

EU's RESPONSE TO 9/11: COMBATING TERRORISM

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MASTER OF PHILOSOPHY

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DECLARATION

I declare that the dissertation entitled “EU’s Response to 9/11: Combating Terrorism”, submitted by me in partial fulfillment of the requirements for the award of the degree of **Master of Philosophy**, is my own work and has not been previously submitted for any other degree of this or any other university.

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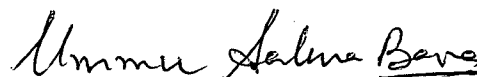

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CERTIFICATE

We recommend that this dissertation be placed before the examiners for evaluation.



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*Dedicated to
Mummy, Papa and
Neha*

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LIST OF ABBREVIATIONS

ASEAN:	Association of South East Asian Nations
ASEM:	Asia Europe Meeting
ATCA:	Anti Terrorism Crime and Security Act
CODEXTER:	Committee of Experts on Terrorism
COTER:	Council Working Party on Terrorism
CBRN:	Chemical Biological Radiological Nuclear
CFR:	Code of Federal Regulations
CFSP:	Common Foreign and Security Policy
CTC:	Committee on Counter Terrorism
EAW:	European Arrest Warrant
EC:	European Community
ECST:	European Convention for Suppression of Terrorism
EJN:	European Judicial Network
EMCRX:	European Monitoring Commission on Racism and Xenophobia
ENP:	European Neighbourhood Policy
EPC:	European Political Cooperation
EPCIP:	European Programme for Critical Infrastructure Protection
ESDP:	European Security and Defence Policy
ESS:	European Security Strategy
ETA:	Euskadi Ta Askatasuna
EU:	European Union
EUNIEFR:	European Union Network of Independent Experts on Fundamental Rights
FAFT:	Financial Action Task Force
FBI:	Federal Bureau of Investigation
JHA:	Justice and Home Affairs
IAEA:	International Atomic Energy Agency
ICRC:	International Committee of Red Cross
IRA:	Irish Republican Army
ISAF:	International Security Assistance Force
NATO:	North Atlantic Treaty Organization
NRBC:	Nuclear Radiological Biological Chemical
OECD:	Organization for Economic Cooperation and Development
OSCE:	Organization for Security and Cooperation in Europe
PLO:	Palestine Liberation Organization
PWGT:	Police Working Group on Terrorism
RAS:	Rapid Alert Systems
SAP:	Stabilization and Association Process
SIS:	Schengen Information System

SITCEN: Joint Situation Centre
TREVI: Terrorisme Radicalisme Extremisme Violence Internationale
UN: United Nations
UNSCR United Nations Security Council Resolution
WMD: Weapons of Mass Destruction

Preface

There is no doubt that international terrorism poses a grim threat to European and global security. To defeat it, requires governments around the world to co-operate on a wide range of policy areas, from law enforcement to foreign and defence policy. In Europe the EU is the obvious place for its 27 Member States to coordinate and combine their efforts at monitoring and preventing cross-border terrorist activities. European officials rightly point out that the EU can bring together political, financial, judicial, police, diplomatic and even military means, all of which have a role to play in the fight against terrorism. The overwhelming focus of EU counter-terrorism efforts so far has been on internal law enforcement. But the EU also needs to put counter-terrorism at the core of its external relations.

The EU has been slow to build an effective institutional infrastructure for counter-terrorism, while EU governments have been sluggish at implementing parts of the counter-terrorism action plan. The EU's ability to tackle terrorism is limited for at least two reasons. First, the EU is not a national government. Second, counter-terrorism' is not in itself a defined policy area. In its broadest and fullest sense 'counter-terrorism' spans a number of policy areas. There is a paradox in the EU's role in counter-terrorism. On the one hand, the governments agree in principle that co-operation at the EU level is a good thing because of the cross-border nature of the terrorist threat. On the other, they are slow to give the Union the powers of investigation and prosecution it would need to be truly effective. This is because security policy – especially when it concerns protecting citizens – goes to the core of national sovereignty and governments are reluctant to give the EU powers that could interfere with their existing laws and national security practices.

The primary aim of transatlantic co-operation in this field should be effective counter-terrorism policies, whether pursued through the EU or the US. The EU should also use its foreign policy to reduce the support base for terrorists across the world, by

encouraging the spread of democratic, economic and legal reforms in non-democratic countries. The EU has been very good at inducing legal, democratic and economic reforms in countries that want membership. This dissertation focuses on the internal security, foreign and defence policy parts of the EU's anti-terrorism efforts and on other aspects of Europe's fight against terrorism, such as the need to tackle social exclusion and how to balance freedom and security.

International terrorism poses a grave threat to European security and the EU can play an instrumental role in setting up the general orientations of an anti-terrorist strategy. The study proposes the following hypotheses-

1. The recent terrorist attacks have modified EU's security agenda, focusing more attention on cross-pillar issues like immigration, border control, police cooperation and asylum.
2. A multi-pronged approach with a high degree of integration between the internal and external security aspects is needed to respond to terrorism. The EU's political and diplomatic efforts can be complemented by enhancing its ability to credibly use force and threaten the use of force.
3. The transatlantic link has to be strengthened in order to develop a more common approach to international security concerns. In addition, a process of reform, political openness and renewed legitimacy would be required in the Middle East to root out terrorism which emanates from there.

The following research questions can be framed from the above hypotheses-

1. Is EU ready to fight terrorism?
2. How far would the Europeans be prepared to defend their values like democracy, rule of law and human rights?
3. When, where and how should EU take a stand in relation to the US on the issue of terrorism?

The theme is covered through following chapters:

Chapter - 1 Introduction. This chapter provides a historical overview of Europe's scourge against terrorism and a theoretical understanding within international relations of the EU's response.

Chapter - 2 EU's Response since 9/11. This chapter provides an insight into the measures adopted by the EU post 9/11, both at the policy and institutional level

Chapter - 3 A Critical Appraisal of EU's Counterterrorism Strategy. This chapter examines the effectiveness of EU's response to international terrorism in the aftermath of September 11 and study the lacunae therein. A comparative analysis of the American and EU approaches to fight terrorism has been undertaken to highlight how both sides of the Atlantic respond to the problem.

Chapter- 4 Summary & Conclusion. This chapter sums up the findings of the research.

The proposed study has been undertaken by applying the theoretical prism of 'Constructive Realism' as different from traditional Realism. Constructive Realism serves as an effective tool to accommodate change and to permit interpretation and understanding of the structural challenges confronting the West in the 21st century. This is based on the premise that necessity would evoke appropriate agency and permits greater adaptability. The difference between the US and the EU approaches and responses have been explained by drawing a contrast between hard and soft power. Data used ranges from primary sources like government documents and reports and secondary sources include books, articles published in academic journals, newspapers, media reports and internet sources.

Chapter 1
Introduction

CHAPTER – 1

INTRODUCTION

CHANGING NOTIONS

The horror of unprecedented terrorist attacks against the World Trade Centre in New York and the Pentagon on September 11, 2001, changed the agenda of international security in many respects. The world was introduced to a new form of terrorism that was truly global in its organization and impact. The belief that Western Europe was immune from such attacks was dispelled by the Madrid bombings in March 2004 and the July 2005 London bombings. Europe was the key recruitment, planning and logistics base for the attacks on the WTC and the Pentagon rather than a direct target. However, the Madrid attacks signified a shift in Al-Qaeda's targeting strategy. Accordingly, while transatlantic threat perceptions differed, as of early 2004 they were converging (Stevenson 2005: 216).

After the Cold War, no clear unequivocal threat or enemy substituted for the Soviet Union. More attention than before was thus devoted to non-state security risks like ethnic conflicts, failed states, with their repercussions on forced migration and organized crime. Terrorism continued to figure on this list though 'Euroterrorism' had receded to the fringes of Europe, to the Northern Ireland, Basque and Corsica, where separatism continued to feed violent action. European authorities, owing to their experience with 'old' terrorist threats, would still be more prone to expect traditional terrorist methodologies (car bombings, strafings, and the like) to be used (Linde *et al.* 2002:6). At the same time, the synchronised nature of Madrid bombings and the absence of a warning reflect mass-casualty intent, which does constitute a departure from terrorist business-as-usual in Europe.

Prior to 9/11, the notion that terrorism was becoming a problem common to all European countries remained confined to the close narrow circles of agencies concerned with countering terrorism. Throughout the 90s, the security debate remained convoluted, vague and unfocussed. 9/11, however, changed the debate. A

new focus appeared. Be it transnational crime or catastrophic terrorism, the neat dividing lines between hard and soft, civil and military are rapidly dissolving, requiring far more flexibility on the part of western security institutions than has hitherto been the case. It is nothing short of a revolution in security affairs.

One feature of the new security challenge is that they blur the distinction between internal and external security. Hence, it becomes difficult to apply the concept of strategic culture to international terrorism. Criminal behaviour may penetrate the territory of a state from outside; it may lead to an ongoing threat domestically. Such behaviour presents major challenges for states to counter because criminal justice systems have been structured on the basis of nation-states. To stop such activity, states may have to pursue criminals across national boundaries, to cooperate with their neighbours in apprehending criminals, and even conduct prosecutions on a multinational basis (Politi 1997:14-15).

Nevertheless, the classical literature on counterterrorism does identify typologies of state response. Traditional ways of countering terrorism may be grouped in three broad categories: first, military-led approaches combining pre-emption, deterrence and retribution; second, legal-judicial responses that seek to improve civil-police cooperation; and third, appeasing options ranging from accommodation to concession (Livingstone 1990:221). Because terrorism is both a domestic and foreign policy problem, contending American and European approaches to issues, such as state sponsorship of terrorism and the proliferation of weapons of mass destruction, have been brought to the fore.

With its great strength and identity, the US has been able to shape the counterterrorism agenda in a clear and determined way. European countries are themselves tied together in a complex mosaic of inter-relationships. The US needs Europe as a partner in order to offer a legitimate model of counterterrorism to the rest of the world. The events of 9/11 proved to be a watershed in facilitating a multi-dimensional response.

Terrorism presents a topic of endless contestation because of difficulty in agreement upon a common definition. Some analyse an act of terror depending upon

whether the motivation is legitimate like as part of a struggle for national liberation or based on a political ideology or religion. Others include states as capable of perpetrating terrorism through acts of violence designed to create fear (Politi 1997:9-10). Even agencies within the US hold varying positions. According to the Federal Bureau of Investigation (FBI), the definition of terrorism is ‘the unlawful use of force or violence against persons or property to intimidate or coerce a government, the civilian population, or any segment thereof, in furtherance of political or social objectives (28 CFR 0.85). While the US National Strategy for Combating Terrorism (2003) defines it as ‘premeditated, politically motivated violence perpetrated against non-combatant targets by sub-national groups or clandestine agents. The European Council defined a terrorist act as one that sought to compel a government or international organization to perform an act or destroy the political, constitutional, economic or social structures of those same actors (Council of EU 2002a).

Post 9/11, apart from showing immediate solidarity on the transatlantic front, Europeans have taken issue with the US over strategic matters, such as conflict resolution between the Israelis and the Palestinians, regime change in Iraq, perceived American unilateralism and incompatible social policies. This has led to occasional hindrances in counterterrorism cooperation between Washington and national authorities in Europe. In March 2002, for instance, the French government threatened to withhold judicial cooperation with the US after the latter announced that it would seek death penalty against suspected hijacker Zacarias Moussaoui, a French national.

Broader bilateral cooperation on counterterrorism, however, does not appear to be diminishing with the EU enhancing its institutional capacity for an effective transatlantic coordination. Some functional problems - such as contrasting views on death penalty, which complicate Europe-to-US extradition, and differing data-protection standards – are ongoing but manageable, if not ideally, on a case-by-case basis (Stevenson 2003:52). Such cooperation has become more important as the US led invasion denied Al-Qaeda its physical base and the latter was forced to spread out, becoming even more decentralized. Homeland security, law enforcement, intelligence and intergovernmental cooperation in each of these spheres became

paramount in generating a horizontal security network that matches up well with Al-Qaeda's dispersed and virtual capability (Stevenson 2005:209).

The awareness among national European authorities that Europe was infiltrated by Al-Qaeda and the advent of Europol energised Europe-wide law enforcement efforts (Sennott 2002: A20). Further, in November 2002, those authorities departed from their relatively circumspect, low-key approach to terrorism alerts in issuing stark and dire warnings about planned Al-Qaeda attacks in Europe. This amounted to an acknowledgment – prompted by Al-Qaeda linked terrorist attacks in Bali and Kenya in October and November 2002, respectively, and taped threats apparently from Osama bin Laden himself that surfaced in November 2002 – that Al-Qaeda had reconstituted since the Afghanistan campaign and was expanding its target set (Peter Finn, 2002: A1).

The EU policy-making pattern, however, reveals that the concern about terrorism and the perceived urgent need to address it with counter-terrorism measures has also functioned as a major policy-catalyst in the Europeanization of crime control policies. This regulatory spillover effect can be clearly demonstrated in the wide application of the European arrest warrant, which was adopted in the wake of the 9/11. After September 11, the first step was the adoption of a common definition of terrorism. As an immediate reaction to the 9/11 attacks, the EU, implemented an “anti-terrorism action plan” (October 2001) followed by “The Framework Decision on Combating Terrorism” (June 2002). These increased the co-operation of national governments within the EU, and with the rest of the world. The latest EU Counter-Terrorism “Action Plan”, as approved by the Council of Justice minister in December 2005, strives to strike a balance between liberty and security. The EU vows “to combat terrorism globally while respecting human rights, and make Europe safer, allowing its citizens to live in an area of freedom, security and justice” (Council of EU 2005).

In the aftermath of 9/11, the resulting EU and the national action to combat terrorism, both internationally and within the EU, extended across a broad spectrum. It underlined the multifaceted nature of the security threat itself. Work was undertaken on the implementation of the United Nations Security Council

Resolution 1373 (UNSCR 2001); the execution of orders to freeze property or evidence; stepping up cooperation between police and justice authorities in member states; bilateral cooperation with the US; introduction of anti-terrorism clauses in agreements with third countries; better cooperation between European police (Europol) and judicial (Eurojust) agencies; updating the list of terrorist organizations; activities to combat bio-terrorism, possible improvements to the Schengen Information System (SIS)¹; and cooperation with external partners.

However, the attacks in Madrid and London which took more than 250 lives have shown that European counter terrorism strategy is far from sufficient to meet the threat. In light of this, the EU introduced an updated strategy. Institutions such as Europol, previously dedicated to fighting international crime, now have the additional task of sharing intelligence and fighting terrorism.

A major issue was EU's ability to respond coherently. National responses were disparate and their effectiveness depended more on historical needs to counter terrorism domestically than on a comprehensive approach to terrorism as an international phenomenon. The policy dilemma for the EU is that it tends to exacerbate threats by overly compartmentalizing responses for the sake of national, bureaucratic and policy tidiness.

However, there are reasonable grounds to believe that a threat continuum exists between transnational organized crime, catastrophic terror and failed regimes in some weak states. Catastrophic terror creates a form of strategic asymmetry that keeps traditional states off-balance and poses a profound intellectual dilemma for political leaders, defence planners, schooled in the rigors of symmetry and well-defined roles. The enemy strikes in the strategic gap between excessive American heaviness and excessive European lightness, between civil and military concepts of security (Lindley-French 2004:14).

