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**COVER NOTE**

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from: Secretary-General of the European Commission,  
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 26 June 2009

to: Mr Javier SOLANA, Secretary-General/High Representative

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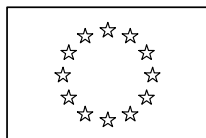
Subject: Commission Staff Working Document - Accompanying document to the  
Communication from the Commission to the European Parliament and the  
Council on Strengthening Chemical, Biological, Radiological and Nuclear  
Security in the European Union – an EU CBRN Action Plan  
- Summary of the Impact Assessment

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Delegations will find attached Commission document SEC (2009) 791.

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Encl.: SEC (2009) 791



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 24.6.2009  
SEC(2009) 791

**COMMISSION STAFF WORKING DOCUMENT**

*Accompanying document to the*

**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 CRBN Action Plan**

**SUMMARY OF THE IMPACT ASSESSMENT**

{COM(2009) 273 final}  
{SEC(2009) 790}

# SUMMARY OF THE IMPACT ASSESSMENT

## **1. THE CBRN POLICY PACKAGE**

In accordance with the December 2007 Council Conclusions on addressing chemical, biological, radiological and nuclear (CBRN) risks and on bio-preparedness, which invited the Commission to continue its work in the CBRN field and agreed with its intention to propose relevant policy measures in 2009, the Commission intends to adopt a package of proposals on CBRN in June 2009.

The overall objectives of the CBRN package are to fight terrorism by complementing relevant measures taken at Member State level, to address gaps in the field and to promote the sharing of information and exchange of best practices between Member States. It should also assist in identifying measures to reduce the terrorist threat in the chemical, biological and radiological/nuclear fields.

The package was developed following a long and extensive consultation process. The main driving force behind the formulation of the Action Plan has been the CBRN Task Force. This Task Force, set up in February 2008, comprised over 200 members representing national authorities and organisations. A total of 15 meetings were organised over the course of 2008 to address the different CBRN strands. The Task Force's final report was published in January 2009 and contained 264 separate recommendations, confirming not only that there is still a lot of work to be done, but also that there is a strong consensus among experts on how the existing issues could best be tackled.

Furthermore, several Commission services have been actively involved in the work of the CBRN Task Force. Among all the DGs involved in this exercise, DG ENTR, DG SANCO and DG TREN, along with the JRC, played a particularly active role in the chemical, biological and radiological/nuclear fields, respectively.

## **2. PROBLEM DEFINITION**

In order to define the CBRN problem in the EU, a series of variables, including the overall level of the CBRN threat and the potential costs of terrorist or other incidents involving CBRN material, have to be taken into consideration.

### **2.1. Assessment of specific problems**

The CBRN problem assessment focuses on issues relating to CBRN prevention, detection and preparedness/response.

#### *2.1.1. Problems relating to CBRN prevention, detection and preparedness/response*

- A wealth of international and EU legislation and agreements exists, but there are several differences in implementation among the Member States.
- Gaps and duplications exist in current information sharing and cooperation initiatives.

- There are various legal and practical constraints to EU cooperation on combating CBRN terrorist threats.
- Standards with regard to personnel security differ between Member States, which have different procedures for background checks and personnel vetting.
- While a lot of research is undertaken in some areas, a number of research needs are currently not adequately addressed.
- The open-source publication of scientific findings and research funding practices do not take security issues sufficiently into account.

#### 2.1.2. *CBRN prevention*

- A lot of CBRN material is relatively easy to obtain and can be weaponised. This involves predominantly chemical substances and to a lesser extent biological agents and radiological sources.
- There is insufficient coordinated control of the markets for CBRN material, and Member States have varying approaches and standards for the monitoring and surveillance of CBRN materials and transactions.

#### 2.1.3. *CBRN detection*

- There are differences in the level of national detection capabilities and preparedness.
- There are no harmonised minimum detection standards on which Member States could build and there is as yet no European testing, trialling and certification scheme.

#### 2.1.4. *CBRN preparedness and response*

- There are significant differences across Member States in the quality of the CBRN emergency and response plans of supply chain actors, high-risk sites or critical infrastructure operators. The security aspects are often not explicit or not well integrated in the plans.
- There are significant gaps in the training of first responders to react to CBRN events in Member States. Precautions with regard to forensic investigation or decontamination are too often not covered.
- The extent and coverage of medical countermeasures in place varies between the Member States.

## 2.2. **Subsidiarity and proportionality principles**

The subsidiarity principle is satisfied as the measures the CBRN package cannot be undertaken by any single EU Member State and must therefore be addressed at EU level. Although security issues are to a large extent a national competence, there are several reasons why some of them need to be tackled at EU level:

- The root of the problem is an international phenomenon. Many of the existing security initiatives and legislation are international in character.

