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NOTE

From: Presidency

To: Delegations

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Subject: EMPACT Terms of Reference

Delegations will find enclosed the Terms of Reference for EMPACT, the **European Multidisciplinary Platform Against Criminal Threats**, as agreed by COSI at its meeting on 2 October 2012 in line with action 18 of the EU Policy Cycle (doc. 15358/10).

TERMS OF REFERENCE OF THE EMPACT FRAMEWORK

1. Policy cycle

On 8/9 November 2010, the Council established the EU policy cycle for serious international and organised crime¹.

This multi-annual policy cycle aims to tackle the most important serious and organised criminal threats to the EU in a coherent and methodological manner through optimum co-operation between the relevant services of the Member States, EU Institutions and EU Agencies as well as third countries and organisations, including the private sector where relevant.

Its key features are:

- The intelligence-led approach described in the context of the European Crime Intelligence Model² (ECIM): future-oriented and targeted approach to crime control, focusing upon the identification, analysis and ‘management’ of persisting and developing ‘problems’ or ‘risks’ of crime.
- The integrated character: best using and aligning the complementary contribution of all multi-disciplinary and multi-agency actors from MS, EU agencies, relevant third countries and organizations (public and private) in a partnership approach.
- The multi-disciplinary, integrated and integral approach: addressing all levers by which the phenomenon can be influenced by using measures and actions both of a preventive and a repressive nature, as well as proactive and reactive measures, both of a strategic (trying to impact the threat) and operational (trying to impact the organised crime groups/networks and criminals) nature.

¹ Council Conclusions on the creation and implementation of a EU policy cycle for organised and serious international crime (doc. 15358/10)

² Council Conclusions on intelligence-led policing and the development of the Organised Crime Threat Assessment (OCTA) (doc. 10180/4/05)

The policy cycle consists of four steps, set out below:

Step 1

- Policy development on the basis of a European Union Serious and Organised Crime Threat Assessment³ (**EU SOCTA**) prepared by Europol that must provide for a complete and thorough picture of criminal threats impacting the European Union.

Step 2

- Policy setting and decision-making through the identification by the Council of a limited number of **priorities**, both regional and pan-European^{4 5}, on the basis of a Policy Advisory Document drafted by the Presidency and the Commission and agreed by COSI.
- COSI invites the Member States (most) affected⁶ by the different crime priorities to participate in the next steps, as set out below, in cooperation with the relevant EU Institutions and Agencies.
- For each of the priorities⁷, an ad hoc expert group drafts a four-year **Multi-Annual Strategic Plan (MASP)** under coordination of the Commission setting out the strategy to achieve a multi-disciplinary, integrated and integral approach to effectively address the prioritised threats of crime, including key performance indicators to measure achievement. COSI adopts these MASPs.
- Representatives of the MS, the EU Institutions and Agencies⁸ convert each MASP into an annual **Operational Action Plan (OAP)** per priority using the OAP template⁹ developed by Europol for this purpose in line with action 6 of the EU policy cycle and agreed by COSI.

³ SOCTA Methodology doc. 12159/12

⁴ Existing fora, including ministerial meetings, should be taken into account when cooperation with third countries and regions will support the setting and implementation of the priorities.

⁵ It is however obvious that MS maintain the possibility to start multilateral operational projects in order to face local priorities

⁶ As identified on the basis of the EU SOCTA

⁷ Each of the prioritised threats will have specific characteristics; therefore, in the MASPs and OAPs the goals and objectives defined to address that threat will differ accordingly. However, there are a number of aims which are generic when addressing any threat, in the sense that – if realised – they add value to the law enforcement approach towards them

⁸ There should be minimal changes between the representatives of Member States, Institutions and Agencies participating in the strategic goals definition and those participating in the OAP phase, although some might occur as a consequence of certain directions chosen for a specific priority. In case of change, the necessary communication flows should be insured in each MS.

⁹ Doc. 12587/3/11

These OAPs detail the actions for each goal (action 13 of the policy cycle). Some actions may address more than one strategic goal.

- COSI validates the annual OAPs.