¹ The SIS is an information system that allows the competent authorities in the Member States to obtain information regarding certain categories of persons and property. It is thus a vital factor in the smooth running of the area of security, freedom and justice. It contributes to the implementation of the provisions on the free movement of persons and to judicial cooperation in criminal matters and police. For further details visit <http://europa.eu/scadplus/leg/en/lvb/l33183.htm>

SAME ENDS, DIFFERENT MEANS

The initial response to 9/11 attacks was in part military as NATO invoked its mutual defence clause (Article 5) for the first time ever and a military campaign began in Afghanistan. Although, both the EU and the US recognize the severity of the challenge presented by global terrorism, they differed considerably in their assumptions and views on the most appropriate strategy of response. Whether it was threat analysis, operational priorities, attitude to human rights and liberal democratic values, Europeans and Americans differed sharply. The Iraq war in 2003 revealed the fissures.

For the Americans, overthrowing the Ba'ath regime and fostering a democratic Iraq was crucial to struggle to defeat terrorism. Europeans tended to believe that this could fuel enmity and bring Islamist extremism to their doorstep. While many in the US government saw military force as an effective tool in the struggle against terrorism, European attitudes, tempered by their own experience of national terrorism, tended to see it first and foremost as a heinous crime that might require special measures by law enforcement and the judiciary. A lengthy debate has ensued from the different reactions to confront terrorism in Europe and the United States. While there has been a widespread support for actions to strengthen security, there has also been a consensus that this must be done while respecting personal freedoms and democracy.

The events of 9/11 constitute a critical juncture for US strategic culture. The European position is firstly defined in relation to American policy-with every imaginable variation from complete agreement on some sides to radical opposition on others-and not with respect to a truly European threat assessment, something that simply doesn't exist. The question therefore arises should the EU in the post 9/11, fashion a military doctrine and a strategic culture akin to that of the US that provides guidelines for the use of coercive power as an instrument of diplomacy and statecraft? However, a great strength of the EU lies in its strong adherence to the principle that measures to combat terrorism should be fully compatible with the value of democracy, rule of law and protection of human rights.

Experiences with terrorism in European countries have traditionally mainly - although not solely - been of the 'domestic' type, which implies that political views on terrorism and counter-strategies differ greatly between the Member States in scope and intensity. By and large, governments have traditionally interpreted terrorism as a domestic problem having law and order implications. Europe continues to approach terrorism as a risk-management problem to be handled with a threat-based security system, whereby specific emergent risks are assessed and minimized. European governments, while they certainly accept the distinction between new and old terrorism, are still more inclined than Washington to view transnational Islamic terrorism as a continuation - if an extreme one - of the ideological and ethno-nationalist terrorist movements with which many European states have extensive experience.

That experience also tilts them towards the view that even the most tenacious counter-terrorism authorities cannot stop a determined terrorist (Stevenson 2003:53). But it is only in the last decade that the general focus has gradually shifted to international or imported terrorism. Reframing terrorism as an international and - because of its networked character - as a more unpredictable threat has facilitated the mobilization of international criminal justice efforts. As a consequence, developing an EU policy against terrorism is increasingly regarded as indispensable and unavoidable.

While international terrorist groups like Palestine Liberation Organization (PLO) and the Lebanese group Hezbollah operated widely in Europe in the 1970s and 80s, their European activities were undertaken mainly to serve local objectives. Moreover, these groups like the ethno-nationalist groups that have tended to plague Europe most, used violence with restraint to preserve a place at the negotiating table, or at least to constrain adversaries' direct provocations, and to an extent could be politically tamed. By contrast, Al-Qaeda has no interest in bargaining and seeks to cripple the US by inflicting mass casualties - potentially with Weapons of Mass Destruction (WMD) (Simon and Benjamin 2000:61). European officials understand that Al-Qaeda's transnational threat is different in kind from that posed by the Provisional Irish Republican Army, the Euskadi ta Askatasuna (ETA) as well as the PLO and the Hezbollah (Stevenson 2001:37-38). At the same time, European

capitals approach to counter terrorism in general is inevitably informed by their respective experiences with essentially old terrorist threats as opposed to the new transnational ones (Hoffman 1999:69).

Before 9/11, most European countries did not have counter-terrorism laws distinct from ordinarily criminal codes. Some, like the Netherlands, responded with specific plans of action or legislative reforms. Others, like Belgium, did not do so. In six European countries statutory counterterrorism regimes already in place to combat old terrorist threats arguably provided them with a structural headstart in countering transnational terrorism, and several have been strengthened by new anti-terrorist legislation or increased enforcement efforts (Linde *et al.* 2002:15). Elements of European style, focused on regulatory responses and judiciary, may be said to have emerged during efforts against Baader-Meinhof and the Red Brigades in the 1970s and the 80s. This was a hallmark of French responses to Islamic extremism during the 1980s and 90s (Shapiro and Suzan 2003:72). Even the UK which engaged in a long military campaign against the Provisional IRA, gradually allocated more responsibility for counterterrorism to civilian agencies. The repeated assertions by Gijs de Vries, the EU's counterterrorism coordinator, that Eurojust and Europol have a leading role in EU's counterterrorist efforts underline this European regulatory approach with its focus on civil agencies (de Vries 2004).

The growing menace of terrorism and how to respond to it looms large in the current transatlantic debate. It is true that fifteen years after the end of Cold War, Europeans still lack a global strategic vision but their capability to reduce and manage terrorism on a global scale has been understated as well. The European contribution to international campaign against terrorism is both important and interesting. Firstly because Europe remains a site of considerable terrorist activity. Secondly, Europeans are well-placed to assist the third world countries in enhancing their counter-terrorist capabilities and meeting international obligations.

Since 9/11, most attention has been given to the need for international cooperation but it is equally vital to build internal state counter-terrorism capacity. It is also important to recognize that while a body of international law in relation to terrorism is building, in most instances this is still dependent on the political will

and ability of states to create, modify and strengthen their internal capacity. EU's counterterrorism policy strategy suffers from an implementation deficit, in large part due to absence of genuine pro-integration thinking in the area of Justice and Home Affairs.

The responses of the EU to terrorism highlight difficulties in both its relationship with the US and inadequacies in its own strategic vision. While the EU is clearly unhappy with the US doctrine of pre-emption, it itself is yet to come up with a strategic vision that adequately links external and internal security. So far, the strategies in response to a particular crisis have been ad-hoc. However, since the contemporary threats are more diffused and clandestine in nature, the question arises can there be a truly, unified EU response? The EU is not a state like the US. As a result there is a constant tussle between the intergovernmental and supranational aspects of EU policies. Whereas a state's response to a problem is much easier to define, a multiple actor like EU has to evolve consensus among the member states to find what can be termed as a composite response.

HOW TO RESPOND? THE SEARCH FOR A THEORETICAL PARADIGM

The deficiencies in EU's response have been dealt with at length. However, in order to provide a theoretical underpinning it is important to understand International Relations theory as pluralist in nature - not as a single dominant theory but a number of contending perspectives and debates among them (Waeber 1998:92).

Neorealists would interpret September 11 as a consequence of unipolarity (frustration in the periphery at American power and influence) and the response to it as an example of bandwagoning in the form of a US led coalition. Also, there is an ever increased desire on part of the US to increase its military strength in relation to the rest of the world. In addition, September 11 has undoubtedly reinforced parts of Samuel Huntington's theory of 'clash of civilizations' (Huntington 1996). According to neorealists, such a mindset would make unilateralism and military primacy as key features of American foreign policy.

Globalists would take the position that post 9/11, the world order has transcended beyond the Westphalian system. Most of the threats are beyond the control of states. According to them, the international system has for some decades been divided into two worlds: a zone of peace and a zone of conflict (Buzan 1991: 432). Since the end of the Cold War the fault line between them has become a focus instability and danger. September 11 will probably read as reinforcing the core-periphery aspects of the two-world idea (Buzan and Waever 2003:57). The threat of terrorism increases the threat of crossover violence in both directions (terrorism in the core and counterterrorism into the periphery).

Regionalists can claim that 9/11 reaffirms the salience of regional security as vital to the stability of international order. Resolving the Middle East quagmire will solve Al-Qaeda problem. Despite the non-territorial aspect of security gaining relevance post 9/11, it is the regional security dynamics and the way US plays with it which will determine the international security order.

Each of these perspectives captures an important aspect of the extremely complex world system. In the post Cold War scenario and especially in the aftermath of 9/11, there is a need to integrate the existing international relations theories in order to explain the necessity of a varied and multi-dimensional approach to combat terrorism. It underlines Keohane's point that there needs to be less emphasis on rivalry amongst competing theoretical positions, and more attention paid to how to synthesize them (Keohane 2002). The proposed study attempts to fill in the lacunae by explaining the rationale of EU policy responses through the framework of Constructive Realism. Richard Ned Lebow (2004:346) argues that "modern Realism largely misses or ignores the ways in which reasons can promote new understandings, reshape ends, constrain or rechannel appetites and spirits".

Constructive Realism proposes a new dimension to the existing IR theories by demonstrating the need to integrate idea, strategy and structure. In order to address new challenges like terrorism, failed states and ethnic conflicts effectively, developing adequate responses may require an overlapping of international and domestic politics. Different situations would evoke different responses and consequently, varied paradigms or a combination of different theoretical frameworks

could be employed to arrive at rational choice. In the model set out by Kenneth Waltz (1979), it is inevitable that states are in competition in a world of anarchy and dependent on a self-help system. However, the attempt to create inevitability and predictability through emphasis on state and the structure that binds the states fails in a world where threats and challenges entail more flux and do not have a consistent pattern.

The logic of structured interaction dictating state behaviour in the international system could make sense in the Cold War period. However, in the post Cold War context, Neo-Realist state-centricity was a problematic phenomenon. Non-state actors emerged on the international scene. Though, with the rise of Al-Qaeda network, a highly integrated global financial system and issues like environmental degradation; state's relevance was once again highlighted. This is because all these non-state actors gained attention as they impacted upon the state or state capacities. The very concept and meaning of the state bore a frontal assault. In order to reinforce this notion and to create stability in the international environment, traditional rules of sovereignty were amended. The solution lay in taking action within or across the borders.

The threats and challenges that dominated most of the policy agenda of the 90s and initial years of 21st century were not covered by John Mearsheimer's position. Mearsheimer posits five arguments. Firstly, states continue to be the dominant actors and operate under conditions of anarchy. Great powers always have an offensive military capability. No state can be completely sure about the intentions of other states towards it. Great powers accord importance to their survival and lastly, they are relatively rational actors capable of devising strategies to ensure their survival (Mearsheimer 2001). However, this Realist explanation was insufficient to account for intra-state conflicts like in Yugoslavia and the operation of clandestine networks of terror to destabilize the international order and wreak havoc on western societies in particular.

The new threats and challenges are fuzzy and hard to perceive. A socially constructed approach, based on empirical understanding of the relevant actors and agents can provide the framework to address the security problems in the

contemporary world. From a constructive realist viewpoint, patterns of social relations and inter-subjective relations that constitute international security are defined by necessity. Necessity is the key as people act when they have to. Understandings of the world and of the rules operating in it can change as circumstances change. Adapting to the change is a social process involving inter-subjective interaction. However, at its roots will be promotion of security and values and framing acceptable rules of dealing with the threats to them. Constructive Realism permits this adaptation and demonstrates its true value and utility when considering change and flux in the world. It allows for change and revised approaches to change but maintains a core focus on approaches to necessity in international security.

THE CHALLENGES AHEAD

A major task before EU is to develop a coordinated response to the international crisis by using national, intergovernmental and supranational policy tool boxes. National responses were perhaps simpler in principle but were not adequate given the international nature of the problem. Since, the Amsterdam Treaty (1997) there had been a debate regarding EU's ability to ensure European and world security and the instruments it can wield towards the end. But the persistent dilemma among the Member states was that they were not ready to pool in sovereignty that had long existed within the economic and other internal fields or in foreign trade. Sensitive areas like defence, security and foreign policy were resisted from any collective control.

The national reticence was compounded by significant differences in foreign policy cultures and expectations within the Member states (Hocking and Spence 2002:76). The EU is not a United States of Europe and simply lacks the supranational power to effect and harmonise simultaneous changes in the policies of its constituent national governments. It would be politically difficult for the EU to enact comprehensive regulations on port security, terrorism insurance or first-response capacities, as the US is doing, and European governments could not be expected to swiftly harmonise multiple laws in these areas (Stevenson 2005: 211).

The first pillar of the European Community covers those areas where Member States have ceded sovereignty to EU. In relation to security threats and peace building, the most important areas are those relating to trade, external economic and financial assistance programmes. Then there are areas of extensive civil protection, air and sea transport, information security and data protection which are also under first pillar competence.

In the second pillar of Common Foreign and Security Policy (CFSP), member states coordinate policies but retain national sovereignty over decision making in most areas. This area of activity has rapidly developed in recent years following the creation of European Security and Defence Policy (ESDP) in 1999 (Helsinki European Council 1999).

Justice and Home Affairs (JHA), the third pillar, provides a framework for cooperation between Ministries of Justice and the Interior and Police forces. The Commission has a front line role as proposer of legislation including proposals to combat terrorism and organized crime within the European Union. This is the most complex area of cooperation, mainly because of the reluctance of governments to agree to policies which risk undermining national legal systems and procedures.

The September 2001 attacks sparked off the debate as to how each of the three pillars could tackle relevant aspects of security, and whether and how the instruments appropriate in each of the three pillars could be wielded under a single decision making centre in the EU. The incident was a sharp reminder that enemy could strike from within and defence could not be achieved with the classic, state-level tools of security alone. In fact, many of the security challenges have actually accelerated the process of EU integration. Agreements on the EU's Action Plan against terrorism, the arrest warrant, the enhanced police cooperation and the efforts to block funding of terrorist acts, have all taken place with extraordinary rapidity, especially for an organization that is often portrayed as cumbersome.

The overall fight against terrorism is the underlying rationale of European cross-pillar security regime building. The European Security Strategy (ESS) of December 2003 has strengthened the process of securitization of the European agenda. The ESS is one of the main documents in the EU's security strategy policy.

For the very first time, the EU explicitly identified key threats to its security and the lines of defence. The selection of these threats was based on the use of the multidimensional concept of security; hence poverty, pandemics and competition for natural or energy resources were incorporated alongside terrorism, international organized crime, the proliferation of weapons of mass destruction and regional conflicts such as *inter alia* in the Middle East. Therefore, the ESS can be seen as a top-down approach which motivated the EU as a collective actor to extend the security zone on Europe's periphery, to support the emergence of a multilateral order and to develop countermeasures to new and old threats.

It is clear that the main tools to counter terrorism will heavily rely upon the first and third pillars, although it should be noted that the distinctions between the pillars are increasingly blurred. Terrorism springs out of political instability, persecution, poverty and injustice. The ability of the EU as a whole to address such challenges rests upon its capacity to provide a seamless security web. This means, the capability to address unrest at its earliest manifestation must be supported by political and diplomatic efforts which, in turn, may rely upon positive and negative economic inducements. The ability to credibly threaten the use of force and, if necessary, the capacity to actually use it, completes the seamless web. Hence, the ESDP is an essential component of the overall EU response to terrorism and other forms of instability.

The approach taken by the EU to the events of September 11 impresses because it is essentially civilian and multilateral in character. Far from demonstrating the irrelevance of a dedicated European military capability in circumstances where Member States like UK, were prepared to join the US coalition on a national basis, September 11 appears to have provided a substantial impetus to ESDP. According to Javier Solana, EU High Representative for CFSP, the events of September 11 added new responsibilities for CFSP and ESDP. Solana argued that, 'The fight against terrorism does not make the Petersburg tasks less relevant. But we must be aware of pressure on resources as some countries might want to develop additional capabilities concerning military and police responses to terrorism' (Solana 2001). The technology debate needs to be framed in terms of what technology is relevant for a given mission. Terrorism is a non-traditional security challenge and

for this reason the 'weapons of war designed to counter dangers at the end of the last millennium will not be sufficient for the problems of the next (Hall and Fox 2001/2002:8). The road to generating a fully operational ESDP that might conceivably supplant the US role in European defence will doubtless be long.

