Council of the European Union

NOTE

From:	United Kingdom and French delegations
To:	Delegations
Subject:	Data and Information Sharing

At the meeting of the 34th Franco-British Summit, held in Amiens on 3 March 2016, France and the United Kingdom agreed an ambitious bilateral cooperation agenda which aims at deepening their strategic partnership.

Following the terrorist attacks that hit France and the United Kingdom hard in 2015, our two countries reaffirmed their intention to continue and intensify their police cooperation, enhancing exchanges of information between their internal security forces and their intelligence services and making full use of existing bilateral, European and international instruments.

In addition to the formal Conclusions of the Summit and the Annex on Counter Terrorism, Minister Cazeneuve and Home Secretary May agreed to put the attached non-paper on to the 10 March 2016 Justice and Home Affairs Council.

UK-France Joint Paper: Data and Information Sharing

Recent terrorist attacks demonstrate the global reach and threat posed by Da'esh.

We underline our determination to combat this threat through a strong yet proportionate national and international response.

As well as working with our international partners, we must also seize the opportunity for action both to enhance security and step up joint efforts to combat Da'esh and other terrorist groups.

The agreement of the PNR Directive is a huge step forward, but those determined to harm us will continue to make use of all available routes and means, including using alias identities, to conduct attacks inside the EU.

Additional measures and new steps are needed. All Member States must ensure that they fully operate the Prüm system for the exchange of fingerprints, DNA evidence and vehicle registration information as soon as possible.

Information and effective information sharing are our first line of defence in a world of increasingly mobile threats. Within the EU there is a plethora of data-sharing mechanisms and the landscape is complex: we must focus on using existing data as effectively and 'smartly' as possible, with respect for the principles of data protection, to stay ahead of the threat, particularly at the external border.

Building on the European Council Conclusions of 17 and 18 December 2015, which stressed the urgency of enhancing information sharing, we propose the following steps:

Security of the External Border

- The December European Council Conclusions called for **systematic entry of data on foreign terrorist fighters into SISII**. As we increase the information that is held on SISII, it is also vital that it is used consistently and to best effect across all Member States. We welcome the discussion at the 8 March SIS/SIRENE Working Group on best practice on the use of Article 36(3) alerts. We call on the Presidency and Commission to:

  (i) For the Presidency to ensure urgent and thorough follow-up to the 08 March SIS/SIRENE Working Group discussion on Article 36(3) alerts.

  (ii) For the Commission to update the SIRENE manual/Schengen handbook as soon as possible to reflect best practice on Article 36 (3) alerts, in line with on the working group discussion.

  (iii) For the Counter-Terrorism Coordinator to report to the COSI senior officials' meeting on implementation by Member States of the call for systematic entry of data on foreign terrorist fighters into SISII.

- The absence of any requirement to record expulsion or removal decisions on SIS creates a gap that terrorists and criminals can exploit. **We urge the Commission to bring forward quickly proposals to make the recording of alerts under Article 24(3) of Regulation 1987/2006 mandatory.**

- The Commission could examine the possibility to facilitate the **effective and reciprocal sharing of information between Schengen and non-Schengen States as concerns refusals of entry, removals and visa revocation** (particularly as concerns criminal acts). In 2014 alone the UK removed over 40,000 third country nationals in 2014, including over 5,000 foreign national criminals. This information would clearly be of use to Schengen States in making immigration decisions and ensuring that individuals who pose a threat to our citizens are denied entry to the EU.

- **We call for more comprehensive and effective use of the Interpol Stolen and Lost Travel Document database**, in particular by systematically contributing data, connecting to it, and using the database proactively at our borders and when making decisions on whether to grant a visa. We also call for the full use of SIS II alerts under Article 38 of Council Regulation 2007/533/JHA.

- To better detect and capture criminals **we must ensure that SIS II makes the most effective use of fingerprint data**. We are pleased that the Commission has now published the report envisaged in Article 22(c) of Regulation 1987/2006, on the use of fingerprints to identify an individual on the basis of his or her biometrics, and is consulting the European Parliament on it. Member States that are able to compare fingerprints in SIS alerts against their national records should be encouraged to do so without being required to wait for the development of an EU-wide Automatic Fingerprint Identification System for SIS.

- Member States' security services already work closely together to combat the terrorist threat and the Members of the CTG committed in 2015 to going further still in enhancing their cooperation. In this regard **we are fully supportive of the ground-breaking CTG initiative to establish a multilateral information exchange platform**.

- Whilst national security is the sole responsibility of the Member States, we support the creation of the new Europol CT Centre and will continue to support Europol in its CT related tasking under its law enforcement mandate. In order to optimise results, **we call on the ECTC to prioritise the following activities:** TFTP, IRU, Firearms, Focal Point Travellers. The Committee on Internal Security should review progress on the work of the ECTC before the end of the Dutch Presidency.

Interoperability

- We call on the Commission, with the support of Member State experts, urgently to consider presenting a proposal to reform the Eurodac regulation in order to enable an easier access for security purposes as well as the possibility to keep datas in category 2 for a period longer than 18 months.

- We also call on the Commission, with the support of experts from Member states, to examine as soon as possible the possibility to make the relevant European databases systems more interoperable**.**

Criminal Records

- We encourage Member States make progress in considering we can deliver the aim of the **systematic sharing of criminal records data for people connected to terrorism and serious and organised crime**. This will need to happen on a routine basis, enabling Member States to use the information to prevent further terrorist attacks or other serious offences. We call on the Presidency to schedule a working discussion about the most appropriate mechanism.

- **We support the proposal by Poland to lead a group to look in greater detail on mechanisms for tackling serious mobile EU criminality.** We consider that the group should prioritise looking at the systematic sharing of data on serious and organised criminals and terrorists, in line with the helpful findings of the UK-led SOMEC project. The SOMEC report should be used to guide EU action in this area.

Passenger Information

- Following the agreement of the PNR Directive, we must now ensure rapid implementation across the EU. It is vital that we build national systems that are capable of sharing, processing and operationalising passenger name records. As we establish our operational systems, we must also ensure that, wherever possible, these systems are interoperable. The UK and France stand ready to share their technical expertise and to support our colleagues in other Member States.

- In addition, we should now take the opportunity to **look again at Directive 2004/82 on the communication of passenger data**, agreed following the 2004 terrorist attack in Madrid, to assess whether it meets current requirements. We urge the Presidency to table a discussion at Working Group level.

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