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from: Working Party on Eastern Europe and Central Asia
on: 2 December 2002
to: Coreper/Council

Subject: Relations with Ukraine:
- Draft Council report to the European Council on the implementation of the
Common Strategy of the European Union on Ukraine

1. When it adopted the Common Strategy on Ukraine in December 1999, the European Council asked the Council to examine and evaluate Union action in the framework of this Common Strategy and to report to the European Council at least once a year on the progress made in achieving its objectives.
2. This report was drafted by the Working Party on Eastern Europe and Central Asia (see Annex).
3. Subject to confirmation by the Permanent Representatives Committee, the Council is invited to approve this report so that it can be forwarded to the European Council.

**DRAFT IMPLEMENTATION REPORT ON THE APPLICATION
OF THE EU COMMON STRATEGY TOWARDS UKRAINE**

The Common Strategy for Ukraine, adopted by the European Council of Helsinki in December 1999, establishes in section 46 that the Council will review and assess the EU's actions and inform, at least once a year, on the progress made in the fulfilment of its goals.

The aim of this Implementation Report is to report on the work carried out in the framework of the Working Plans that the Spanish and Danish Presidencies submitted to the Council on January 28th 2002 and on 22-23 July 2002 respectively.

Contribute to the consolidation of democracy, rule of law, public institutions and respect for human rights.
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During the first semester of 2002, the European Union has paid special attention to the development of the electoral campaign and to the democratic and pluralist celebration of parliamentary elections last March 31st. This special follow-up has been reflected in the important European participation in the international observation missions dispatched to this end.

Freedom of the media has been another point of concern for the EU. In this regard, a démarche before Ukraine's authorities has been carried out concerning the problems related to the initiative "Public Radio" project. In November 2002 another démarche was carried out concerning the media. The EU voiced its concern about the deterioration of the media situation and urged the authorities to conduct a transparent and efficient investigation into the deaths of journalists Gongadze and Alexandrov. There has as yet been no satisfactory response from the Ukrainian authorities to the EU's request.

At the EU-Ukraine Summit on 4 July 2002, it was agreed that the strengthening and stability of institutions guaranteeing democracy, rule of law and market economy is of vital importance for Ukraine's development and for an intensified relationship with the EU. The EU expressed its strong support for the stated commitment of the Ukrainian authorities to strengthening the judiciary, and to respect for freedom of the media, human rights and civil society, and it was agreed that EU assistance in these areas should be intensified. However, Ukraine's commitments need to be followed up with concrete action.

It is to be noted that in the multiple dialogue meetings, Ukrainian interlocutors have been informed of the position of the European Union concerning the electoral and media issues. The EU has furthermore stressed that a reinforced partnership with Ukraine must be based on common democratic values, most recently in EU-Ukraine Troika meetings in October and November 2002 at the level of Political Directors and State Secretaries.

The TACIS programme continues to provide resources for the implementation of technical assistance programmes and projects in the fields of judicial system reform, strengthening of key public institutions, training of civil servants and support to civil society.

Supporting the process of economic and social reforms, including support for Ukraine's integration into the European and World economy. Strengthening of regional and cross border co-operation.

Implementation of the Partnership and Co-operation Agreement (PCA) and WTO accession remain a high priority. Legislative approximation is a key element in PCA implementation and essential to facilitate economic and trade relations, to support structural reforms and to improve the investment climate. Legislative approximation is supported through the TACIS funded Ukrainian-European Policy and Legal Advice Centre, UEPLAC. In 2002 it was decided that the UEPLAC should assist Ukraine in drawing up a scoreboard for legislative approximation in order to prioritise effectively. A preliminary analysis has been developed.

In addition, the EU and Ukraine have co-operated on:

- gradual elimination of bilateral trade irritants,
- preparation of accelerated settlement procedures for disputes arising under the PCA
- implementation of the science and technology agreement.

Negotiations on WTO accession continue in parallel.

The EU has been supporting substantially the STCU (Science and Technology Center in Ukraine) and hopes that Ukraine will prepare the factual and legal ground for a fruitful continuation of this joint project.

In March 2002, regional and cross-border co-operation was endorsed as a priority for co-operation under the PCA. The EU has consistently reaffirmed the importance of regional development and supports this process through its assistance programmes, in particular the Tacis Regional and Cross-Border co-operation programme.

The EU, represented by the Presidency and the Commission, has attended as observer the Sixth Meeting of MFAs of the Member States of the Black Sea Economic Co-operation organisation, held in Kiev on April 25, 2002.

Support measures to the economic reforms have continued by means of technical assistance provided by the TACIS programme. The EU in July approved an exceptional macro-financial operation for Ukraine worth 110 MEURO (including remaining 92 MEURO from previous operation, and subject to a pending arrangement between Ukraine and the IMF).