A very important theme in the EU response is the need to address the root causes or sources of terrorism. Terrorist networks have deep roots in weak states and draw social and political capital from societies where there is unresolved conflict or social upheaval and economic stagnation. The EU operates assistance programs and has structured agreements with most countries. These can serve as important pillars in promoting social and economic development, by drawing states into profitable economic cooperation, by improving education and transparency, and in general by consolidating and fostering democracy and good governance (Spence 2004:89). Europe's traditional reluctance to isolate pariah states – coupled with burgeoning commercial opportunities as these regimes open themselves up to foreign investment – has provided both the rationale and the opportunity for the continent to pursue what has been termed as critical dialogue. In dealing with Iran for instance, Europeans convey a certain number of ideas that are not always pleasant to hear but which nevertheless maintain the ability to continue talking (Hoffman 1999:69).

The Stabilization and Association Process (SAP)², introduced by the EU for western Balkans in 1999, was designed to bring security problems in the region under control and to pre-empt new conflict through a combination of material aid and political incentives (like the EU membership). A strong security rationale can also be found in the EU's Barcelona process³, the latest embodiment of a long-standing Euro-Mediterranean dialogue with states in North Africa and the Middle East.

The justification for the development of internal security structures and policies by the EU has resulted from perceived threats to the territories of the Member States. Challenges from international terrorism, transnational crime and illegal immigration have been elevated to a level whereby they are discussed as

For further details visit http://www.delscg.cec.eu.int/en/eu_in_see/stabilisation.htm
For further details visit http://europa.eu.int/comm/external_relations/euromed

security threats to the European space. Bigo has observed that the manner in which these threats have been constructed viz. as external to the EU, have served to justify an EU-wide response (Bigo 1999: 45). Issues like illegal immigration and unjustified asylum applications have also become part of the securitization process. It is feared that illegal residents in a European country can perpetrate terrorist acts. The result has been the actuation of an all-embracing security discourse that fails to differentiate between problems and trends to justify blanket responses.

Border security is another problematic area. The Schengen arrangements mandate strict border controls between new member states and non-member states. At the same time, open borders within an expanding union are integral to the EU's post-modern economic and political experiment (Hoagland 2002: B7). Furthermore, for purpose of applying arrest warrant, the EU has proposed an extremely broad definition of terrorism under which 'all intentional acts.....seriously intimidating a population or.....destabilising or destroying....fundamental political, constitutional, economic or social structures' constitute terrorism. The warrant would also cover common crimes as well as racism and xenophobia. Thus, the arrest warrant, though proposed on the pretext of counterterrorism, appears to be part of larger integrative agenda of criminalising racial or religious hatred per se and expanding the EU's supranational legal jurisdiction generally. These are ambitious and controversial goals far less susceptible to consensus than simply cracking down on terrorism (Stevenson 2005:212).

One of the most controversial effects of the September 11 attacks has been identifying the face of the foreigner as the face of the enemy on the basis of racial profiling. The link between an immigrant and terrorism is no longer perceived as based on nationality but rather ethnicity and religious conviction. The identity threat was personified by Muslims. However, in the era of economic liberalism and international human rights, seeing the foreigner as the manifestation of threat creates contradiction. While on one hand it justifies adoption of strict measures on border control, it also impinges on industrial and commercial interest and human rights obligations. In the fight against terrorist groups the biggest mistake that can be made is to generalize or profile people of the nations or religious groups who are

identified with these atrocities. Surviving terrorism requires more intelligence than 'Islamophobia' which unfortunately is on the rise (Stahlberg 2004:11).

Notably heavy radical Islamic activity in support of terrorism was uncovered in Germany, the UK and France, all of which have large Muslim populations (Corera 2002:16). European Muslims are increasingly susceptible to radicalization on the basis of social and political marginalization in their host countries (Roy 2005:361). Europe is an attractive arena for recruitment in Muslim communities and theatre for operations against the allies of the US. From a European perspective, it is the intersection between jihadism and immigration that makes jihadism a formidable threat. Firstly young Muslims may be swayed by a doctrine that rejects integration, advocating in its place unremitting hostility towards the 'infidels' and even their annihilation through attacks such as Madrid bombings. Secondly, if European societies identify terrorism with Islam, a rift of mistrust between communities could open and eventually lead to a divided society, as demonstrated by events in the Netherlands following the murder of Dutch film maker Theo van Gogh in November 2004 (Sendagorta 2005:66).

Causing a great deal of misunderstanding between Europe and the United States is the presence in Europe of fifteen million Muslims, whether North Africans in France, Pakistanis in the United Kingdom, Indonesians in the Netherlands or Turks in Germany. Washington is quick to conclude that it is the presence of this population that leads to a timid reaction to terrorism in Europe, overlooking the fact that European governments must prevent a radicalization of this immigrant population, which is often far less well integrated in European societies than Muslims in the United States. In terms of numbers, moreover, the present situation, far from becoming stable, is likely to become more acute in the coming years, with a greater Muslim percentage of the population as a result of both demographic decline in Europe and development difficulties in the non-European countries of the Mediterranean (Delpech 2002:42-43).

Europe is currently becoming larger and in future it would not be sheltered from conflicts most of which originate outside its territory. Even if Europe is not targeted as a political entity, its sovereign nations will obviously be targets and European citizens will also be victims of violent actions outside Europe, simply because they are Europeans randomly targeted by terrorists. The history of last thirty years has taught Europe that state terrorism or regionalist/separatist inspired

terrorism will always strike citizens or state symbols either with the objective of punishing them or in order to influence their internal or external line of conduct. Since history has affected European nations specifically, their reactions to terrorist phenomenon are not constant and sometimes have followed different routes. The fight against terrorism is one of the strong elements of national sovereignty. It is the state alone that assumes the responsibility for its successes or failures, and it must answer for them politically.

There is still a lot to be done to pool skills and experiences of different Member States. The EU initially set up the solidarity clause in favour of countries struck by terrorism. All this is defined in Article 42 of the draft Constitution (now Article I-43 of the Treaty) which states that “the Union and its Member States shall act jointly in a spirit of solidarity if a Member State is the victim of terrorist attack or natural or man-made disaster. The Union shall mobilize all the instruments at its disposal, including the military resources made available by the Member States, to: prevent the terrorist threat in the territory of the Member States, protect democratic institutions and the civilian population from any terrorist attack, assist a Member State in its territory at the request of its political authorities in the event of a terrorist attack and assist a Member State in its territory at the request of its political authorities in the event of a disaster” (Treaty establishing a Constitution for Europe 2004).

Various action plans following the 11 September and Madrid bombings have attempted to develop this new concept of home security in Europe. But if we read the Constitution carefully, Article I-5 (Treaty establishing a Constitution for Europe 2004) of the treaty recalls that among the essential functions of the state, there are particularly those which serve the purpose of maintaining public order and safeguarding national security. Finally, all these problems are covered by national sovereignty and this does not enter into the common lot of European Union. However, Article I-16 (Treaty establishing a Constitution for Europe 2004) states that the competence of the European Union in terms of foreign policy and common security covers all questions concerning the security in the Union. Should we therefore consider that security in the Union is different from that of the States which constitute it? This basically means there is a bit of everything in this treaty.

CONCLUSION

A durable and effective counterterrorism campaign requires cooperation at the political level and coordination of broad military, diplomatic, economic and security policies that point these bureaucracies in the same direction. This kind of robust political cooperation can produce vital large-scale initiatives: a common diplomatic approach towards problem states; a sustainable program of economic development for the West Asia; changes in domestic policies that lessen the appeal of jihadism to Muslim diaspora communities; improvement of border controls; tightened bonds among justice ministries, law enforcement, customs and intelligence agencies as well as special operation forces on the front lines. Whether this indispensable burden-sharing can work, will depend on the give-and-take among the players (Benjamin and Simon 2003: 413-414). The European Security Strategy can be seen as a top-down approach which motivated the EU as a collective actor to extend the security zone on Europe's periphery, to support the emergence of a multilateral order and to develop countermeasures to new and old threats. It is realized that security must be analyzed and managed not only between states but also at the sub-national, regional and global levels. Moreover, the functional scope of security has widened from purely military to a broader political, social and economic and environmental coverage (Krahmann 2001:13).

The EU has been developing as a post-modern security system for some time. Since its inception the EU has a range of competence capable of covering all possible recognized dimensions of security. Its intrusive regulatory character gives it unique possibilities to address sub-state dimensions of threat and mobilize sub-state actors for positive ends. Its border-free internal market both allows and forces it to find transnational remedies. Its tradition of common external negotiating positions allows it to make coherent, often influential collective inputs to global-level discussion of universal human challenges (Spence 2004:98).

The impact of transatlantic cooperation in developing standards for anti-terrorist measures could be multiplied by working with international bodies with mandates to apply these standards globally. The Organization for Security and Cooperation in Europe (OSCE), for instance, can play an important role through its

police and anti-trafficking efforts. At the United Nations, the Counter Terrorism Committee (CTC) has been charged with overseeing members' implementation of resolution 1373. It has particularly sought to ensure that members have effective legislation, especially in area of preventing financial support to terrorist groups. The G-8 group has also been increasingly active in anti-terrorism efforts. The G-8 ministers of justice and interior have issued recommendations to national governments on creating a legal framework to prevent terrorism, the use of special investigative techniques and national security intelligence information in terrorist cases, on border security and travel documents, and on building international capacity to fight cyber crimes.

It must be recognized that there is no single, universal solution to the problem of terrorism – be it either domestic or international variant. This fact only reinforces the need for multiple creative solutions, at least to control the growth of terrorism and contain its violent manifestations. The divergent EU and US approaches if endowed with a degree of planning and policy coordination can yield desired outcomes. A sort of good cop, bad cop arrangement, with Europe pursuing engagement with state sponsors of terrorism and the US standing ready with the threat of military force and economic sanctions, may succeed where previous ad-hoc approaches have failed (Hoffman 1999:74). The EU response to September 11 has indeed brought a new realism to EU foreign policy. It has had to grapple with the profound link between domestic and international security and to develop capabilities and new modes of cooperation.

Chapter 2
EU's Response since 9/11

CHAPTER – 2

EU'S RESPONSE SINCE 9/11

A HISTORICAL OVERVIEW

Europe has been confronting terrorism for a long time. For decades, a number of European states have learned to live with the ever-present bomb threats from separatist or radical political groups, and accordingly have developed sophisticated counter-terrorism apparatus. However, during the 1970s and 80s, it was not unusual for European governments to cut secret deals with the terrorists' outfits not to strike within these countries borders or target their citizens. European authorities often turned a blind eye to extradition requests (Hoffman 1999:64). The European countries were preoccupied with domestic terrorism and indigeneous revolutionary organizations, be it Italy fighting the Red Brigades, West Germany struggling against the Baader-Meinhof, or Spain battling the separatist Basque groups. The common tendency was to view it as an internal security problem. The EU and its constituent Member States frequently preferred to conceptually and legally subsume terrorist transgressions under the heading of serious or organized crime (Zimmermann 2006:123).

However, the presence of sleeper cells of international terrorist networks, in Europe and the presence in them of European militants, is blurring the distinction between foreign and domestic affairs. Cooperation in counterterrorism is absolutely essential. The targets are common. Whether a railway station, in Spain or in London, a worship place in Italy or in the Netherlands, a foreign embassy in Paris or in Athens, expatriates in Saudi Arabia, surfers in Indonesia, journalists in Iraq or humanitarian workers in Caucasus. The terrorist attacks of 11 September 2001 in the US, 11 March 2004 in Madrid and 7 and 21 July 2005 in London initiated a so-called 'securitization' of European agendas by bridging the gap between internal and external security.

A human tendency views terrorist incidents from the tactical perspective of details unique to that ongoing incident. The result of such a tendency has been concentration on reducing loss of life and damage in each particular incident, at the



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expense of deterring terrorism by a broad consistent strategy aimed at making all incidents unattractive to terrorists. Europe faces the challenge of developing a cooperative apparatus to fight terrorism as its borders erode. Action must be mobilized at every level.

EU'S COUNTERTERRORISM EFFORTS PRIOR TO SEPTEMBER 11

The origins of European Union's counterterrorism activities can be traced to the early 1970s when the European Political Cooperation (EPC) came into being. The initial impetus for greater inter-governmental cooperation among Member States was the growth of terrorist incidents perpetrated by indigenous western Europeans as well as Middle Eastern organizations in the late 1960s and early 1970s (Anderson 2000:229). By the mid-1970s, the European communities (EC) Member States had become dissatisfied with the existing international policies and procedures which dealt with terrorism (Wilkinson 1986:292) and felt that a regional approach would be more effective (Lodge 1989:30). Consequently, in addition to the diplomatic efforts taken to combat state-sponsored terrorism within the EPC framework (Cardona 1992:252-253), the EC Member States began to develop what could be termed as an EC counterterrorism policy at two key levels: legal and operational.

At the legal level, the EC Member States adopted a strategy designed to ensure that the existing international anti-terrorist provisions would be fully applied within the EC. Moreover, since the respective national and criminal codes and definitions of terrorism diverged so greatly, "the main aim was to inject a degree of predictability into the EC's public position vis-à-vis terrorism" (Lodge 1989:30). By November 1979, following another spate of terrorist violence, the EC within the framework of Dublin Agreement commenced a process to strictly apply the 1977 European Convention for the Suppression of Terrorism (ECST) (Chalk 1996:123). The implementation of both the Dublin Agreement and the ECST was, however, fraught with difficulties as a number of EC Member States refused to ratify these agreements, primarily due to concerns over potential loss of autonomy to deal with terrorism either on their own or on a bilateral basis (Zagari 1992:292). Consequently, it was not until the mid-1980s when the idea of European judicial area was seriously entertained under the banner of the completion of a single European market (Lodge 1989:32).

At the operational level, TREVI (Terrorisme, Radicalisme, Extremisme Violence Internationale) was constituted in 1976 at the ministerial level to discuss and cooperate on police and intelligence matters. Within this framework, the justice and interior ministers of EC Member States exchanged intelligence information, compiled a blacklist of terrorists, analyzed external terrorist threats, tracked specific terrorist groups and facilitated the prosecution of terrorists (Cardona 1992:252). Following a series of terrorist attacks in the mid-1980s, the TREVI group increased cooperation in combating terrorism even further and a working party was established to study how to improve checks at the European community's border, coordinate national visa policies and cooperate in combating passport fraud (Zagari 1992:293).

By the time European Economic Community (EEC) became the EU following the signing of the Maastricht Treaty and its ratification in 1992-93, there were incremental efforts to improve cooperation against terrorism. The establishment of European Judicial Network (EJN) in 1998 made it easier and faster to process judicial requests by one Member State to another. The EU convention on Mutual Assistance in Criminal Matters (2000) permits the transfer of telecommunication intercepts, and enables witnesses to give their testimony by means of video link. The EU Mutual Legal Assistance Convention (2000) obliges Member States of the EU to provide information on banking transactions, bank accounts.

Member States of the European Community felt that "TREVI is a more effective forum than Interpol in matters relating to the security of databank and information exchanges on international terrorism" (Lodge 1989:42). As a result, with the signing of the Maastricht Treaty, the EPC and TREVI frameworks were brought under the new legal and structural framework of the EU and were placed under the Justice and Home Affairs (JHA) pillar.

