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NOTE

From: BE, DK, DE, ES, FR, NL, PL, UK delegations

To: Delegations

Subject: Foreign fighters: Conclusions of the meeting of Ministers of Belgium, Denmark, France, Germany, Poland, Spain, the Netherlands and the United Kingdom, held on 7 July 2014 in Milan

As requested by the Belgian delegation, delegations will find attached conclusions drawn at the meeting of Ministers of Belgium, Denmark, France, Germany, Poland, Spain, the Netherlands and the United Kingdom held on 7 July 2014 in Milan.

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1. On 5 June 2014, Ministers for Home Affairs of the EU countries most concerned by the issue of foreign fighters in Syria met again to discuss the issue, more particularly in the light of the killing in the Jewish Museum in Brussels on 24 May 2014.
2. The discussion took place on the basis of draft conclusions focusing on sharing of information within EU/Schengen countries. It was agreed that an expert meeting should be convened within the next 2 weeks to discuss these draft conclusions further if necessary and to make progress on the implementation.
3. The expert meeting took place on 18 June 2014 in Brussels. Tasks had been divided beforehand and documents were produced by various delegations to facilitate the discussions.
4. During the meeting in Milan on 7 July 2014, the Ministers or their representatives of Belgium, Denmark, France, Germany, Poland, Spain, The Netherlands and The United Kingdom approved the following results.

A. General approach

5. Based on the information on the main suspect, the killing in the Jewish Museum in Brussels is not only the first attack committed in the EU by a terrorist having fought in Syria. It is also an attack committed in one EU State by the national of a second EU State entering the Schengen area in a third EU State: it therefore highlights the challenges in terms of sharing of information and tracking the movements and travel of the individuals concerned.
6. The different existing tools for information exchange have been discussed at length before and are already used in practice. The objective is to increase the common approach in the use of these tools in order to improve our cooperation. It is also essential to avoid a fragmentation and duplication of efforts given the number of tools and channels involved. The objective is to bring all these tools and channels together in a coherent approach.
7. As was clearly indicated from the very beginning, the objective of this group, as far as EU issues are concerned, is to work as a pioneer group and to feed the EU level. This is even clearer for many issues discussed below where measures throughout the whole EU or Schengen area are necessary. Close cooperation with the new trio of Presidencies and with the Commission is therefore crucial. It is also important to involve the European Parliament and make MEPs aware of the challenges we face and the need for EU measures.

8. The work of the Counter Terrorism Coordinator remains essential, as has been demonstrated by his proactive action in this file from the very beginning and in particular to ensure the links between the external and internal dimension.
9. Ministers taking part in this group agree on the need to follow this file closely and make sure that our cooperation is optimal. It is important to note that a few delegations have doubts as to the level of details of some of the issues reflected in this document and are of the opinion that some aspects should be left to the intelligence services. However, what is important is that all participants agree on the fact that the issues discussed here need to be tackled.
10. This paper insists on the systematic transmission or sharing of information (see §§ 12, 26 and 28). The use of the word “systematic” is important to reflect the need for clear and agreed procedures leading to an optimal structural exchange of information. It is however important to underline that the notion of systematic transmission of information does not exclude that there is an evaluation on a case by case basis to ensure that the transmission is in accordance with national law. Therefore, it does not imply the transmission of lists of individuals nor the automated selection and transmission of personal data.

B. Schengen Information System

11. **Insertion of alerts in the SIS:** the participants in this group will continue to make sure that, for Member States taking part in the SIS, competent national authorities systematically insert alerts in the Schengen Information System in relation with the issue of foreign fighters that are necessary and within the framework of national and EU legislation. The criteria contained in Annex I will be seriously taken into consideration in this regard.
12. **Additional information in relation to SIS alerts:** SIS alerts will give indication on the link with jihadist terrorism. It will be based on the addition of “related marks” in alerts referred to in Article 36.2 and 36.3 of the SIS II Decision. A distinction between two categories of individuals will be made depending on the threat they are assessed to pose. The related marks will also make it possible to clearly indicate that the person is subjected to a prohibition of travel abroad. A pragmatic solution will need to be found together with the Commission to implement this within the current legal framework. A further improved solution will be developed in the longer term if necessary through legislative work. See Annex II for explanations of the proposed solution, to be further discussed by SIS experts regarding details of implementation.

