for an increasing share of smaller projects to strengthen SME participation;
- speed up procedures;
- ensure that bureaucracy is kept to a minimum;
- reduce obstacles to private sector involvement, such as taxes, and creating fiscal incentives;
- rely on civilian and defence security research, which increasingly overlap, promoting technology transfers;
- coordinate with other existing research initiatives at EU, national or international level;
- favour cooperation between industry and universities.

To advise on the content of the ESRP and on its implementation, UNICE welcomes the recommendation to establish a “**European Security Research Advisory Board**” with

business participation and is ready to take part in it. This Board will define the strategic lines of action of ESRP, the user involvement and the mechanisms for its implementation.

6. Protection of critical infrastructure

The security and **protection of the EU critical infrastructure is of vital importance**. Key parts of the EU infrastructure are in the hands of and operated by the private sector and they provide the basis for economic activity. Transport, energy supply, telecommunications and utilities are highly mutually dependent and security is a pre-requisite for their good functioning. This entails vulnerability for companies as attacks and collapse of systems can be important to a number of essential functions on which companies depend. However, new security measures must not lead to additional costs for business.

Focus should not be on physical terrorist threats alone, but also include threats in the area of **information and communications technologies (ICT)**. Economies depend more and more on the use of ICT. UNICE welcomes initiatives aiming at the creation of a safer information society by improving the security of information infrastructures and combating computer-related crime. However, requirements in the field of data retention should not conflict with the legitimate expectations of customers or unduly harm business competitiveness.

UNICE welcomes the attention given by the EU to this key area to promote security and the Commission proposal for an European Programme for Critical Infrastructure Protection (EPCIP). The private sector should be associated with its development and future implementation.

Action

Key infrastructure could be further protected so as to make sure that it is less vulnerable to disruptions, by:

- **assessing the state of protection and vulnerabilities** of key infrastructures in the EU Member States and proposing measures to increase their protection, indicating the responsible body to protect them;
- **promoting international cooperation** setting up partnerships with key third countries to protect cross-border infrastructure, notably in the energy sector;
- **promoting the sharing of information** on vulnerabilities by the public authorities, making sure that the information is protected and remains confidential;
- **developing jointly with the private sector voluntary guidelines** for security programmes defining criteria for standard approaches;
- **carrying out awareness actions** to promote protection of different infrastructures.

7. Financing of terrorism

Preventing access by terrorists to financial resources is a key feature to fight terrorism. The EU should strengthen the effectiveness of its tools in this field, particularly to take **action on the sources of financing for terrorist organisations**. Terrorists and criminals must face an environment where their operations are made as difficult as possible.

Action

- **Implement cooperation arrangements** by the relevant financial and judicial bodies at national level.
- **Develop cooperation with the private sector in this field**, following the example of the Commission and the European banking sector which have established electronic databases of all targeted persons, bank accounts and entities to facilitate immediate freezing of funds.
- Fully implement the Special Recommendations on terrorism financing by the **Financial Action Task Force's (FATF)**.
- Pursue efforts in the money-laundering field through the **3rd Money Laundering Directive**.
- Support the **fight against counterfeiting and piracy** through the EU anti-counterfeiting and anti-piracy measures, which are increasingly linked to terrorist financing. The adoption of the EU Enforcement directive is a step in the right direction towards an adequate system of enforcement of intellectual property rights. The Enforcement directive needs to be implemented in all EU Member States speedily and effectively.