The Third Pillar inter-European police and judicial cooperation was a corollary development to the European Union's headline goal to establish the free movement of people and goods within the territories of its Member States. The incentive behind the Third Pillar cooperation was an EU-wide consensus that increased security cooperation necessarily constituted a concomitant to the free transit

headline goal. In the area of police cooperation, the Maastricht Treaty made a provision for the establishment of Europol, the EU police coordination unit. In the area of judicial cooperation, two important legal instruments were adopted in 1990s: the Convention on Simplified Extradition Procedure between Member States of the EU (March 1995) and the Convention Relating to Extradition between Member States of the EU (September 1996). The main purpose was to specify the offence for which extradition may not be refused (Boer and Monar 2002:21). The Amsterdam Treaty (signed in 1997, ratified in 1999) deepened the commitment of the Member States and terrorism was at least acknowledged (Title VI, Article 29) as an item in the context of the Provisions on the Police and Judicial Cooperation (Boer 2003:188). The Treaty also acknowledged that in order to guarantee freedom and justice and home affairs policies and, in some areas, grant the EU new powers. These include powers to make national criminal laws more similar; make national police forces and prosecutors work together more effectively; build a common border guard; develop common asylum and visa policies; make the EU courts more efficient; and guarantee the rights of individuals (Towsend 2003).

Putting the counterterrorist competencies under the ambit of the Third Pillar signified that terrorism is no longer exclusively a domestic criminal issue of Member States, was certainly an internal security problem of the Union (Chalk 2000:175). With regard to the criminal justice counterterrorism model adopted by the EU, the nature of the Third Pillar reflected two important convictions of a majority of the Member States. First, it was widely acknowledged that the issues of illegal immigration, drug trafficking and other types of organized crime were closely linked with terrorism. Second, European countries were deeply suspicious of allowing any external organization to interfere in their politically sensitive internal security as opposed to criminal justice affairs. This is irrefutably borne out by the necessity of Dublin Agreement: terrorists were one's own affair; only "apolitical" criminals could be extradited (Chalk 1996:129).

It is apparent that prior to the events of September 11, a number of innovative measures within EU counterterrorism policy had already existed. As Monica den Boer and Jorg Monar (2002:21) put it:

One could argue that several strata of counter-terrorism activities were already in place within the EU before 11 September: institutionally, a European police office competent to deal with terrorism-related offences; legally, conventions and additional legal instruments to facilitate extradition; and operationally, direct and regular contact between the heads of the European security services, an anti-terrorism repertory, and a regular update of the security situation.

EU'S COUNTERTERRORISM POLICY POST SEPTEMBER 11

Immediately after September 11 European governments as well as EU institutions in Brussels issued strong statements of support in the fight against terrorism. Also, European shock was encapsulated in a joint EU-US ministerial statement on combating terrorism, in which both parties pledged to 'work in partnership in a broad coalition to combat the civil terrorism' and both would work to improve this cooperation worldwide' (EU Press Release 2001). In their conclusions of the special summit on September 21, 2001, the 15 Member States spoke of 'unconditional solidarity' with the United States and declared the war against terrorism an 'unprecedented challenge for the world and for Europe'. The Extraordinary European Council approved a comprehensive 'European policy to combat terrorism', entitled the Plan of Action (Council of the EU 2001 a). From 26-27 September 2001, the Council common Position on Combating Terrorism and the drawing up of the anti-Terrorism Roadmap at the JHA Council stood at the centre of deliberations (Council of the EU 2001 b). After the Madrid bombings in 2004, this roadmap was revised and seven strategic objectives were outlined:

- Building international consensus and efforts to combat terrorism
- Reduce terrorist access to finances and other economic resources
- Strengthen EU bodies' and Member States' capacities for detecting and disrupting terrorist groups
- Protect security of international transport and enhance border controls
- Boost Union and Member States' capabilities to cope with consequences of terrorist attacks
- Address issues contributing to support and recruitment for terrorists
- Actively encourage third countries' counterterrorism efforts

The Action Plan formed the foundation for a longer-term and international response to the 9/11 attacks. This included a renewed dialogue with the Arab and the

Islamic worlds. The crisis also provided further reason to increase the momentum of the Barcelona Process¹, and in line with this, the EU's Neighbourhood Policy was tasked to examine new forms of relationship that 'are neither a conveyor belt to membership, nor the basis for future resentment and tension between privileged insiders, and excluded outsiders (European Commission 2001 a). The Commission also recommended strengthening the framework for EU trade and cooperation with the Gulf States, India, Iran, Pakistan and Saudi Arabia. It was also noted that efforts to stamp out international terrorism must also address the sources of 'radical discontent' which touch on 'the undemocratic behaviour of governments, as well as an unacceptable divide between rich and poor; environmental degradation, and crime, corruption, drugs and health issues' (European Commission 2001 a).

Much of the emphasis fell on third pillar (particularly enhancing police and judicial cooperation) and upon the first pillar's efforts to stop funding of terrorists. Most notably, the extraordinary summit 'endorsed proposals for an EU-wide arrest warrant and other measures of such sensitivity and ambition that they would normally have taken months or years to be agreed (Ian Black 2001:12).

On 10 May 2005, the European Commission launched its 5 year Action Plan (The Hague Program) for Freedom, Justice and Security – with detailed proposals for EU action on terrorism, migration management, visa policies, asylum, privacy and security, the fight against organized crime and criminal justice. This is a major policy initiative and a cornerstone of the Commission's Strategic Objectives for 2010. The Action Plan takes the overall priorities for Freedom, Justice and Security and turns them into concrete actions, including a timetable for their adoption and implementation. In order to optimize information exchange between European agencies the Program incorporates the 'principles of availability' under which the possibility exists that for the year 2008, all agent states which requires some type of information from another Member States, can obtain it.

¹ The Euro-Mediterranean Conference of Ministers of Foreign Affairs, held in Barcelona on 27-28 November 1995, marked the starting point of the Euro-Mediterranean Partnership (Barcelona Process), a wide framework of political, economic and social relations between the Member States of the European Union and Partners of the Southern Mediterranean. The EU enlargement, on 1st May 2004, brought two Mediterranean Partners (Cyprus and Malta) into the EU, while adding a total of 10 to the number of Member States. The Euro-Mediterranean Partnership thus comprises 37 members, 27 EU Member States and 10 Mediterranean Partners (Algeria, Egypt, Israel, Jordan, Lebanon, Morocco, Palestinian Authority, Syria, Tunisia and Turkey). Libya has observer status since 1999.

Last but not least, on 1 December 2005, the EU launched its first European Union Counter-Terrorism Strategy (Council of the EU 2005). The Strategy sets out the objective to prevent new recruitment to terrorism, better protection of potential targets, pursuit and investigation of members of existing networks and improvement of the capability to respond to and manage the consequences of terrorist attacks. This strategy takes the agenda of work set out at the March 2004 European Council in the wake of the Madrid bombings into the next phase.

Adopting a Common EU Definition of Terrorism

The first objective clearly expresses the international commitment of the EU to the idea that terrorism can only be fought in a multilateral way. Indeed, since September 11, one of the first priorities of the EU has been the implementation of the UN Security Council Resolution 1373 on the fight against terrorism. The first step was the adoption of a common definition of terrorism. Under the Framework Decision on Combating Terrorism, a terrorist act was defined as 'intentionally committed by an individual or a group, which may seriously intimidate a population, or unduly compel a government or international organization to perform or abstain from performing any act, or seriously destabilizing or destroying the fundamental political, constitutional, economic or social structures of a country or an international organization' (Council of the EU 2002 a). Also, under Article 1 there is a list of eight types of specific acts:

- Attacks upon a person's life which may cause death
- Attacks upon the physical integrity of a person
- Kidnapping or hostage taking
- Causing extensive destruction to a government or public facility, a transport system, an infrastructure facility, including an information system, a fixed platform located on the continental shelf, a public place or private property likely to endanger human life or result in major loss
- Seizure of aircraft, ships or other means of public or goods transport
- Manufacture, possession, acquisition, transport, supply or use of weapons, explosives or of nuclear, biological and chemical weapons
- Release of dangerous substances, or causing fires, floods or explosions the effect of which is to endanger human life
- Interfering with or disrupting the supply of water, power or any other fundamental natural resource the effect of which is to endanger human life.

According to Article 2.1, the EU Member States must also punish the following intentional acts: directing a terrorist group; participating in the activities of a terrorist group, including by supplying information on material resources, or by funding its activities in any way, with knowledge of the fact that such participation will contribute to the criminal activities of the terrorist group.

The Framework Decision on combating Terrorism ensures that these offences are punished by heavier sentences than common criminal offences in all the EU Member States. However, sanctions for offences such as murder, kidnapping or hijacking are largely left to the discretion of each Member State, because reaching an agreement on exact penalties for all terrorist activities proved to be too difficult (Archick 2004). The Framework Decision's definition of terrorism has been criticized by some human rights advocate groups as being 'too extensive and as not reflecting particular danger inherent in terrorist acts' (Vennemann 2003). The 2003 report by the EU Network of Independent Experts in Fundamental Rights (CFR-CDF), for example, asserted that 'this definition as such is not adequate to meet the requirement of lawfulness' (EUNIEFR 2003). Overall, despite these deficiencies, the Framework Decision on combating Terrorism represents a crucial prerequisite for enhanced police and judicial cooperation at the EU level. As Dorin Dubois points out, the Framework Decision is favourable to EU-US cooperation in the fight against terrorism because the two partners can now deal with a crime legally recognized as a special offence on both sides of Atlantic (Dubois 2002:324).

European Arrest Warrant

The idea of European arrest Warrant (EAW) originated from the Tampere European Council of 1999, in which Member States expressed their desire to improve judicial cooperation in the EU by abolishing the formal extradition procedures for persons 'who are fleeing from justice after having been finally sentenced' (European Commission 2004 a). However, because of the continuing desire of some of the Member States to maintain total national political control on these matters, the EAW was not accepted. However, the events of 9/11 forced the European leaders to recognize that the EU's open borders and legal systems allowed terrorist and other criminals to evade arrest and prosecution. The Council reached a political agreement

in December 2001 and the EAW Framework Decision was approved in June 2002 (Council of the EU 2002 b).

The EAW provides short time limits for formal extradition procedures. It excludes any ministerial involvement in extradition proceedings. Also, the EAW dispenses with the rule of dual criminality – the principle in which crime has to be a crime both in the requesting and the requested state. Moreover, the EAW has to be enforced within the period of three months and is binding in nature. Also, the extraditing state cannot refuse the surrender of suspects or fugitives on the basis of claiming them as their own nationals.

Despite the benefits of the redefined extradition process, some experts see the EAW as a threat to national sovereignty. Jonathan Stevenson (2003:50) argues that the EAW 'appears to be part of a larger agenda, one that aims....to expand EU's supranational legal jurisdiction.' However, it is apparent that EAW is aimed at being a fast-track means of transferring suspects. But there has been a significant delay in the implementation of EAW. Even though Framework Decision set January 1, 2004 as the final deadline for implementation, only eight Member States had transposed the required provisions of the EAW in their national legislation by this date (European Commission 2004 a). The conservative opposition parties feared that 'their fellow citizens will be exposed to the whims of other judicial systems that they consider less than trustworthy (Archick 2004:12).

Police and Intelligence Sharing: Europol

Europol (European Police Office) was launched on 3 January 1994 under the JHA pillar. According to Europol Convention, combating terrorism is the core mandate of Europol. Its task is to improve the effectiveness of the competent authorities in the Member States and cooperation in an increasing number of areas, which includes terrorism and to act as a facilitator for the exchange of information, criminal intelligence between Member States (European Police Convention 1995).

Europol's mandate was expanded in the aftermath of September 11. It gained the authority to ask police forces of EU Member States to launch investigations and to share information with the US and other third parties (Ochhipinti 2003). The

Extraordinary European Council of September 21 also undertook to launch several institutional innovations, including the installation of a 24-hour alert Counter Terrorist Task Force (CTTF) within Europol (Council of the EU 2001 a). This unit comprised of national liaison officers from police and intelligence services. It was designed to collect all relevant information and intelligence concerning current terrorist threats in a timely manner; analyze the collected information and undertake the necessary operational and strategic analysis; and draft a threat assessment document based on information received. In practice, however, CTTF was criticized for serious shortcomings in handling real-time data (Bensahel 2003). Consequently, when its original mandate expired in 2003, all counterterrorism work had been taken over by the Serious Crime Unit (Statewatch 2004).

According to Jonathan Stevenson, Europol has served the useful political function of enshrining pre-existing bilateral law-enforcement relationships that had arisen in connection with transnational threats such as narcotics trafficking and the 'old' pre-Al Qaeda terrorism (Stevenson 2003: 52). However, observers feel that 'most Europol-related measures are still in the stage of planning' (Vennemann 2003) and the body remains too small and minimally funded (Archick 2004:10). Evidently, several Member States do not share the enthusiasm for multilateral European law-enforcement cooperation with the relevant organizations at the Union level. One explanation is that the political, administrative and judicial framework varies from one Member State to another, which hinders effective information sharing and coordination. According to some observers, the problem is that a number of EU Member States still consider bilateral cooperation as the most workable instrument from an intelligence perspective (Council of the EU 2004 b). As a result, while formally supporting political initiatives at EU level, they simultaneously participate in informal, practitioner-led networks such as the Police Working Group on Terrorism (PWGT) and the Club of Berne, often at the expense of supporting Europol (Council of the EU 2004).

While some Member States, including Germany, would like to see Europol evolve into an organization with an independent investigative role like the FBI in the US, others refer that it remain a coordinating body (Bensahel 2003:40). Despite Commission's repeated requests to use Europol in a better way, it is too early for the

EU to have an influential role in traditionally state-specific areas such as policing, criminal justice and intelligence sharing.

Enhancing Judicial Cooperation: Eurojust

Eurojust is the Union's judicial network. The primary task is to provide immediate legal and assistance in cross-border cases to the investigators, prosecutors and judges in different EU Member States. It is a high-level team of senior magistrates, prosecutors, judges and other legal experts who are seconded from every EU Member State. It can also ask for information, recommend certain steps to national authorities to take such as to set up investigation teams. However, it has no legal authority to launch or execute investigations. In the long run, the European Commission hopes that Eurojust will become the functional equivalent of Europol, thus representing the next major step in ensuring that there are no safe havens for criminals and terrorists in the European Union (European Commission 2004 b).

In 2005, Eurojust was still a very nascent organization that is trying to establish its own procedures and mechanisms for cooperation. It is questionable whether all EU Member States fully support the strengthening of Eurojust's role in the fight against terrorism. As Filip Jasinski (2002:54) notes, 'the negative attitude of some EU Member States towards Eurojust testifies to still inadequate harmonization of pro-integration thinking in the justice and home affairs sphere.' Nora Vennemann (200:50) points out, 'Eurojust as an entity with legal personality is not itself bound by the human rights obligations contained in Article 6 of the Treaty on European Union and is not accountable to European Court of Justice either'.

The recent experiences with Europol and Eurojust question as to how committed the Union's constituent Member States themselves are to the multilateral fight against terrorism. It is easier to make public promises on international exchange of counterterrorism intelligence and an EU-wide judicial cooperation and quite another thing to work to persuade the relevant national agencies to comply.

The Office of the Coordinator of Counter Terrorism

It was established in the aftermath of Madrid attacks on 11 March 2004. Gijs de Vries was the appointed as the Union Coordinator for Counterterrorism. The Commission stressed that he should not coordinate operational action or seek to coordinate Europol's activities, but should monitor the level of compliance by the Members States with measures agreed by the Council. The Coordinator has a vital role in overseeing the work of the various EU groups and committees within the second and third pillars in order to prevent overlap, avoid duplication and ensure that their aims and objectives are delivered.

However, the Union was divided over the office of counterterrorism coordinator. Some Member States were actively lobbying for a 'European CIA', whereas others pointed out that 'some countries have huge institutional objections to countering terrorism' and went on to condemn some Member states reluctance to allow intrusive intelligence gathering (Browne and Watson 2004).