Relations between the EU and Ukraine in the field of Justice and Home Affairs, JHA, entered a new phase early this year. The adoption, in November 2001, of the EU Action Plan for co-operation with Ukraine in the field of Justice and Home Affairs highlights our mutual interest in widening our co-operation and further co-ordination of our efforts in the area of JHA.

The co-operation fields envisaged in the Action Plan are the following: Migration and Asylum; Border Management and Visas; Organised Crime; Judicial and Police Co-operation: Strengthening of Justice and the Rule of Law.

The Working Plan of the Spanish Presidency for the implementation of the Action Plan on Ukraine in the JHA field, has aimed to tackle all co-operation areas, being based on three main pillars: 1) adoption of the scoreboard; 2) holding of bilateral meetings in Troika format with senior officials working in the areas of migration and asylum, borders and visas, organised crime and judicial-police co-operation, and 3) furthering of the works carried out in Sub-Committee IV¹, in order to continue developing practical co-operation in the JHA field that will allow the fulfilment of the goals of the strategic partnership.

The most novel aspect of the Action Plan compared to those adopted with other third countries is that, for the first time, a scoreboard has been adopted. It will be a tool for implementation, evaluation and definition of annual priorities.

Concerning the rest of activities envisaged in the Working Plan, the following are to be noted:

On Migration and Asylum, a mandate for the negotiation of an EU-Ukraine Readmission Agreement was adopted by the Council on 13 June. The first round of negotiations took place in Kyiv on 18 November.

The EU, through TACIS financing, will continue providing its support, financing and technical assistance to the creation of infrastructures and training of border and customs police, with the aim of guaranteeing the security of borders as well as a continued flow in the borders' cross points.

The dialogue in the field of visas continues with the aim of improving the proceedings for visa issuing and clarification about the Schengen acquis.

With regard to organized crime, efforts are focused on the development of an integral system for border control in Ukraine and on the establishment of mechanisms for police and judicial co-operation, through greater interaction of Ukrainian authorities with EUROPOL and EUROJUST. These authorities have been given a list of Conventions concluded by the Council of Europe in the field of fight against organised crime, corruption and judicial co-operation, the ratification of which are considered very important by the EU.

¹ Sub-Committee on Customs, Cross-Border Co-operation, Justice and Home Affairs

There is ample space at bilateral level between Ukraine and the EU to continue co-operating in the adoption and implementation of measures in the fight against terrorism. Ukrainian authorities have recently ratified 1999 UN Convention against the financing of terrorism and, at their proposal, it has been decided to include, on a permanent basis, the treatment of terrorism issues in the framework of the IV Sub-Committee of the PCA.

On 11 November 2002 the first ever-joint Ministerial meeting on Justice and Home Affairs was held in Brussels. Ministers confirmed that priority should be assigned to readmission and migration, border management, money laundering, trafficking in human beings, drugs as well as corruption. Furthermore, focus should also be on preventing and fighting sexual exploitation of children and child pornography. Co-operation also includes the fight against international terrorism.

Ministers of Justice and Home Affairs reconfirmed their commitment to developing a system of efficient and comprehensive border management on all Ukrainian borders. They agreed to intensify dialogue on visa issues and welcomed the start of the readmission negotiations. The importance of the rule of law, access to justice, the independence of the judiciary and good governance was underlined. Ukraine was invited to participate in the European judicial Network seminar in Denmark on 2-3 December. The EU called for the ratification by Ukraine of Council of Europe Conventions on Corruption.

It was agreed to increase co-operation to combat terrorism, including co-operation to reinforce the role of the UN and on eradicating the source of financing of terrorist activities. With regard to money laundering, the EU has reiterated the need for Ukraine to enact the comprehensive legislation that meets demands by FATF and has noted the recent adoption of legislation to this end. The European Union has expressed its willingness to assist Ukraine in establishing systems and procedures to combat money laundering, and the EU TACIS programme aims to support Ukraine in this regard.

Supporting strengthened co-operation between EU and Ukraine within the context of EU enlargement.

The Council in April 2002 had a first discussion of a common EU policy towards the new neighbours of the enlarged European Union. The EU agrees that the enlargement represents an important opportunity to develop relations with its Eastern European neighbours: Ukraine, Moldova and Belarus. The New Neighbours Initiative has the objective of promoting democratic and economic reforms, sustainable development and trade, thus helping to ensure greater stability and prosperity at and beyond the new borders of the Union. The Initiative will be based on a differentiated approach taking into consideration each country's distinct political and economical situation, potential and aims.