- A variety of security measures currently exist in the Member States. Potentially, since no internal borders exist, lower standards of security in one Member State might allow the malicious use of CBRN material in another.
- There are potential economies of scale to be generated through the identification and dissemination of good practice at international and EU level. In particular, good practice in the implementation and enforcement of EU legislation needs to be tackled at EU level.

The EU is well-placed to lead and to act as a catalyst for this cooperation, and the envisaged activities in the CBRN field are in accordance with the subsidiarity principle.

Assessment of the proportionality of a policy to combat terrorism is extremely difficult. The arbitrary and apparently irrational nature of terrorism means that its threat and consequences are difficult to predict. On the other hand, the potential negative effects of a terrorist attack using CBRN materials are significant, in terms of financial losses, longer-term economic consequences, loss of life and casualties, social disruption and overall well-being. Well-targeted and relevant action in this field to prevent such attacks from happening, to identify planned attacks and to appropriately deal with the consequences of an attack is therefore justified.

### **3. OBJECTIVES**

Given the problems identified in section 2 above, the CBRN Action Plan aims to achieve the general and specific objectives set out in Table 3.

**Table 3: CBRN objectives**

General horizontal objective						
1. To improve the EU's capacity to counter CBRN threats						
Specific horizontal objectives						
1.1 To increase effective international cooperation, coordination and dialogue on CBRN	1.2 To raise awareness and increase knowledge and information sharing on CBRN	1.3 To reduce, where possible, judicial, legal and jurisdictional barriers and constraints	1.4 To improve personnel security	1.5 To strengthen and prioritise research on CBRN	1.6 To increase awareness of security implications in funding decisions	1.7 To increase awareness of security aspects in publishing
Objectives — Prevention		Objectives — Detection		Objectives — Preparedness and response		
General	Specific	General	Specific	General	Specific	
<b>2. To increase the security of CBRN material and the safety of citizens and possible targets</b>	2.1 To prevent access to legitimately produced and used CBRN material by terrorists or other criminals	<b>3. To increase the chances of detection and identification of CBRN materials before and after terrorist incidents</b>	3.1 To improve detection and identification capacity and capability	<b>4. To reduce to a minimum the effects of terrorist incidents involving CBRN materials</b>	4.1 To improve response and emergency planning and protocols, also at EU level	
	2.2 To improve monitoring and control over CBRN materials		3.2 To develop an EU approach towards detection and identification		4.2 To develop an EU approach towards response and emergency planning	
	2.3 To improve overall awareness of the potential dangers and risks, contributing to a high 'security culture'				4.3 To ensure ongoing information flows in the event of CBRN emergencies	
		4.4 To increase the chances of finding and prosecuting terrorist and other criminals				
					4.5 To enhance national and EU countermeasures and on-the-ground response capacity	

## 4. POLICY OPTIONS

The specific impact assessment approach focuses on two main policy options:

- assessment of the status quo;
- assessment of relevant CBRN actions for the preferred policy option:

Altogether, a total of 147 possible actions are identified, of which:

- **99 actions** are considered uncontroversial;
- **34 actions** are considered potentially controversial and are assessed in detail;
- **14 actions** are considered unfeasible and are excluded from the preferred policy option.

## 5. PREFERRED OPTION

Based on the screening and detailed assessment of the different possible actions, the preferred policy option includes a total of 133 actions, organised into the four main strands: Horizontal; Prevention; Detection; and Preparedness and Response.

**Table 4: Actions by strand and type**

	<b>Horizontal</b>	<b>C</b>	<b>B</b>	<b>R/N</b>	<b>Total</b>
<b>Prevention</b>	13	17	7	21	58
<b>Detection</b>	10	1	7	2	20
<b>Preparedness and response</b>	15		3	6	24
<b>Actions applicable to prevention, detection, and preparedness/ response</b>	19	5	6	1	31
<b>Total</b>	<b>57</b>	<b>23</b>	<b>23</b>	<b>30</b>	<b>133</b>

### 5.1. Main impacts of the preferred policy option

#### 5.1.1. Financial and economic impacts

Most of the 133 actions included in the preferred policy option are expected to have low financial costs, incurred at both EU and national levels by various stakeholders and over several years. Such costs would cover, for example, studies, mapping activities, identification and dissemination of good practices, participation in networks, meetings and other events.

It is estimated that around 18 actions could have a high financial cost, for the funding of new research, the establishment of a comprehensive early warning system and capacity, putting in place security plans/security management systems for facilities and the establishment of EU-



wide testing, trialling and certification schemes for detection systems and equipment. The exact costs are difficult to estimate, as many of these actions would require further feasibility work to provide a more accurate assessment of the costs and benefits.