Thus, despite the fact that the Counterterrorism coordinator's office is one of the most tangible results of the EU's post-9/11 and post-3/11 counterterrorism efforts, it does not promise a robust counterterrorism response by the EU as for that de Vries would have to be given the same powers on the Union level that interior ministers have at their disposal in the Member States.

Identification of Terrorists and Freezing of their Assets

In response to the UN Security Council Resolution 1373, which requires all UN Member States to freeze funds and other financial assets of persons and groups engaged in terrorist activities, the Council adopted common position 2001/931/CFSP on the application of specific measures to combat terrorism in December 2001 (Council of the EU 2001 c). The EU established a list of terrorist organizations. The EU has also taken a number of steps to comply with the October 1999 United Nations Security Council Resolution 1267, which calls for the freezing of funds and financial assets of Al Qaeda.²

² For further details visit <http://daccessdds.un.org/doc/UNDOC/GEN/N99/300/44/PDF/N9930044.pdf>

The State Watch organization has criticized the measure for its complete lack of political accountability over how the list is drafted. The procedure fails to require a preliminary investigation establishing a link to terrorism before the individuals and organizations can be included on the list or have their assets blocked. It also fails to provide adequate mechanisms for appeal or judicial review. These measures have been perceived as the breach of fundamental rights of those affected (EUNIEFR 2003).

In order to reduce the access of terrorists to financial and economic resources, the Council adopted a Regulation (Council of the EU 2001 d) in December 2001 regarding freezing of funds and an embargo on providing funds, assets, economic resources or financial services to terrorists. The EU also participates actively in the Financial Action Task Force (FATF) of the Organization for Economic Cooperation and Development (OECD). The FATF required government to ratify and implement UN instruments, criminalize the financing of terrorism and associated money laundering, freeze and confiscate terrorist assets, report suspicious transactions, assist third countries with implementation and review and upgrade domestic legislation in certain areas.³

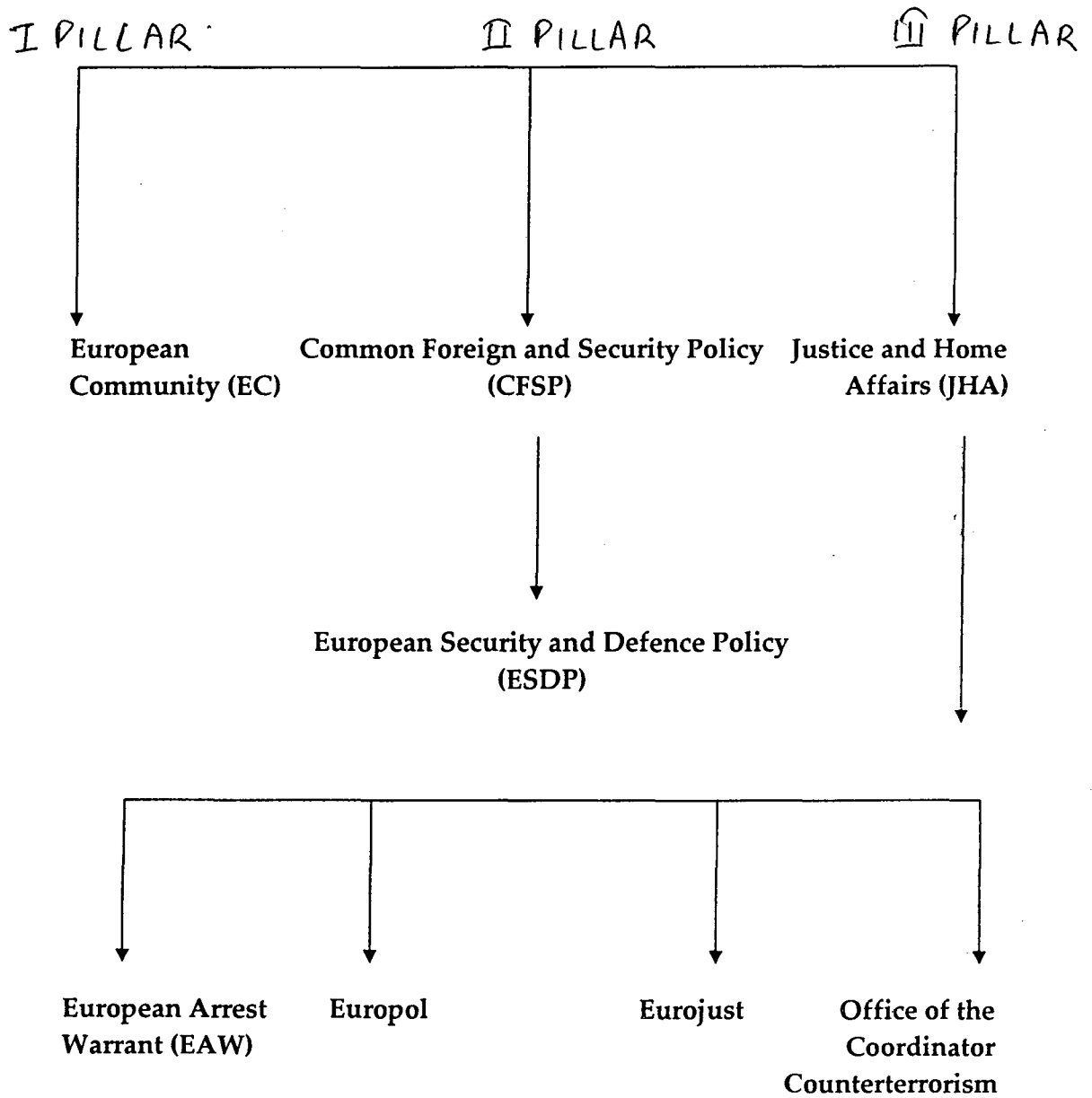
The new Action Plan also provides for tightened anti-money laundering directives, measures to prevent movement of cash across EU's external frontiers, intensified Member State information exchange on suspicious transactions, developed electronic database of persons/groups/entities subject to EU financial sanctions.

Fight against NRBC Terrorism

It was the advent of mass terrorism on September 11 that led many analysts to emphasize that the next stage could involve the use of Nuclear, Radiological, Biological and Chemical (NRBC) weapons specifically designed to cause large number of casualties.

³ Financial Task Force on Money Laundering, "Special Recommendations on Terrorist Financing", URL: http://www.oecd.org/fatf/SRecs_TF_en.htm

EU'S COUNTERTERRORISM EFFORTS UNDER THE THREE PILLARS



At the European council meeting in Ghent in October 2001, the EU decided to establish a programme to fight bio-terrorism that would be handled by European Commission and health experts from Member States. It includes setting up of a consultation mechanism in times of crisis and a register of capacities of European laboratories expert in matters of prevention. A monitoring and information centre was also established in October 2001, with Belgian, French and Swedish experts, and a network dedicated to emergency communications between the EU Commission and national authorities. At the Laeken European Council in December 2001, it was decided to create a European Civil Protection Agency.

European countries have come a long way since the end of the 1980s in their analysis of proliferation and its implications for European Security. Whereas it was a minor concern during the Cold War, overshadowed by the Soviet threat, the spread of nuclear, biological and chemical weapons, as well as the means of getting them to their targets, has gradually become one of the main issues of European security policy. The teams of experts that work on these questions in foreign and defence ministries and intelligence communities in European capitals have been reinforced. Export controls have been reviewed. Both sides of Atlantic now share a better understanding of the phenomenon, be it on ballistic missile proliferation or Iran's clandestine nuclear programme.

The Europeans agree on the need to fight the nuclear know-how equipment, technology and materials that can be used for developing weapons of mass destruction, especially in the most unstable countries. They do not want the risks of NRBC terrorism to lead to pre-emptive military action against countries that might be developing weapons of mass destruction. Such operations could hardly gain international legitimacy. The EU Strategy against Proliferation of Mass Destruction that was adopted by the European Council in December 2003 is a landmark effort in the direction of multilateralism. The recent EU engagement with Iran is such an approach to strengthen multilateral efforts to control proliferation. The EU has kept up the critical dialogue with Tehran, on the conviction that maintaining contacts and engaging in permanent dialogue and cooperation will, over the long run, strengthen the hands of the reformers.

Other Measures in the Field of Internal Security

In the aftermath of September 11, the Council of Europe set up a multidisciplinary group on international action against terrorism and also the Committee of Experts on Terrorism (CODEXTER). The EU Council set up the Council Working Party on Terrorism (COTER), which was created for collecting and processing relevant information and providing strategic assessment and operational analysis.

The need to exchange information between law enforcement agencies has been among the more important issues dealt in the last months. In that context, the Commission presented a legislative proposal to allow law enforcement authorities to obtain relevant information from across the Union with the same ease as within their own Member State. This 'principle of availability' is intended to become a key instrument in the fight against terrorism.

The EU approach to combating terrorism also includes a strong focus on enhancing preparedness and improving consequence management. When prevention fails and attacks occur, only a well-organized and effective response system can guarantee an expeditious return to normality. A direct response to terrorist attacks is the responsibility of the national authorities of the affected Member State. However, the assets and capabilities required to handle the consequences of terrorist attacks could exceed the civil protection capabilities of the country affected. This is when the EU can come in. Joint action can ensure a timely and adequate response. A general link has been installed between all specialized Rapid Alert Systems (RAS) that are currently hosted by the Commission by way of a system called ARGUS. This will facilitate coordinated and comprehensive responses by the Commission to emergencies that require action at European level.

After the 9/11 attacks, the EU also made an effort to reinforce its capacity for analysis and early warning. At that point its threat assessments, already covering over 50 countries and regions, were expanded to new regional areas, including Latin America and Central America, Southeast Asia and South Asia. In the second pillar, the SITCEN (Joint Situation Centre) made an evaluation of the terrorist attack risks associated with Chemical, Biological, Radiological and Nuclear (CBRN) materials. A

further useful initiative was the adoption of a European Commission Communication in July 2005 to work on the EU plan for enhancement of security of explosives and firearms. The communication places emphasis on improving security arrangements all along the production and supply chain but particularly during storage and support.

The EU also adopted a series of practical measures aimed at reinforcing the control and security of citizens, such as the integration of biometrics data into identity cards and passports, to simplify procedures to improve the Schengen Information System (SIS)⁴ by providing access to intelligence services, to developing a comprehensive and interoperable European Information Systems, early ratification of the Protocol of the United Nations Transnational Organized Crime Convention on trafficking of illegal firearms (European Commission 2004 c). Enhanced cooperation was also sought between Member States on strengthening external border checks, on exchange of information on visas and strengthening internal security. The European Borders Agency (Frontex) provides risk assessment as part of the effort to strengthen controls and surveillance at EU's external border.

The European Union and its citizens have demonstrated their sympathy with the victims of terrorism on a number of occasions. In 2005, € 2m was allocated for projects proposed by organizations who in one way or another help the victims. Several organizations from across the whole Union benefited from these funds, reflecting the shared solidarity that exists across the EU.

The Commission is working on enhancing the protection of critical infrastructure by way of a European Programme for Critical Infrastructure Protection (EPCIP). Based on the EPCIP Green Paper adopted in November 2005 and followed by a public consultation, the programme should address such issues as the definition of a critical infrastructure, the key principles regarding their protection as well as the sharing of responsibilities between the Member States, the EU, the private sector and other stakeholders.

Work on countering chemical and biological threats has progressed too. The evaluation of chemical, biological and radiological threats, the strengthening of

⁴ On the 1990 Schengen Convention, which entered into force in March 1995, visit http://www.europa.eu.int/comm/justice_home/fsj/freetravel/frontiers/wai/fsj_freetravel_schengen_hm

preventive measures as well as the ability to respond to possible attacks will continue to be high on the agenda of the Commission and Union. The Commission has been supporting a number of research projects in this field. New preventive measures such as the possibility of creating mobile laboratories that may be deployed in times of crisis will also be explored.

The active participation of the private sector is an important, albeit often neglected, component of the fight against terrorism and to this effect the Commission is developing a general policy on a Public-Private Security Dialogue and is preparing a general horizontal EU Action Plan on public-private partnerships. The idea is to structure partnership with a view to gathering and exchanging information, intelligence and best practices from public-private initiatives in different fields. This should encompass the creation of a framework where high-level and strategic discussions could take place.

However, despite some progress in the implementation of the abovementioned measures, problems remain due to the absence of guarantee for the protection of human rights and civil liberties. To take the case of aviation security, the EU had no trouble in supporting initial US pressure for better baggage security and passenger screening (European Commission 2001 c). However, when airlines hit by rocketing insurance premiums sought help from national governments, the European Commission needed to ensure that such support measures are time-bound, minimalist and devoid of hidden subsidies and that the European airlines driven to the point of closure by their losses are not bailed out improperly (Spence 2004:84).

Also, US proposals to put armed 'air marshals' on flights to transfer large quantities of personal data on passengers for US intelligence screening were seen as objectionable by many. Within the EU, there were debates on border controls, prompted not just by concerns about terrorist infiltration but also by illegal migration and the growing flow of asylum seekers.

The Role of ESDP in Counterterrorism

The role of military forces in combating international terrorism remains simultaneously limited and open-ended. The armed forces have missions dedicated

almost entirely to the defence of external borders. However, because of their fundamental attitudes the ground forces are well-suited to support the counterterrorist operations. For example, British ground forces that became engaged in a situation of intense, indigenous terror in Northern Ireland, quickly acclimatized themselves to urban terror and have kept the political initiative in the hands of British government. Military forces can provide specialized detachments dedicated to the defence of important targets such as petroleum platforms at sea, port facilities and air terminals and can provide the attack against heavily armed terrorist in barricade, hostage and similar confrontations.

The events of September 11 also provided stimulus to the EU's attempts of forging a common European Security and Defence Policy (ESDP). The rethinking of American security priorities may also have significant implications for transatlantic burdensharing. At the Seville European Council in June 2002, the EU began analyzing the contribution of ESDP to the fight against terrorism and the use of military capabilities to protect populations in the event of terrorist attacks, including attacks involving chemical, bacteriological, radiological or nuclear weapons.

In attempting to combat international organized crime, national police and judicial systems work under some major disadvantages. Their jurisdiction begins and ends at their national borders. Also, there may be a reluctance to share the information as governments place overriding priorities on protecting their perceived strategic interests. All these obstacles have led to the search of alternative remedies like a militarized response, or some form of economic sanctions, or covert action. The more effective way of dealing with such problems is to enhance the coordination between different organs and instruments involved in the fight against terrorism (border guards, surveillance, coast guards and police services) and promote the development of a joint civilian and military crisis management.

The EU supported an American response to the attacks on the basis of UN Security Council Resolution 1368. It is, therefore, clear that from the EU perspective, the preferred response to the events should be as inclusive as possible and under the UN aegis.

The link between ESDP and the EU's response to September 11 attacks was also reflected in Belgian Presidency conclusions at Laeken in December 2001, which included a Declaration on the Operational Capability of the Common European Security and Defence Policy. The Belgian Presidency however, struggled to find a solution to the funding of the EU Rapid Reaction Force prior to Laeken Summit.

Though, a handful of EU Member States supported the US military operation in Afghanistan, the apparent solidarity masked perceptible unease. No doubt because of close military collaboration, UK was an obvious ally to the US but notwithstanding differences over Israel-Palestinian conflict, the US bombing strategy, the perceived lack of consultation with allies and the insufficient attention being given to the humanitarian crisis in Afghanistan. Differences also emerged between the European allies and the US over the treatment of detainees in Guantanamo Bay, with most EU countries being in favour of the full application of the Third Geneva Convention and full access to International Committee of Red Cross (ICRC). The US preferred to discuss military cooperation via multiple bilateral links rather than through frameworks of alliance itself.