Step 3

- **Implementation and monitoring** of annual OAPs on the basis of the MASPs.
- COSI invites:
 - the relevant Member States to integrate the actions developed in the Operational Action Plans into their national planning and to allocate appropriate resources to support the common EU approach;
 - the relevant EU Agencies to reflect the priorities and actions of the Operational Action Plans into their yearly work programmes;
 - the relevant Member States and EU Agencies to implement the **joint actions** developed in the Operational Action Plans, using the framework of the **European Multidisciplinary Platform Against Criminal Threats (EMPACT)**.
- COSI monitors the progress of the OAPs every 6 months i.a. on the basis of the conclusions of the EMPACT Coordinators meeting and is informed yearly by the European Commission, in its reporting on the implementation of the Internal Security Strategy, of the implementation of planned activities and horizontal cross-cutting issues related to the OAPs.

Step 4

- At the end of the policy cycle, a thorough **evaluation** needs to be conducted which will serve as an input for the next policy cycle.

2. EMPACT

2.1 Definition

EMPACT is an ad hoc management environment to develop activities in order to achieve pre-set goals. It is a structured multidisciplinary co-operation platform of the relevant Member States, EU Institutions and Agencies, as well as third countries and organisations (public and private) to address prioritised threats of serious international and organised crime.

EMPACT projects are the platform to coordinate and implement **all** the OAPs' **joint actions of MS and EU Agencies**.

2.2 Managing an EMPACT project

In order to run EMPACT activities in an efficient and effective manner, it is necessary for the EMPACT project group, led by the Driver to:

- start with a state of play of the crime phenomenon and of the existing initiatives to address the phenomenon;¹⁰
- if required, whenever intelligence gaps are identified in the available relevant strategic material, have Europol (or the most relevant EU Agency) formulate a focused EU Intelligence Requirement to fill the gaps;
- set tangible and measurable operational objectives/targets (Key Performance Indicators) before starting activities;
- define the roles and responsibilities of all participants;
- ensure the EMPACT activities are run within a 1 year timeframe¹¹ and are followed up in a proper manner;
- raise awareness in the MS on how the EMPACT activities are run;
- properly address interdependencies between linked priorities;
- ensure that the necessary contacts are made with relevant third countries about common objectives in the implementation of the MASP.

It is strongly recommended that MS, the Commission and the EU Agencies make specific budgetary provisions for EMPACT projects in their respective budget planning cycles.

There should be only one EMPACT project per priority which can include different sub-actions.

¹⁰ The EU SOCTA and the documents produced by the workshops defining the strategic goals/MASPs may be used as a basis or starting point.

¹¹ If appropriate, some actions could be extended to the following year.

2.3 Training

A training package on the EU Policy Cycle is developed by CEPOL.

Training activities aim at:

- increasing knowledge of the policy cycle and the role and responsibilities of relevant actors;
- better nomination of participants (right profile);
- improving the quality of the process (formulation of strategic goals and operational actions);
- better project management (reporting, communication);
- raising awareness about available EU financial resources.

Next to the theoretical part, the trainings include, whenever possible, case studies from Member States and EU Agencies demonstrating "best practices" already identified in the previous cycle(s).

The training activities take different forms, such as:

- leaflet / flyer
- e-learning module
- internal session / briefing
- formal course.

Each new EMPACT group, as a matter of priority, will attend the relevant CEPOL EMPACT training once the group has been established and before it starts its activities.

The training may also be offered to other law enforcement officers.

3. Actors involved, roles and responsibilities

3.1 COSI

Next to its role in the policy setting, implementation and monitoring of the EU policy cycle (see chapter 1), COSI will closely evaluate the implementation of EMPACT, including the EMPACT participation of Member States and other actors in order to ensure commitment and the required allocation of human and financial resources to the projects.

3.2 National EMPACT Coordinators

The “National EMPACT Coordinator” is a senior officer with strategic command who has the authority to ensure the implementation of EMPACT in his country. This person must remain fully informed and retain overall responsibility for the MS’ commitment to EMPACT.

The appointment of this person is a national competence and depends on the structure of the LEA in the MS.

The responsibilities of the National EMPACT Coordinators are vital for the success of all EMPACT projects.