13. **Reaction in case of a detection through the SIS (“hit”):** the additional information mentioned above and related to two categories of individuals in the SIS is to facilitate the follow up in the case of a hit. An urgent warning message emphasizing the link with jihadist terrorism will be sent immediately to the State which has inserted the alert. For the category related to the most dangerous individuals, that information will in every instance be immediately accompanied by a phone call between the two States involved to decide on the immediate measures to be taken. For this category, all Schengen countries will also be informed of the hit by the State which has inserted the alert. See Annex II for further details. The Schengen Manual will be updated to reflect these procedure.

C. Border controls

14. The SIS can only be efficient if adequate controls take place at the external borders of the Schengen area and lead to the consultation of the SIS database.
15. Participants of this group will continue to make sure that information and intelligence related to patterns in the movements of foreign fighters is communicated to border guards, in accordance with national law, and that border controls practices are adapted accordingly.
16. But it is also necessary to make sure that such checks are taking place in other Schengen States because any of them – even if not directly affected by the phenomenon of foreign fighters - can be the point of entry or exit in or out of the Schengen area. An expert meeting will be organised in Berlin after the summer to bring together experts in movements of foreign fighters and experts in border controls, together with EU IntCen, Frontex and Europol. The meeting will aim at sharing practices, identify possible ways to improve the cooperation and decide on the feasibility and necessity of EU guidelines in this sector.
17. Furthermore, it should be mandatory or at least possible to have a systematic consultation of the SIS database for EU nationals and other persons enjoying the freedom of movements at external borders and insist on the fact that technology makes this possible without creating additional delays or formalities at borders for EU nationals. The participants in this group intend to bring this debate to the EU level and to invite the Commission to submit any appropriate proposal to amend the relevant legal provisions.

D. Use of PNR Data

18. While recognising the sensitivity of the issue reflected in the debate taking place in some of their countries, the Ministers of this group emphasize once again the necessity of the systematic collection of and exchange of information regarding PNR data which are key to detect and track the movements of foreign fighters, including in combination with the SIS.
19. The Ministers will continue to insist on the importance of the EU PNR Directive and the need to reactivate the negotiation now that a new Parliament has been elected.
20. Given the uncertainty about the timing for the finalisation of the negotiation of the EU PNR Directive, the participants in this group insist on the need to step up the cooperation between the relevant countries with regard to the use of PNR systems where they exist. The participants also stress the necessity of the interconnectivity of national PNR systems while we await completion of the negotiations on the EU PNR Directive. The NL/FR initiative on this interconnectivity is therefore an important instrument in ensuring cooperation between the relevant Member States in support of which the Commission has reserved funding that will be available sometime between this autumn and early 2015.
21. It is essential that Member States come to a mutual understanding on the exchange of passenger data. To this end, a statement of intent must be adopted by the competent Ministers, affirming the intent to mutually exchange passenger data within the possibilities of the national legal frameworks of each participating Member State. The participants agree that the draft of such a statement of intent will combined with the NL/FR initiative on the interconnectivity that is needed to exchange passenger data between Member States. The basic principles of a statement of intent for agreement is found in Annex III.
22. With regard to the EU Directive as well as with regard to national PNR systems, it is important to recall that movements from or to the EU as well as movements within the EU are important.

E. Europol focal point on terrorist travel

23. The new focal point on terrorist travel recently opened at Europol offers important possibilities in terms of analysis of information.