In 2003, the EU launched police operations in Bosnia and Herzegovina and undertook military missions in Macedonia and Democratic Republic of Congo. These military operations have so far been limited to the Petersburg tasks-humanitarian and rescue tasks, peacekeeping and peace making. This mission definition is expressly included in Article 17 of the 1992 Maastricht Treaty and forms the limiting framework as well as the foundation of ESDP. The range of counterterrorism tasks was not foreseen when it was formulated. At the Seville Council⁵ in June 2002, two avenues of work were explored. First was the need to identify the military capabilities required to protect forces deployed in EU-led crisis-management operations against terrorist attacks. Second was the need to explore how military or civilian capabilities could be used to protect civilian populations in the event of terrorist attacks.

Even at the height of dissensions within the EU over the Iraq war in 2003, there was a growing convergence of views in the EU on the need for new thinking in

⁵ For further details on the Presidency conclusions of the Seville European Council visit http://www.ue.eu.int/ueDocs/cms_Data/docs/pressdata/en/ec/72638.pdf

the field of defence and security on how to deal best with terrorism. At the Le Touquet Summit in February 2003, France and UK agreed on the need for solidarity in the face of possible terrorist attacks (Franco-British Summit 2003).

The Draft Treaty on Constitution for Europe includes a 'solidarity clause', engaging Member States to help each other against the consequences of possible terrorist attacks, and a provision for structured cooperation on defence matters. The European Security Strategy (ESS) approved in December 2003, also foresees a wider spectrum of ESDP missions, including support for third countries in combating terrorism. The European Council has agreed to establish a small military planning cell. All these measures are not meant to encroach upon NATO's domain but they do ensure that the ESDP would become a more serviceable instrument for addressing new security threats.

EU's military capacity is undermined by problems of interoperability between European forces, lack of advanced technology and precision guide munitions. All these deficiencies are a result of under-spending or uncoordinated military spending e.g. waste of duplication and the inability to take advantage of the economies of scale, especially with regard to research and development. Overall, the EU lacks a planning and budgetary system.

To work successfully, ESDP needs a common view on the crises in which it is to be used. There is a need to mesh ESDP with the national security and defence system. The war against terrorism may well be more effectively conducted through civilian, police and intelligence instruments rather than through smart bombs. Cheque-diplomacy and concentration on development aid and the reconstruction of civil society are appropriate foreign and security priorities for an EU which does not seek to become a military superpower. But the carrot without stick is a far less effective instrument than carrot backed by stick.

Addressing the Root Causes of Terrorism

The shock of September 11 resulted in streamlining of bureaucratic procedures by EU Member States and harmonization of justice and home affairs matters. The EU

agreed on a common definition of terrorism, a European Arrest Warrant, list of terrorist groups and individuals, freezing of assets of people and organizations involved in terrorist activity, upgrading of Europol, establishment of Eurojust and strengthening of other intelligence services.

These achievements, however, look better on paper than in reality. Some measures, although agreed at the EU level, have not been implemented in some of the Member States. Further, human rights groups fear that these measures might undermine fundamental rights, such as freedom of speech or the transparency of judicial and legislative procedures. To counter balance the image of 'Fortress Europe' shutting its borders and turning the EU into a police state entity, the EU has tried to intensify development policy and cooperation with third states. Emphasis has been put on analysis of root causes of terrorism rather than on regime removals.

EU policymakers feel that integrating Muslims and other immigrants into mainstream European society is imperative to tackle root causes of terrorism and religious extremism. Concerns among EU Member States about integration are also being driven by the recognition that halting or severely restricting immigration is not an option in light of Europe's aging population and declining birth rates. In November 2004, EU leaders adopted 11 common basic principles for immigrant integration policy. These common principles identify that integration is a two-way process of mutual accommodation by immigrants and residents of Member States and implies respect for the basic values of the EU. Among other measures, the common principles identify following as the crucial to successful integration: access to education, employment, public services, protection against discrimination, basic knowledge of host' society, language, history and institutions, immigrant participation in Member States' democratic processes and political decision making (European Commission 2005).

As set out in the European Security Strategy, through its external action the EU takes on a responsibility for contributing to global security and building a safer world. Acting through and in conjunction with United Nations and other regional organizations, the EU is working to build international consensus and promote international standards for countering terrorism.

The EU has a range of potential instruments and operates structured programmes and has structured agreements with most countries like the Stabilization and Association Process (SAP) started for the Western Balkans in 1999.⁶ The strategy was designed to bring security problems in the region under control and pre-empt new conflict through a combination of material aid and political incentives – notably the prospect of eventual EU membership. Similar is the rationale behind EU's Barcelona Process, the latest embodiment of EU's long standing Euro-Mediterranean dialogue with states in North Africa and Middle East.⁷ The Euro-Mediterranean Partnership has since 1995 built up a solid and substantial set of cooperation activities, ranging from political dialogue, through trade liberalization, economic reform and infrastructure networks to culture, education and movement of people.

On 12 May 2004, the Council approved the European Neighbourhood Policy (ENP) which aims at enhancing cross-border co-operation at the external borders of the Union, in particular regional/transnational co-operation with Belarus, Ukraine, Moldova, the Southern Caucasus countries (Georgia, Armenia, and Azerbaijan) as well as with all the countries on the southern and eastern shores of the Mediterranean: Morocco, Algeria, Tunisia, Libya, Egypt, Israel, Jordan, Lebanon, Syria and the Palestinian Authority (Communication from the Commission 2004). The ENP intends to create bilateral relationships in order to prevent a dividing line which could be formed between the enlarged EU and its neighbours. In 2004, the first Action plans were adopted with Israel, Jordan, Morocco, Moldova, the Palestinian Authority, Tunisia and Ukraine. The ENP initiative seeks to create a space of shared stability with its neighbours. The fight against terrorism is becoming a priority in each Action plan.

The EU-ASEAN relationship is characterized by a great emphasis on ideational factors, as well as on the transfer of norms, principles, and rules as part of the dialogue with policy-makers and experts. In this regard, progress was made

⁶ For further details see "EU in South-East Europe: The Stabilization and Association Process", URL: http://www.eudelyug.org/en/eu_in_see/stabilisation.htm

⁷ For further details visit http://www.europa.eu.int/comm/external_relations/euromed

towards the implementation of the series of activities agreed in the ASEM Copenhagen Co-operation Programme on Fighting Terrorism of September 2002.⁸

The 2004 Action Plan envisages establishment of a dialogue for promoting good governance between Europe and the Arab world, with the participation of governments and wider civil society of Arab state including non-violent Islamist parties. The Action Plan also stresses the need to develop and implement a strategy to promote cross-cultural and inter-faith understanding between Europe and the Islamic world. The importance of ideology and religious motivation is an important factor that must be taken into account.

The European Commission stressed the need to identify and address the factors contributing to violent radicalization. Its Communication on Terrorist recruitment presents a wide view of the EU Strategy on Radicalization and Recruitment. It identifies the policies that could be channelled more effectively towards tackling possible factors that contribute to radicalization like terrorist propaganda in the media, youth vulnerability, and integration failure. In order to match the enormous complexity of the underlying causes of radicalization, it has been decided to create an Expert Group on Violent Radicalization to support the Commission's policy-making. Furthermore, the EU Commission intends to encourage and sustain studies and analyses of this phenomenon, based on multidisciplinary and comparative approaches.

The European Union and its citizens have demonstrated their sympathy with the victims of terrorism on a number of occasions. In 2005, € 2m was allocated for projects proposed by organizations who in one way or another help the victims. Several organizations from across the whole Union benefited from these funds, reflecting the shared solidarity that exists across the EU.

CONCLUSION

The main argument of this chapter is that security has developed into an important element of integration and this has been triggered by the securitization of EU policy agendas after 9/11 and the increasing cross-pillar linkages between internal

⁸For further details visit http://ec.europa.eu/comm/external_relations/asem/asem_summits/asem4/2.htm

and external security discourses. One of the consequences of the terrorist attacks in Madrid and London is that the EU is now trying to bridge the institutional gaps between the different pillars of the European Union and strengthen the cross-pillar coordination and co-operation in the EU.

Furthermore, the overall will to build an “Area of Freedom, Security and Justice” in the EU poses new challenges and calls for cross-pillar foreign and security regime building also in relations with third states. EU is also entering a period of revision not only of the national security policies of the European countries, but an integral revision of the multicultural society and the inclusive model of which the EU is historically constructed on. Under the heading of the “war on terror”, the securitization of the European integration agenda risks moving in the opposite direction by giving up the most encompassing vision of its comprehensive security understanding of fighting transnational terrorism at the regional and global levels and within EU cross-pillar security regime building. Cross-pillar security regime building in the EU should therefore play a major role in balancing JHA concerns with other elements of the EU external policy on the basis of international law and human rights principles.

Chapter 3
*A Critical Appraisal of EU's
Counterterrorism
Strategy*

CHAPTER – 3

A CRITICAL APPRAISAL OF EU'S COUNTERTERRORISM STRATEGY

Counterterrorism raises a number of questions. It is indeed a fact that in this combat, the state is confronted with an essential problem: how to protect citizens from the principles that underlie Rule of Law? If enough efficient means are not available to combat terrorism, the credibility and the authority of the institutions are likely to be weakened. But at the same time, an excessive reaction on part of these institutions can result in a feeling of rejection of those institutions by the citizens.

This chapter examines the lacunae in the EU counterterrorism efforts and also look into the difference between the European and the American perceptions of terrorism and subsequently their distinct approaches to address the issue. The chapter will attempt to analyze as to what ails an effective EU counterterrorism strategy.

THE PROGRESS SO FAR

The most notable impact of September 11 on the EU was in the field of police and judicial cooperation. The sheer magnitude of the terrorist attacks led the EU to draft a whole array of anti-terrorist measures which otherwise would have taken many years, owing to the Union's cumbersome policy making process. The response was immediate with Europeans expressing solidarity with the Americans and invoking Article 5 of the NATO. Subsequently, many European countries offered diplomatic and military assistance to the US during the war in Afghanistan in 2002, including sharing of intelligence and new initiatives to help track down terrorists and their funding.

However, Europeans were deficient in some of the high tech military capabilities that the US needed to fight against the Taliban and the Al-Qaeda, like the sophisticated unmanned aerial vehicles, satellite guided munitions or the ability to mount combat search and rescue missions. Also, after the experience of the Kosovo

air campaign in 1999, the Pentagon thought it would be easier and more efficient to run the war through US chains of command, slotting in officers from close allies when necessary (Grant 2002:142).

The EU institutions were evidently ill-suited to responding quickly or representing the Union forcefully to the rest of the world. One positive consequence post 9/11 is that the EU is likely to reform the institutions of the CFSP. Most of the ESDP's institutional arrangements had been sorted out before September 11. Though there has not been any dramatic improvement in the EU military capabilities. The ESDP's objectives remain the so called Petersburg tasks, defined in the Treaty of Amsterdam as humanitarian and rescue tasks, peacekeeping tasks and tasks of combat forces in crisis management, including peacemaking. But the EU has certainly matured as an international actor. The European armies are experienced at peacekeeping and are trying to develop some of the capabilities for the headline goal such as transport planes, lightly armoured mobile troops and much better communication systems, which are highly relevant to a situation such as that in Afghanistan (Grant 2002:143).

The adoption of a common definition of acts of terrorism was a significant achievement. Before this, it was difficult for the Member States to prosecute people inciting violence, raising funds for terrorist groups as they was no common mechanism to outlaw such activities. However, after September 11, a common range of penalties for terrorist and criminal offences was adopted. The creation of European Arrest Warrant (EAW) also intended to help Member States combine law enforcement efforts across national borders, using common definitions and procedures. Under the old principle of dual criminality, Member States would extradite someone only if the alleged matter was a crime both in the state sending the extradition request and the recipient state. But under EAW, a judge could now grant extradition requests, with minimal review, regardless of whether the extraditing state's charge is considered a crime in judge's state (European Commission 2004 a).

Since September 11, the EU has endowed Europol with enhanced powers, notably the right to demand information instantly from national forces, and to coordinate arrests by them. A special anti-terrorist team has been created within the

Europol, to encourage exchanges of information among the various national authorities. The European Council has given Europol a specific mandate to work with its US counterparts on counterterrorism.

The EU has also spearheaded its efforts in developing policies on asylum, immigration and visas. Heightened worries about terrorism have contributed to renewed efforts to develop common policies for the EU's external borders.

European coordination to combat international terrorism was already well underway at the time of the events of September 11. Basic principles had been agreed upon in October 1999. Because of their internal past and present situation, several EU countries (France, Germany, Italy, Portugal, Spain and the UK) already had specific legislation on terrorism where terrorist offences were identified as separate crimes based on the motivation of the offender and special procedures available to investigators and prosecutors. The EU reacted by implementing new laws and strengthening existing ones. Immediate reactions, however, were in line with the previous approach. Most of the measures were consistent with the role and constraints of the EU, which are intrinsic to the Union. At the national level, however, states reacted in different ways.

While the UK implemented policies to restrain civil liberties of foreigners, other states took the opportunity of September 11 to implement legislation to address long-standing concerns, including immigration and evidence collection and to act against asylum seekers. Because of its extensive domestic experience confronting the IRA, the UK had already implemented detailed legislation against terrorism. On 13 November 2001, the new Anti-Terrorism Crime and Security Act (ATCA) was published by the British Home Secretary. The reforms included measures to enable telecommunication providers to retain personal data, including E-mails and mobile phone logs (Amnesty International 2002). Several Member States adopted policies to regulate immigration controls. It appears that these measures were targeted more at satisfying pre-existing conservative constituencies rather than addressing terrorist threats.

France had been active in combating international terrorism in its own territory and abroad for many years and dealt with numerous acts of terrorism in Paris in the mid 1990s. France enacted new legislation in November 2001, which created a special definition for the offence of financing terrorist activities. The law allowed easier inspection of vehicles and facilitated night searches of premises for offences relating to terrorism, arms or drug trafficking.

Italy also adopted a more selective approach to the entry of foreign nationals, approving stringent measures and heightened attention to combat illegal immigration. A new Immigration Act was adopted which increased the period of time for preventive detention, allowed the taking of fingerprints and photographs of foreign nationals and ensured that deportation acts were carried out (National Report 2002).

In Germany, the Federal Office of Criminal investigation was given power in 2001 to investigate terrorist activities in Germany of groups operating abroad, to look over cyber crimes, while the Office for the Protection of the Constitution was able to examine bank-account details.

In March 2004, Spain was the victim of the most severe Al-Qaeda attack in Europe. Spain was already under threat due to national terrorism and Spanish law in 2001 already contained several criminal provisions against terrorism while its criminal code included specific terrorist offences. After September 11, Spain intensified controls to prevent procurement of weapons and increased efforts to trace contacts with terrorist groups.

EXAMINING THE LACUNAE

Despite the substantial progress made in the field of counterterrorism, both in terms of immediate actions and formulating long term policy measures, the EU still suffers from implementation deficit. This became apparent after the Madrid blasts in March 2004 and London bombings in July 2005. As the implications of an Al-Qaeda linked terror attack on their own home soil sank in, the EU Member States began with a much needed critical questioning of all measures they have taken to combat

terrorism thus far. At the EU level, a number of internal reports revealed that implementation of the measures agreed upon years ago has been “slow, poor and inadequate” (European Commission 2004 c).

While some countries like Germany and Britain have been aggressive since September 11 in improving their counterterrorism capabilities, many other European countries have not made comparable changes. They are less cognizant of the danger and regard it primarily as a trouble for the US. For example, the Scandinavian countries view terrorism as “something exotic, down there in the South.”¹

Although, a wide array of innovative legal initiatives taken in the aftermath of September 11 generated tremendous political impetus to strengthen cooperation among Member States, there exists a wide array of problems including difficulty in prosecuting terrorist suspects, strict privacy laws that can complicate counterterrorism investigations, lax sentencing guidelines, varying immigration policies among EU Member States and differing perspectives on what constitutes legitimate political or charitable activity, as opposed to terrorism support (Jacobson 2006:14). While the EU's ability to reach a consensus on a number of highly sensitive issues may perhaps represent a precedent for future development, serious doubts remain about to which these agreements have been translated into reality. Often the decisions taken at the EU level have not been implemented at the Member State level or have been differently interpreted.