The initiative was discussed again in the Council in September. In November the Council asked the Commission and the High Representative to prepare a more detailed proposal on how to take the initiative further.

In relation to Ukraine, the EU has made clear that progress in bilateral relations will be based on shared political and economic values. Accordingly, development of EU-Ukraine relations will move forward if Ukraine actively implements reforms and respects its international commitments and common values notably in the fields of democracy, the rule of law and human rights.

Continue co-operation and dialogue with Ukraine in the ESDP field. Strengthening stability and security in Europe and beyond.

During the Spanish Presidency the EU has established new “arrangements for consultation and co-operation between the European Union and Ukraine on crisis management”, which will facilitate the involvement of Ukraine in EU crisis management, including military operations. This work is based on the conclusions of the Nice European Council and of the EU-Ukraine Summits of Paris and Yalta and it is to be seen in a broader context of the Union's evolving relations with third countries in the field of security and crisis management.

These arrangements include modalities for consultation with Ukraine in both non-crisis times as well as in period of crisis. In the case of an emerging crisis, the arrangements foresee an intensification of dialogue and consultations in order to ensure mutual information on their respective positions. In case of an EU-led crisis management operation, and following an EU Council invitation for Ukraine to participate, modalities for Ukrainian involvement are elaborated.

It is to be noted that these arrangements are complemented by the appointment of a Ukrainian contact person with the EU Military Staff in order to promote practical information exchange on military crisis management matters.

The arrangements have been approved by the Council (13 May 2002) and endorsed by the Seville European Council (21-22 May). The document was presented to the Ukrainian side at the EU-Ukraine Summit in Copenhagen on 4 July.

The new arrangements will be a useful instrument for facilitating our co-operation and the participation of Ukraine in EU-led crisis management operations.

The General Secretariat of the Council has undertaken exploratory talks on the possible use of Ukrainian long-haul transport aircraft by the EU. Different options are being examined, taking into account their financial and legal implications.

During the second half of 2002, work to improve the EU's civilian crisis management capabilities has been a priority. This includes work on the establishment of specific modalities for the participation of non-EU countries, such as Ukraine, in civilian crisis management operations. A major step forward was the holding of the Civilian Crisis Management Capability Conference in Brussels on 19 November 2002.

Ukraine is contributing to the first EU-led Police Mission, EUPM in Bosnia and Herzegovina, which will be a concrete opportunity to develop operational co-operation between the EU and Ukraine.

In the framework of the regular political dialogue, there have been regular consultations with Ukraine at different levels to discuss possibilities for practical co-operation as well as to inform on the general development of ESDP.

The EU has consistently urged Ukraine to engage constructively in conflict resolution in Moldova, where Ukraine plays a large role as mediator in the negotiations and as a neighbour with a significant joint border with Moldova. The EU has called on Ukraine to take action in fighting trafficking and smuggling across the border and has reiterated its willingness to assist with the establishment of joint Ukrainian/Moldovan border posts. The EU is also seeking to engage Ukraine in contributing to improving the situation in Belarus.

Co-operation in the fields of environment, energy and nuclear safety.

Co-operation between the EU and Ukraine on environment issues is deepening. Ukraine will host the 5th Pan-European Conference of Environment Ministers in May 2003. The EU is funding a special advisor to support preparations for the Conference and TACIS is contributing to work related to the Conference.

A joint working group on climate change under the PCA is seeking to promote implementation of the Kyoto Protocol. Intensified co-operation on water resources is pursued.

The EU continues to support reform and legislative approximation in the energy sector via participation in the Task Force on energy sector reform, the Fuel Gap programme and a Tacis project on reform in the electricity sector. The Commission has initiated a joint working group on gas transit, where a detailed study on reform options is being developed. Together with the EBRD, the EU also seeks to promote co-operation on energy efficiency. In addition, the Commission is supporting safety in coal mines through the Tacis program.

On July 19th a conference for the development of the oil and gas sectors, sponsored by the Commission, took place in Brussels in the framework of INOGATE.

In order to contribute to overcome the energy deficit ("fuel gap") caused by the closing of the Chernobyl Nuclear Power Station, the EU has allocated funds through the TACIS programme.

The EU remains committed to the maintenance of high nuclear safety standards and has reiterated continuously the importance of constructive Ukrainian engagement with the EU and EBRD on the loan approval process concerning the modernisation of the nuclear power stations in Khmelnytsky and Rivne. The EU expects that the Ukrainian side presents an improved strategy regarding the completion of K2/R4, in compliance with internationally recognised security standards and sound economic principles. It has also urged Ukraine to make further progress on the Chernobyl Shelter Implementation Plan.