24. The Ministers regret that it has taken so much time to open the focal point and consider that more efficient procedures need to be in place to react urgently in the face of such emerging threat.
25. They confirm that most countries taking part in this group have already decided to take part in the focal point. Those taking part in the focal point will make sure that, in accordance with national law and taking into account the protection of confidential information, law enforcement information falling into the remits of the focal point will be systematically transmitted to the focal point. Criteria contained in Annex I will be seriously taken into consideration to determine the type of individuals for which information will be transmitted to the focal point.
26. The Ministers also insist on the need to ensure that information collected through intelligence activities is shared with law enforcement authorities, taking into account national law, the protection of confidential information and other limitations (such as the fact that the information was transmitted by a third party). Keeping these limitations in mind, they will make sure that adequate information collected through intelligence activities and which can be shared with law enforcement authorities is transmitted to the Europol focal point.

F. Sharing of information

27. The participants in this group agree that there is a need for proactive sharing of information on foreign terrorist fighters instead of only relying on a “hit/no hit” approach. They will make sure that the cooperation in this field includes systematic sharing of identities of individuals with the other members of this group through intelligence and/or law enforcement channels and in accordance with national law, in addition to the exchange of information through the SIS and Europol referred to above. In determining the categories of individuals whose identities will be shared, the participants in this group will make sure that serious consideration is given to the criteria contained in Annex I.

G. Cooperation with third States

28. The Ministerial meeting of 5 June and the expert meeting of 18 June have focused on intra-EU/Schengen issues of sharing of information. Yet it is essential to keep working in parallel on the cooperation with third States.

29. The CTC produced a document on the cooperation with Turkey for the meeting of 5 June in Luxembourg: an expert meeting will be organised in July to discuss it and make concrete progress.
30. An expert meeting will also be organised with the United States to share experiences and discuss the exchange of information.

H. Communication and counter-narrative

31. The participants in this group strongly support the establishment of an EU Strategic Communications Advisory Team which would support Member States in developing targeted campaigns tailored to their needs submitted for financial support to the European Commission under the Internal Security Fund.

I. Internet

32. Internet and social networks facilitate the radicalisation and recruitment of individuals to go and fight in Syria or other jihadi area of conflict.
33. The group welcomes the initiative by the UK to organise an expert meeting after the summer on this issue. The UK will present their approach and the objective will be to share experiences, such as with the 'European Joint Initiative on Internet and Counterterrorism (EJI-ICT)' project led by The Netherlands and to identify areas where cooperation with the industry can be improved.
34. A meeting of Ministers together with representatives from the industry will be organised in the margins of the JHA Council in October to discuss these issues.

K. Follow up

35. While this group has always worked on an informal basis and intends to keep it this way, the expert meeting of 18 June has demonstrated the usefulness of having a Task Force to discuss strategic issues, prepare the ministerial discussions and ensure the follow up. This Task Force will not deal with operational work.
36. This Task Force will meet depending on the needs. Its first task will be the monitoring and evaluation of the implementation of this document.

Indicative criteria to be taken into consideration regarding exchange and sharing of information on individuals involved in travelling to and from jihadi areas of conflict

Any transmission and sharing of information about the individuals referred to below is submitted to limitations and safeguards provided in national law.

1. known to have the intention to leave the territory of a Member State to reach a jihadi area of conflict (such as Syria)
2. known to have left the territory of a Member State MS to reach a jihadi area of conflict (such as Syria) and in transit within the Schengen area
3. known to have left the territory of a Member State to reach a jihadi area of conflict (such as Syria) and in transit outside the Schengen area
4. known to have reached a jihadi area of conflict (such as Syria)
5. known to have the intention to leave a jihadi area of conflict (such as Syria)
6. known to be on his/her way back from a jihadi area of conflict (such as Syria) and in transit within the Schengen area
7. known to be on his/her way back from a jihadi area of conflict (such as Syria) and in transit outside the Schengen area
8. known to be back to stay or in transit in a Member State that is not his/her country of departure
9. known to be back to stay or in transit in a Member State that is his/her country of departure
10. known to be engaged in facilitating the activities of the 9 first types of individuals
11. known to have failed (resulted in arrest, KIA)
12. known to have voluntarily cancelled their travel/intent to join battle

Better use and functioning of the SIS

It is necessary to better identify alerts on foreign fighters by adding 2 new « related marks » in Art. 36(2) and 36(3) Alerts (discreet surveillance).