Structural Weaknesses

The EU enforcement capabilities remain quite weak and there is a lack of effective coordination between EU institutions and EU Member States in a number of important areas. The national intelligence and law enforcement agencies do not always cooperate with Europol and governments of several Member States occasionally prefer to act bilaterally rather than collectively. Cooperation of national judiciaries with Eurojust is also far from ideal due to ongoing national sovereignty

¹ “Europe's Terror Efforts under Scrutiny”, *Deutsche Welle*, March 8, 2005, URL: www.dw-world.de/dw/article/0,1564,1511790,00.html. Quoted in Michael Jacobson (2006), *The West at War: US and European Counterterrorism Efforts, Post-September 11*, Washington Institute for Near East Policy: Washington DC, p.14

concerns and various domestic preoccupations (Bures 2006:72). The Revised Action Plan, creation of the post of EU Counterterrorism coordinator and a host of other measures adopted are indeed a laudable development but the EU needs to adjust its counterterrorism policy both at the strategic and tactical levels.

In addition to gaps at the Member State level, internal European cooperation and coordination on counterterrorism remain problematic. Intelligence agencies are still hesitant to share information with their EU counterparts because of concerns about protecting sources (Randstorp and Cozens 2004). The agencies like Europol have not yet reached their full potential. The body can only cooperate on the “non-operational aspects of law enforcement and is still without a permanent director. Eurojust is not a criminal intelligence hub for prosecutorial and law enforcement authorities, but rather a “round table for national magistrates” (Müller-Wille 2003). The counterterrorism coordinator has little in the way of concrete powers, and his responsibilities remain poorly defined. The EAW still faces some obstacles before it can be considered proper success. The European Commission has identified a number of problems in its evaluation, which have impeded the development of the EAW. For example, some Member States have placed their own limitations on the application of the EAW, which may ultimately reduce its effectiveness. Similarly, the EU has debated whether to establish a European evidentiary warrant, which would allow a judge in one Member State to obtain evidence in another Member State for use in a criminal proceeding (Jacobson 2006:20). The Madrid bombings were a wake-up call that illustrated the need to fix old rivalries among European intelligence and law enforcement services.

Europe's internal information sharing problems are particularly troubling given the ease of movement and travel across the EU. With few internal borders, once an individual has made it into one Member State, he can freely travel to other countries in the Union. Intelligence cooperation among EU states is more vital as many terrorist cells are not based in one specific European country, rather they tend to be scattered across the continent. This geographic feature is a grave challenge for any state to handle individually. Counterterrorism efforts cannot succeed without assistance and coordination from other Member States.

At the core of the problem is the absence of a robust mandate for the Union to lead the fight against counterterrorism. The EU's coordinatory activity is largely shaped by the intergovernmental rather than supranational consultation. Or at the best, the EU serves as a multilateral forum for consultation between individual governments of Member States rather than a decision maker in its own right. The very nature of the EU makes it confined to performing non-executive tasks. From being an economic framework, as provided by the Treaty of Rome (1957), the EU today has entered into a complex domain of foreign and security policy and justice and home affairs. However, due to Member States perennial concerns about erosion of national sovereignty, the Union lacks the essential legitimization required to become a collective security organization or supranational sovereign with a security mandate for Europe (Zimmermann 2006:124).

The European Parliament is consulted on Framework Decisions but its views are routinely dismissed by the Council which is the sole legislator. As a result, a mass of policy-implementing decisions are not referred to the European Parliament – the argument being that they are non-binding 'soft law' (Bunyan 2003).

The absence of a genuine political will on the part of Member States impedes the development of a coherent counterterrorism policy. Before the Framework Decision on Combating Terrorism was tabled in 2002, only 7 countries – France, Germany, Italy, Portugal, Greece, Spain and UK– out of then 15 Member States in their national legislation provided for penal statuses addressing terrorist offences. In all other countries, terrorism was simply subsumed under the ordinary criminal code.² Also, the EU's updated list of terrorist organizations and persons linked to terrorist activities is not a proscription list of terrorist groups applicable to the jurisdiction of Member States. It only comprises measures against the financing of the listed people. It does not limit the freedom of reunion, association and expression of the listed groups and individuals (Zimmermann 2006:135).

Also, there is the issue of how counterterrorism per se is perceived in Europe. Therese Delpech argues that Europeans reject the "war model" of fighting terrorism

² For further details see "European Union Plugging the Gaps in the Fight against Terrorism", URL: http://www.europa.eu.int/comm/justice_home/fsj/criminal/terrorism/fsj_criminal_terrorism_en.htm

(Delpech 2002:42-43). Despite the initial shock and flurry of activity created by the Madrid attacks, there was not any tangible sea-change in European counterterrorism. Presumably, a quiet consensus prevails that Europe had faced similar tribulations in previous decades. The Madrid attacks did not affect traditional European reluctance vis-à-vis the necessity for an interlocking counterterrorism strategy with implications for the use of military force against international terrorism. For reasons of political acceptability linked to historical excesses of the early 20th century, the general position in Europe is that one can dispense with counterterrorism instruments beyond judiciary and constabulary organizations (Zimmermann 2006:137).

Despite the positive changes made since September 11, the EU still plays a limited narrow role in overall European counterterrorism efforts. While the EU has assumed some control in the legislative and policy arenas, it is not involved to any real extent in day-to-day counterterrorism matters. European intelligence and police work is still performed by the Member States is done through either a bilateral or multilateral process - not through the EU.

Balancing Security and Human Rights

One of the most fundamental issues highlighted post 9/11 is how to strike a balance between civil liberties and security. While dealing with an exceptional situation like a terrorist attack, nations must be careful of the repercussions of the measures taken on protection of human rights and civil liberties. Consequently, a major debate has ensued on both sides of Atlantic as to what extent one can go to defend principles like democracy and rule of law.

Frequently, counterterrorism measures are subsumed under blanket criminal-penal legislation relevant to internal security. This has raised complex challenges of shaping more comprehensive and cross-cutting strategies - for example development policies in which human rights (including women's and children's rights) are more effectively mainstreamed; conflict prevention strategies that try to tackle root causes of poverty and exclusion; ambitions to control irregular migration while protecting refugees' and migrants' rights; or trade policies that take account of human rights impacts.

Two dominant factors have been driving the EU's domestic agenda: terrorism and irregular migration. Both feature serious human rights issues. Amnesty International has demonstrated extensively the human rights deficit in the EU's counter- terrorism policy, and the manner in which human rights and refugee protection obligations are snowed under in the fight against "illegal immigration" (AIEUAAR 2005). Given their external ramifications there is a real risk of undermining the credibility of the EU's human rights policy as a whole.

The legal ambiguity that surrounds the status of international campaign against terrorism and the terms ("good vs. evil", "axis of evil", "civilization vs. darkness", "with us or against us") in which it has been presented to the public have created conditions in which it is unusually easy for political authorities to evade legal accountability. New regulations have been introduced, reinforced, reinterpreted or suspended. Also, there is a greater willingness to consider covert action, in both civil and military spheres and are justified by the governments in terms of the need to oppose terrorism.

In the aftermath of September 11, human rights organizations find themselves addressing a range of human rights violations. Among areas of concern are (ICHRP 2002):

- Rights of detainees (conditions of imprisonment, denial of access to legal representation, use of torture etc.)
- Unfair trials and trials of civilians by military commission
- Discrimination and racial profiling
- Illegal extradition procedures (expulsion and return) and violations of right of asylum seekers
- Denial of freedom of expression

In Europe, some proposed counterterrorist measures have worried the human rights organizations on the grounds that they may criminalize accepted forms of dissent, including trade union activities, anti-globalization protests etc. The EU took the opportunity to push for a pan-European arrest warrant, a proposal which civil

liberties experts criticize on the grounds that judicial processes throughout the EU are not equally fair or just.

There is a reason to be particularly concerned about two groups of people who are especially vulnerable in the political environment created by September 11: minorities (particularly Muslims and individuals of Arab origin) and migrants. The international campaign against terrorism has tended to increase public anxiety and encourage stereotyping of groups of people perceived to be associated with political violence. Racial discrimination and xenophobia have increased in some countries part after September 11. In particular, there appears to have been an increase in anti-Islamic and anti-Arab and also anti-Jewish feelings (EMCRX 2002). Many attacks have been reported against Jews and synagogues in Europe, especially in France.

Refugees and migrants are likely to be particular targets, especially in countries that experience continued economic recession. Moreover, the increase in irregular migration, including human trafficking and attempts to suppress it, generate numerous violations of labour and human rights. The perception that immigrants from poor countries pose security risk has grown since September 11.

Integrating Muslims

Muslims are the largest religious minority in Europe with a great ethnic and linguistic diversity. The UK has mostly South Asians, French Muslims are immigrants from Algeria, Morocco and Tunisia while Germany has considerable population of Turks. In recent years there has been an influx of political refugees and Muslim migrants from the Balkans, Iraq, West Bank and the Gaza Strip. Over the last few years European countries have stepped up efforts to integrate their expanding Muslim population. The outbreak of widespread violence in France in October 2005 against the death of two young Muslims, furore over depiction of Prophet Mohammad in Danish cartoons also highlight the growing alienation and among the European Muslims and the urgent need to address such societal tensions. The EU plays a more distant role in this arena as key policies relating to integrating Muslims into society – including citizenship laws, education, treatment of religious institutions and anti-

discrimination measures – largely lie with individual governments. There is no legal basis in the EU treaties for the Union to act on integration policy.

Different policies have been pursued by different governments to accommodate their immigrants and minority populations. Britain, for example, embraced the notion of multiculturalism – integration while maintaining identity – but some believe that too much emphasis has been put on diversity at the expense of building a common society. France has adhered to a policy of assimilation but many French Muslims continue to live in impoverished and exclusive Muslim neighbourhoods. As Charles Krauthammer (2005:A31) says, “the real problem in Europe is not immigration but assimilation. Anyone can do immigration but America’s genius has always been assimilation, taking immigrants and turning them into Americans”. Though, the European nations are adopting diverse approaches but have not yet succeeded in integrating a large socio-economically disadvantaged Muslim population in their national polities.

There is a growing consciousness that social deprivation, discrimination and a sense of cultural alienation may make the second and third generation Muslims more vulnerable to radical ideologies. The revelation in the aftermath of the July 2005 London bombing that many of the accused were British has reinforced the imperative at the EU level to encourage better integration policies and tackle root causes of extremism. Member States increasingly feel that the EU can set standards for good integration practices. The Union offers a useful forum to discuss common challenges and pursue cooperative strategies. Also, all this is in isolation with the EU’s efforts to prevent terrorist recruitment and radicalization as integration policies have wider socio-economic and cultural ramifications.

However, like in other spheres, developing a common integration policy under the aegis of the EU is constrained by the intergovernmental nature of the Union. Some observers believe that the EU should follow the American model of protective discrimination. But it seems unlikely for the EU to forge a consensus among 27 nations on a common affirmative action programme in light of Member States’ varying legal frameworks. There is also a contention that such a policy may cause further alienation of the minorities. Similarly other such initiative like encouraging

greater political participation and citizenship is can only be accomplished at the national and local level as citizenship and electoral laws remain within national competencies of Member States.

There are also vital concerns about balancing European ideals of democracy and liberty with new law enforcement and security measures. For instance to what extent would European societies clamp down a group preaching intolerance in the name of free speech. It is uncertain as to how much convergence can be achieved on this issue especially among the recently admitted Central and East European countries for whom memories of state repression of free speech and other human rights remain fresh.

Many EU Member States are also reluctant to link asylum and integration policies with anti-terrorism efforts because they do not perceive the vast majority of asylum seekers as terrorist threats. The Commission has proposed a new EU directive to harmonize expulsion procedures for illegal immigrants and failed asylum seekers but does not explicitly address the issue of deporting foreign terrorist suspects.

TRANSATLANTIC CONVERGENCE AND DIVERGENCE

In terms of doctrine, both the European Security Strategy (2003) and the US National Security Strategy (2002) are similar in identifying threats to security. Day to day counterterrorism cooperation across the Atlantic also continues, and though officials from both sides have complaints but there is a level of general satisfaction. However, there still exists a strategic divide between the US and Europe on some of the basic issues that impedes a sustained and effective counterterrorism response.

The US declared a global 'war on terror' and identified a nexus linking international terrorism, weapons of mass destruction and rogue states. Military power is perceived to be the principle instrument to address these challenges. At home, the US has overhauled its homeland security architecture and undertaken stringent measures.

In contrast, Europe has approached the problem differently. It has put greater emphasis on containment, consensus building and security sector reform. This can be attributed to the fact that Europe comprises of several nations, with their own distinct culture and historical experiences. Though, all of them adhere to principles of liberal democratic polities, market economies and rule of law, they have different experiences of terrorism. Terrorism was primarily viewed as national problem and individual European states used to address the problem through their internal security architecture and bilateral exchanges. There was little effort to build inter-state structures.

September 11 and more so, the Madrid and London terrorist attacks exposed Europe's vulnerability. As a result, the EU realized the threat posed by the international terrorism and pulled up its socks to take adequate measures. Not only were many of the perpetrators formerly resident of Europe but the attacks also demonstrated that small pockets of second generation Muslims could be incited to extremism. For example, the Islamist activist who murdered Dutch filmmaker Theo Van Gogh for making a film criticizing the treatment of Muslim women was not a foreign jihadi but a Dutch citizen raised in the Netherlands.

After 9/11, Al-Qaeda was deemed to be a manifestation of catastrophic terrorism. It implied that militant Islam might attack the developed states of the West and thus, emerged the rationale of a hard military response. However, Europe interpreted the phenomenon as a reaction to specific policies, military deployments and lack of progress in the Middle East peace process. For Europe, this is not a 'new terrorism' as often seen by the US and is rather rooted in some old political and economic problems. The context has changed in wake of globalization, information revolution, which has provided new opportunities to the non-state actors.

It was initially felt that US was the common foe, the primary target of Al-Qaeda. In fact, in March-April 2004, Bin Laden had offered a 'truce' to European nations in exchange for their withdrawal of support to the US military initiatives in Muslim countries. The European countries declined it immediately not just out of solidarity with the US but also because none could be sure about Al-Qaeda's motives. However, in the post 9/11 era, with terrorist attacks happening across the globe, it

became apparent that there was an overlap in the membership, logistics, training, information exchange between the Al-Qaeda and local terrorist outfits like Algeria's Salafist group, Jemaah Islamiya in Indonesia, Moroccan Islamist Combat Group and organizations like Hamas and Hezbollah.

Politicians on both sides of the Atlantic exploited this rhetoric of 'new terrorism', for it mobilized elected assemblies, delivering enhanced budgets and robust packages of security legislation. However, Europeans argue that in this rush to address 'new terrorism', the US has neglected some of the basic principles of counterterrorism (Rees 2005:913).

There were sharp differences between the Bush administration and France and Germany over the Iraq war. The latter were not convinced by the evidence that Iraq had WMDs and argued that International Atomic Energy Agency (IAEA) inspectors should be granted a longer period to do their work. While sections of the American elite opinion believed that the European reluctance to use force was a reflection of structural disparity in power between the transatlantic allies. As Kagan (2003) says, "the incapacity to respond to threats not only leads to tolerance. It can also lead to denial."