The National EMPACT Coordinators have two main tasks:

- To ensure the actual implementation of the COSI decisions about the policy cycle and particularly EMPACT in their MS.

A critical success factor is the actual allocation of the required human and financial resources and the empowerment of the EMPACT participant(s) of the MS.

Therefore, each National EMPACT Coordinator has to ensure:

Before deciding to join the MASP, OAP, EMPACT project:

- That the threat is indeed a problem which deserves specific attention in his or her country;
- That the possibility to allocate the adequate human and financial resources is assessed positively;
- That the right person can be found to participate in the EMPACT project, i.e. a person having the necessary expertise, the authority to decide to take operational initiatives, the possibility to gather all relevant data to contribute to the Focal Points and to identify the right investigations/cases which are relevant to the project.

During the project:

- That the EMPACT participant has the time and the resources needed for the job;
 - That there are solid communication possibilities between himself or herself and the EMPACT participant, so that problems can be discussed and solved as soon as possible (e.g. obstruction by a higher level, lack of commitment or co-operation from other national authorities, etc);
 - That the required awareness about EMPACT is raised, including with the bilateral liaison officers posted in the targeted areas and with the judicial authorities;
 - That an objective review of the project within the MS is carried out, including giving feedback about the goals, the scope and the results of it.
- Periodic (six monthly) monitoring of all EMPACT projects' progress based on the self-reporting by the Drivers (see 3.3) and action leaders (see 3.4) and the independent monitoring by the EMPACT Support Unit (see 3.5). These six-monthly meetings of the National EMPACT Coordinators will be organised by the Presidency and facilitated by the EMPACT Support Unit hosted at Europol, to address, discuss and solve problems. This monitoring is organised on behalf of COSI and therefore the outcome of these meetings is reported every six months by the Europol Director to COSI, including recommendations on adjustment of, or discontinuing failing projects.

The National EMPACT Coordinator has an important horizontal coordination function at national level since he/she is responsible for aligning the MS' involvement and contributions to all projects in which the MS participates. In addition, he/she has to ensure that the national authorities are regularly informed on all EMPACT projects, including those in which the respective MS does not participate.

3.3 EMPACT Project Driver and Co-Driver

A representative of the leading Member State¹² chairs the EMPACT group. That person needs to have sufficient skills and competences to lead an EMPACT project. It is important to consider the time demands which such a role will entail.

A strong leadership by the Driver is the most important success factor for an EMPACT project. The professionalism, dynamism and enthusiasm of the Driver, certainly when strongly supported by his or her own organisation, makes all the difference.

It is the responsibility of the Driver:

- to draw up, together with the EMPACT project group, the OAP
- to implement, together with the group, the OAP;
- to execute or delegate the management/leadership of a specific action (the OAP action leader);
- to organise and chair periodic follow-up meetings of the group;
- to keep close contacts with participating Member States and Agencies on the integration of the actions developed in the OAPs into their national planning and the Agencies' yearly work programme;
- to report about the progress of the project to the EMPACT Support Unit, covering the joint actions, the Agencies' actions and Member States' actions;
- to take into account the relevant cooperation with third countries and organizations.

It is not obligatory for each project to have a Co-Driver. However, sometimes the Driver's commitment is motivated and influenced by his or her national perspective, and this can be balanced by the Co-Driver. This co-driver can be a representative of a Member State or an EU Agency. Moreover, the Co-Driver can replace the Driver in case of his or her absence and therefore has to meet the same requirements.

¹² The leading MS as decided by COSI, based on the Europol's SOCTA recommendations

3.4 EMPACT Project participants

The success of an EMPACT project highly depends on the expertise and commitment of the individual project members.

It is crucial that:

- the project participant is a competent expert;
- there are communication possibilities between the competent national authority (e.g. Police Chief, Chief Prosecutor, Customs Director) and the participant, so that problems can be discussed and solved as soon as possible (e.g. obstruction by a higher level, lack of commitment or co-operation from other national authorities);
- the participant is supported by his/her management to follow up at national level on what was agreed during the meeting;
- there is continuity in the participants, who take the learning back home and use the experience. If the participant has to be replaced in exceptional cases, he/she has to make sure that his/her successor is fully briefed about the project's past;

and, with the support of the National EMPACT Coordinator, the project participant:

- is in a position to ensure proper implementation through the competent authorities (being able to steer operations, to collect the relevant information about ongoing investigations and send it as contribution to the Focal Point, to start operational initiatives, etc) and
- can engage the required human and financial resources.