These new categories would be added to the 3 existing categories (armed, violent, escaped). It would be up to Member States to change their national system so as to implement this evolution (systematic feeding from the national file of wanted persons or manual addition in the “related mark” by the Sirene Bureau).

The objective of these « related marks » is for SIRENE bureaux to identify immediately alerts on foreign fighters and to apply the following actions which could be inserted in the catalogue of Schengen good practices.

The proposal is described in the table below. Exact wording will need to be fine-tuned.

The Presidency and the Commission will be invited to launch work urgently, with full cooperation of this Group, so that this proposal can be implemented without delay.

<i>Level of sensitivity</i>	<i>Action before the encounter</i>	<i>Action after the hit</i>
<i>Person who may travel to Syria / lower level of threat</i>	<i>Addition of the related remark</i>	<i>A warning message is sent to the State which has inserted the alert, under the usual forms.</i>
<i>Person intending to travel to Syria, in transit, already in Syria or coming back ; person subject to a prohibition to leave the territory / higher level of threat</i>	<i>Addition of the related remark Diffusion/circulation to all SIRENE bureaux of information related to movements of these persons and communicated by the service which has requested the alert</i>	<i>An urgent message is sent to the State having inserted the alert Immediate contact between the SIRENE bureau and the service which has requested the alert <input type="checkbox"/> that the latter can take appropriate measures Circulation of the information</i>

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		<p><i>on the encounter by the Sirene bureau of the State which has inserted the alert to all Sirene bureaux</i></p>
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**PUBLIC SAFETY AND PASSENGER DATA:
STATEMENT OF INTENT**

The competent Ministers of [Belgium, France, Poland, Spain, The Netherlands, The United Kingdom]

DESIRING to prevent and combat terrorism and other threats to public safety effectively and comprehensively;

SEEKING to enhance and encourage the cooperation between Member States;

RECOGNISING the right and responsibility of each Member State to ensure the security of their citizens and protect their borders;

CONVINCED that information sharing is an essential component in the fight against terrorism and serious crime

AND

that the threat to our citizens from terrorism, particularly the threat from foreign fighters, gives rise to the necessary and proportionate requirement for the systematic collection and use of passenger data to help detect, track and intercept individuals, including those travelling to and from areas of conflict;

TO THIS END propose to come to a joint STATEMENT OF INTENT setting out shared principles for the purpose of analysing, using and exchanging passenger data between Member States to be agreed on by willing and able Member States.

Such a STATEMENT OF INTENT should reflect, but not be limited to, the following principles:

(i) in the absence of EU legislation on the use of all passenger data, the exchange of passenger data between Member States should use existing national, bilateral and EU frameworks to their full extent now for the exchange of information for law enforcement purposes without prejudice to future legislation;

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(ii) the exchange and subsequent processing of passenger data between Member States must be done on a case-by-case basis and will be subject to existing national and EU data protection legislation;

(iii) existing secure technical infrastructure should be used to exchange passenger data;

(iv) the equal importance of data relating to journeys to, from and within Europe;

(v) Member States should cooperate in the sharing of best practice to ensure a targeted, proportionate response to the threats they face;

AND

IN CONCLUSION Ministers agree on the urgent need to maintain calls for an EU legislative framework for the use of passenger data with the purposes of the prevention, detection, investigation and prosecution of terrorist offences and serious crime and for the security of our borders.