The expected costs of implementing the Action Plan are difficult to assess precisely, as these will depend on several factors, e.g. the length of the EU lists. It is worth noting, however, that even if the overall cost could run into several tens of millions of euros, this would be divided between different implementation levels (i.e. the Commission, EU agencies and 27 Member States) and spread over several years. While some actions would start immediately, several would only be launched as from 2011. This will provide sufficient time to adequately plan for such costs. The existing financial programmes for the period until 2013, in particular the specific programme 'Prevention, Preparedness and Consequence Management of Terrorism and other Security-Related Risks' and the specific programme 'Prevention of and Fight against Crime', will be able to offer financial support for implementation of the actions.

#### *5.1.2. Social impacts*

Most of the actions included in the preferred policy option are not expected to have serious social effects. Clearly, however, the overall positive social effect of successfully countering CBRN threats is improved public health and security, in terms of a reduction in casualties and long-term health problems, reduced levels of fear and an increased perception of safety.

Several actions would also have a positive effect on governance, as they would enhance institutional cooperation and communication, improve the organisation of information flows or help to establish protocols, etc.

Around ten of the actions could have negative social impacts. The possible negative effects concern interference with the fundamental rights to private life and to the protection of personal data. However, the content and actual implementation of the actions can be designed in such a way as to avoid these effects.

#### *5.1.3. Impacts on fundamental rights*

Potential issues in relation to fundamental rights have been identified in five of the actions. Two of these involve measures to increase security for visiting staff from third countries. These could, if not handled with care, negatively affect the non-discrimination principle and academic freedom. Background checks and vetting requirements can negatively affect the freedom to choose an occupation and the right to engage in work. On the other hand, mutual recognition of vetting procedures throughout the EU could facilitate taking up work in similar areas in other Member States.

There are also three actions that deal with notifying and reporting suspicious transactions. These might involve interference with the private lives of individuals and their right to protection of personal data. Provided that adequate protection of personal data is ensured, the content and actual implementation of the actions can be designed so as to avoid these effects.

## **5.2. Benefits of the preferred policy option**

### *5.2.1. Increasing effective international cooperation, coordination and dialogue on CBRN*

The preferred policy option will make a positive contribution towards increasing the effectiveness of international cooperation, coordination and dialogue on CBRN. Several of the actions would lead to:

- better mapping of existing international cooperation and coordination mechanisms addressing CBRN issues;
- increased cooperation with relevant agencies at international, EU and national level;
- improved identification and exchange of good practices with international, European and national partners;
- improved communication with the public.

### *5.2.2. Reducing, judicial, legal and jurisdictional barriers and constraints*

Several actions included in the preferred policy option would contribute to improving personnel security by:

- introducing common graduated criteria for background checks and vetting procedures;
- improving the identification and exchange of good practices in the area of security checks;
- strengthening management structures in CBRN facilities, so that personnel are adequately and regularly appraised and monitored.

### *5.2.3. Improving monitoring and control over CBRN materials*

The preferred policy option includes a number of actions to improve monitoring and control over CBRN materials in terms of accounting, information exchanges and reporting on threats, losses and other incidents, transport, and import and export:

- increased compliance with international obligations and use of existing monitoring and control mechanisms;
- improved licensing, registration and delivery control to ensure that CBRN substances are appropriately recorded and monitored;
- improved communication and information exchange on threat levels, thefts, losses and incidents;
- enhanced control over the transport of CBRN materials;
- increased focus on high-risk CBRN sources.

### 5.3. The EU added value

Terrorism is international in character and the EU has shared borders, allowing terrorists to move freely within the EU. The cooperation proposed by the preferred policy option ranges from the exchange of experiences and good practices in some actions to the exchange of information and intelligence with operational significance in others. These actions could all help reinforce channels for bilateral and multilateral cooperation between Member States.

#### 5.3.1. *Expected take-up among relevant stakeholders*

The expected take-up among relevant stakeholders is very high, due to the fact that all the actors that are to implement the Action Plan participated actively in its development in the course of the wide EU consultation, in particular in the CBRN Task Force.

Such an approach has ensured that all relevant stakeholders have ownership of the actions to be implemented. In order to ensure maximum take-up, the intention is to continue to build on the community established by the CBRN Task Force.

#### 5.3.2. *Holistic / framework approach at EU level*

The purpose of the preferred policy option is to create an initial horizontal framework as the starting point for targeted initiatives in the future. The choice of instrument (133 actions) is the result of a 1½ year period of consultation with experts from the Member States, Commission services, academia and industry.

An additional advantage of the single approach chosen is that it allows for synergies to be identified. Many of the actions identified as necessary by the experts are applicable to all the different materials covered — this means that similarities in methodology can be used to take certain actions forward and increase efficiency.