Project participants can be appointed as action leader on a specific action.

3.5 EMPACT Support Unit

The EMPACT Support Unit is established at Europol and composed of Europol staff and of, at least, one member seconded by the Trio Presidency for 18 months (Seconded National Expert). On terms to be agreed between a Member State and Europol, additional experts may be seconded.

The EMPACT Support Unit has two main tasks:

- **Administrative and logistical support** to the EMPACT projects facilitating the tasks of the Drivers, including:
 - supporting a new EMPACT group when drafting the OAP;
 - supporting the Driver when preparing the agenda for the strategic and operational project group meetings¹³;
 - drafting of meeting invitations;
 - drafting of meetings minutes;
 - providing supporting documentation;
 - providing methodological project support;
 - to support MS when trying to acquire funding for EMPACT projects from different sources;
 - acting as permanent depository for the OAPs that can be consulted to check the status of the activities;
 - ensuring regular contact and liaison with the Drivers;
 - ensuring regular contacts and information with concerned EU Institutions, Agencies and bodies;
 - briefing new participants on the project;
 - maintaining a network so that e.g. new Drivers can contact previous ones to learn about their experience.

- To **monitor** the EMPACT projects' **progress**:
 - coordinating, supporting and aligning the progress reports by the EMPACT drivers;
 - submitting these reports for discussion in the six-monthly meeting of the National EMPACT Coordinators;
 - evaluating the progress with a view to formulating proposals to adjust or even discontinue failing projects;

encourage and facilitate communication and collaboration between the crime priorities having common goals and/or interdependencies.

¹³ Since January 2011, operational meetings for ongoing/future operations/investigations can receive financial support from Europol for the travel and accommodations of participants. Meetings of an EMPACT group can fall within the scope of this definition and can thus benefit from financing by Europol (For details, see document “Financial support for meetings of the Operations Department”, approved by the Europol Management Board on 08/12/2010 –

3.6 EMPACT Project Support Manager

Each EMPACT group is to be supported by a designated Europol official who should act as the EMPACT Project Support Manager, especially regarding the operational co-operation issues such as the effectiveness of the information and intelligence flow. Ideally, this designated Europol official is the Project Manager of the concerned Focal Point or a senior expert with sufficient expertise in the concerned area at Europol.

In close contact with the Driver, the EMPACT Support Managers should:

- bring their expertise and advise on the project, and present the overall crime picture according to intelligence-led findings at Europol;
- contribute with concrete cases to the EMPACT project;
- be proactive and help to steer and facilitate the process;
- support the group by making available a state of play of the crime phenomenon and of existing initiatives to address it;
- support, in close cooperation with the SOCTA team at Europol, the sending out of intelligence requirements where necessary;
- be proactive in establishing direct contacts with the relevant investigation teams¹⁴;
- not be reluctant to address MS who fail to deliver to the Focal Point;
- maintain a close contact with the Driver and Co-Driver.

In this context, Europol will elaborate a set of minimum requirements for EMPACT Project Support Managers.

¹⁴ published on 16/12/2010)
Using the direct contact possibility of Art. 8.2 ECD, once the EMPACT participant together with the HENU agreed on this possibility

3.7 EU INSTITUTIONS, BODIES, AGENCIES AND RELEVANT THIRD PARTIES

All relevant EU Institutions, bodies and Agencies (e.g. EUROPOL, EUROJUST, FRONTEX, CEPOL, OLAF, EMCDDA and EMSA) should fully play their respective roles aiming at a genuine inter-agency approach with all relevant actors, in particular Eurojust in its capacity as the EU judicial coordination unit. Also relevant cooperation with third countries and organisations, in particular Interpol, should be taken into account to encourage closer cooperation and avoid duplication.