On the other hand, because of their experience in overcoming internal rivalries by building consensus, Europeans accord more importance to multilateralism which commands broader degree of international support and demonstrate legitimacy of actions. Like there was a unanimous support for the US action against the Taliban regime in Afghanistan in 2001. But the US did not want to be constrained by NATO framework and expressed more preference for the informal 'coalition of willing'.

Europeans advocate long-term strategies of conflict prevention. In post-conflict situations, the Europeans have been willing to provide troops for protracted peacebuilding projects, such as the International Security Assistance Force (ISAF) in Afghanistan and they have provided lion's share of resources to rebuild functional societies (Rees 2005:915). The EU believes that overseas aid and poverty alleviation can be instrumental in addressing the underlying causes of terrorism.

The US has tended to be more sceptical about the value of 'foreign policy as social work' (Mandelbaum 1996:70) and follows an externalization strategy i.e. trying to keep the terrorists out of its borders and fighting them abroad whereas for Europe, the fight begins at home. At the March 2004 conference on terrorism, Javier Solana, the EU's foreign policy chief, pointed out the contrasting perceptions of the Europeans vis-à-vis Americans by declaring that "Europe is not at war" (Reagan 2004).

While the practical day to day business of internal security cooperation and exchange of information continues, there remain differences on the fundamental issues in the fight against terrorism. European suspicions got more confirmed by the absence of WMDs in Iraq and the treatment of prisoners by the US in Abu Ghraib and Guantanamo Bay. Human rights groups have asserted that 'extraordinary rendition', initially developed in 1980s to bring foreign tourists to the US for trial for crimes overseas, now represents a system of outsourcing torture. This is very much against the European culture which relies more on legality and regulation.

Despite their staunch advocacy of a hardened response to terrorism, there seems to be a gradual acknowledgement of alternative approaches within the American policy circles. With the situation deteriorating in Iraq and amidst pressure within its domestic constituency, the US too is acceding to political warfare, economic instruments, patient diplomacy and counterproliferation as alternatives to military intervention. These changes reflect a disillusionment with the war in Iraq and fears about Afghanistan. The insurgency has increased and the prospect of an early withdrawal of US troops seems to be slipping away. The number of terrorist attacks has also gone up post 9/11. As a result, a major overhaul of counterterrorism strategy has been underway at the Pentagon.

Hard Power vs. Soft Power

The ability of a country to attract others arises from its culture, values, democratic practices and the perceived legitimacy of its foreign policies. If those practices and policies are seen as legitimate and or having a moral authority, then the soft power of a country is considerably enhanced. Rather than using hard power like

military force and coercion, the idea is to establish influence by means of an attractive culture, political values and institutions. As Josef Joffe (1997:38) said,

Unlike centuries past, when war was the great arbiter, today the most interesting types of power do not come out of the barrel of the gun....today there, is a much bigger payoff in getting others to want what you want, and that has to do with cultural attraction and ideology and agenda setting and holding out big prizes for cooperation.

Hard power remains crucial in a world of states trying to safeguard their sovereignty and terrorist organizations willing to turn to violence. But soft power becomes increasingly important in preventing terrorists from recruiting supporters and for dealing with transnational issues that require multilateral cooperation. Hard power can rest on inducements (carrots) or threats (sticks). However, another way to get the preferred outcome in world politics is by co-opting people rather than coercing them. This can be achieved by a country by making others emulate its example, level of prosperity and openness.

Globalization and technological revolution have empowered the non-state actors like never before. Information revolution has increased the lethality and agility of terrorists over the past decades. The traditional state-centric analysis can offers the sole solution of punishing the state sponsor of terrorism. However, post September 11, this one dimensional approach of dealing with the menace has proved inadequate.

In the ongoing war on terrorism, the US military easily toppled the Taliban regime in Afghanistan. However, this is just a clinical solution to the deep-seated problem. Al-Qaeda cells still operate in friendly countries and terrorist attacks and incidents keep happening across the globe. Unilateral military solution is only one aspect of a multi-pronged approach to address a complex problem. In order to completely extirpate terrorism, it requires a sustained international cooperation in every sphere, both at the policy and institutional levels and a far greater commitment on part of the global community. Such a war cannot be won unilaterally with orders from imperial headquarters (Nye Jr. 2005:169).

A critical step in tackling these challenges will be the development of a long term strategy of cultural and educational exchanges that build a more progressive and

open civil society in countries where underdevelopment, poverty, discrimination is fomenting discontent and unrest. Much of this work can be promoted by corporations, foundations, universities and other non-profit organizations as well as by governments. Soft power resources need to be developed so as to promote development and democracy (Nye Jr. 2005:169).

It is in this domain that the EU has tremendous potential and can use economic assistance, humanitarian aid and trade agreements as tools to help meet its political objectives. The EU can also enhance its soft power through legislation through laws that enable it to clampdown on terrorist funding, or through diplomacy. For instance, in June 2002, EU foreign ministers approved the opening the talks with Iran. The EU set down clear criteria for progress in these talks: Iran must be willing to discuss issues such as human rights, judicial reform, the fight against terrorism and the proliferation of weapons of mass destruction. While President Bush put Iran in the 'axis of evil' and banned American companies from investing there. The Europeans believed that engagement with Iran is more likely to benefit its reformists and of course, the interest of European oil companies.

CONCLUSION

Unless the EU is able to galvanize a common European identity, prospects of an effective and coordinated action remain bleak. This especially would jeopardize the efforts to counter terrorism as it presents an international threat and globalization has aided the transnational networks of crime. In today's world there is no identified enemy, as has been proved by the spate of terrorist attacks across the world, with the sole intention of inflicting mass casualties.

The EU's evolution in combating terrorism has made rapid progress, but there have also been intervening periods of slow-down and mounting implementation problems: Some Member States had not yet transposed the European Arrest Warrant into national law at the time of the Madrid bombings. Similar problems also affect other measures. The European Parliament raised concerns over the impact of new legislation on the protection of private data. The different functional and territorial

roles of national police forces made cooperation with Europol complex and problematic.

Despite claiming to present a comprehensive approach, the EU's action plan has evolved as a list of diverse measures. The original Action Plan was on the basis of existing proposals. A discussion about objectives and overall strategy emerged only at the implementation stage. This raised concerns about the proportionality of some measures.

The main focus of EU activity has been on enhancing law enforcement. By contrast, the United States considers terrorism primarily an external threat that needs to be addressed also through foreign and defence policy. The G5, the EU's five largest member states, frustrated plans to create a European-level Interior Ministry. Given the gaps in the EU's Action Plan, Member States are still free to cooperate in informal extra-EU arrangements. Some of these raise issues of democratic scrutiny and rights protection, but also problems of coherence with measures and strategies EU leaders adopted. The EU continues to lack a central coordinating mechanism.

The EU has made substantial progress in police and judicial cooperation. Similarly, individual Member States have strengthened law-enforcement structures and agencies. However, the 'added European value' remains elusive. Since the US-led invasions of Afghanistan and Iraq, the EU has become a target for terrorists from third countries as well as home-grown ones. The 'detect and indict' approach has severe limitations with autonomous home-grown cells. Primarily it will be up to Member States to address problems of alienation and radicalization. The EU can only facilitate transnational learning. The EU has tackled the issue of preventing radicalization of Muslims living in many European countries rather late.

While the expectations of the EU as a security provider against terrorism are high and rising, its ability to deliver will be tightly circumscribed. Major change could only arise from Constitutional Treaty amendments in 2009 (Oxford Analytica 2004).

Although transatlantic cooperation has increased substantially after 9/11 despite dissensions on some of the core issues, the basic difference in strategic cultures would hinder the building of a robust partnership to combat terrorism.

Moreover, EU continues to grapple with the Herculean task of harmonizing the diverse cultures, approaches of its Member States in the field of counterterrorism. As a result, it has not been successful in implementing some of the supranational policy initiatives because of the hurdles posed by the intergovernmental nature of the Union.

Comparatively, the US armed with huge panoply of resources has waged a war against terrorism and its global reach ensures that no targets are beyond its ability to strike. However, in pursuit of this policy of American exceptionalism and a national security culture that privileges military response, the US has defied norms of international law and human rights principles. Washington has been unable to resolve awkward debates over whether Iraq is making more terrorists and whether the US needs to change its policy towards the Israel-Palestine issue (Rees 2005:922). A spectre of Vietnam scenario haunts the Americans with years of costly, indecisive military action and no clear sign of progress.

Though some sceptics worry that EU-US collaboration could weaken strong bilateral law enforcement relationships with individual EU Members States but the US appears to have determined that political benefits of engaging the EU as an entity on police and judicial matters outweigh the potential risks. US officials say that the Union's renewed initiatives in the police and judicial field may be the first step on a long road towards common judicial identity. Thus, they assert that it is the US interest to engage with the EU, given the latter's role as a key law enforcement partner of the US.

Both the EU and the US have stepped up their counterterrorism efforts but due to the fundamental discord over their respective strategic cultures, the two sides of the Atlantic cannot converge over the best possible solution. This would require a balancing act, a combination of hard and soft power resources in order to tackle the immediate crisis and root out the organic causes of terrorism. For this there should be a willingness to consult at an early stage of process. The EU and the US should attempt to arrive at common perceptions of threats and responses in relation to countering international terrorism. Given the nature of threats and risks, the transatlantic allies should push the security doctrines and bureaucratic limitations aside and accelerate the process of community building.

Chapter 4
Summary & Conclusion

CHAPTER – 4

SUMMARY & CONCLUSION

Terrorism is a complex phenomenon presenting daunting challenges to the international community. What are the policy options? In a scenario where diplomatic and economic sanctions seem unviable, should the use of military force be considered? The solutions are not simple but given the grotesque nature of the problem, it calls for a tough and stringent response. But all such action should be within the ambit of Rule of Law. Terrorism is a fundamental attack on human rights and it is the moral and legal duty of the international community to combat this global scourge of the innocent.

A human tendency exists to view terrorist incidents from a tactical perspective of the details unique to the ongoing incident. The result of such a tendency has been on the concentration on reducing loss of life and damage in each particular incident at the expense of deterring terrorism by a broad, consistent strategy aimed at making all incidents unattractive to terrorists. Concerted action on the part of governments is necessary for the development of comprehensive operations against terrorists.

Governments under attack can effect bilateral or multilateral action in the form of economic sanctions and political pressure against states sponsoring or supporting terrorism. Such a strategy of indirect approach holds the promise for control of the phenomenon. The strategy is particularly effective because it brings to bear the power of states under attack uninhibited by constraints inherent in pursuing terrorists under criminal procedures designed to protect ordinary citizens from misapplication of state power. Under international agreement, concerted action by states operating against terrorists encourages offensive operations that can be characterized by propaganda and psychological war and by less palatable but occasional direct action.

Changes in the security environment since the end of the Cold War, however, have forced European governments to re-evaluate the need to cooperate at a regional, rather than national level. Globalization, advances in communication and

transportation make it easier for people to transit Europe than ever before. Globalization also makes it easier for small groups, including non-state actors, to organize. One of the significant differences between before and after September 11 has been recognition of the transnational nature of terrorism. Demographic dynamics – especially increases in migration and differences in birth rates – have made Europe a home for a percentage of Muslims, some of whom may become radicalized and recruited to violent extremism, thus increasing the potential for homegrown terrorists. The ability of Europeans to fight these seemingly disparate situations has become crucial.

The realist paradigm is inherently incapable of contending with new transnational threats to human security. Unless and until terrorism continues to receive covert support of some states, it is likely to remain the most ubiquitous form of political violence. The depth and complexity of transnational terrorism is such that a unidirectional approach is not sufficient to curb the menace. Although, the American inclination to use force and the European preference for diplomacy have produced substantial friction but these divergent perceptions can be complementary if appropriately coordinated. In order to defeat a religiously motivated adversary there is a need to pursue protracted political and economic reform. Greater diplomatic attention should be paid to resolve ongoing conflicts which, if left in political vacuum, would widen Al-Qaeda's array of potential recruits.

If the international community is to minimize the rewards of terrorism and maximize its risks and costs, it must commit itself to bring the terrorist suspects to justice even if they slip across frontiers. But extradition is a highly complex and unpredictable process. Many states do not have extradition agreements and a many a times, exclude political offences. Differences in criminal codes, procedures and judicial traditions also have to be taken into account. Often the extradition procedures become highly cumbersome and protracted, owing to difficulties in obtaining evidence and witnesses from abroad. Many states use deportation as a form of disguised extradition which does not ensure that a suspect terrorist is brought to justice. A far more desirable course is for states to standardize their criminal codes and procedures to facilitate the extradite or prosecute principle.

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In a relatively short space of time, terrorism has emerged as arguably the single most important security issue for security planners leading to a wide array of laws, doctrines, strategies, programmes, initiatives and measures. It has now become a major focus of policymaking attention and commands enormous intellectual and material investment from the security establishment, industry, commerce, and the media. Also, the vocabulary, terms and narratives used in discourse on terrorism have acquired a lot of political significance alongside the discourse on poverty, environment and arms proliferation. However, the discourse functions more broadly to legitimize and facilitate a range of international and domestic political projects, including regime change, the expansion of a military presence to new regions, the control of strategic resources like oil, increased military and political support for regional allies, the maintenance of political influence by the military-industrial complex and the preservation and extension of a Western-dominated liberal international order.

A ubiquitous feature of contemporary terrorism discourse, observable in a great many political, academic and popular texts, is the deeply problematic notion of 'Islamic Terrorism', a term which comes laden with its own set of unacknowledged assumptions and embedded cultural narratives. The EU has drawn up guidelines advising government spokesmen to refrain from linking Islam and terrorism in their statements. Terms such as 'jihad', 'Islamic' have been found to be offensive. The word 'jihad' is to be avoided altogether because for Muslims it can mean a personal struggle to live a moral life. One alternative suggested is for the 'Islamic terrorism' to be replaced by 'terrorists who abusively invoke Islam'. All this can be seen as an attempt to prevent the distortion of Muslim faith and alienation of Muslims in Europe (Waterfield 2007).

The notion of open an open-ended 'war against terror' in the name of freedom and democracy has produced major consequences, some of them good but most of them bad. It also led to new international measures and structures for combating transnational terrorist and criminal organizations. The measures were largely beneficial, given the threats, but came at a price in terms of civil liberties. This fuelled up the debates over immigration and asylum. Governments and media have been making efforts since 9/11 to prevent a backlash against immigrant communities by

emphasizing the distinction between the ordinary peaceful majority of Muslims and the small minority of fanatics.

However, on the issue of immigration controls, mainstream politicians have often felt obliged to talk tough about the alleged threat of swamping in order to cut the ground from under hardline, anti-immigrant populist parties which have made electoral inroads in Austria, Denmark, France, the Netherlands and Norway. Amid all the clamour of media, machinations of politicians and anti-immigrant groups, racial and intercultural tensions have heightened, raising the insecurities of native populations and immigrant communities alike.

The successful integration of minority communities is crucial for the well-being and development of the European Union and its citizens. The integration of immigrants and their second and third generation descendents into the European milieu is of particular relevance for creating a feeling of belonging to European society. Successful integration should prevent the emergence of sentiments of perceived or real injustice or exclusion which are often referred to as reasons for home-grown violent radicalisation.

Only by identifying these objectives of terrorism will it be possible to neutralize them. And the war on terrorism will be won only if governments are capable of proving terrorism to be futile. At the same time, however, EU countries must make an effort to explain to their citizens where the enemy lies. Although terrorism feeds off personal tragedy, misguided policies, etc, it is vital to stress continuously that the real enemies are the terrorists. But the real intention of the fanatics is to unite Muslim brothers under the rule of fundamentalist governments capable of fighting against the pernicious influence of the West. The enemy, then, is neither the foreign policies of Europe's governments (the latter can be changed by means of democratic elections), nor the Muslim faith (as respectable as any other faith), but terrorism. The democratic system of European countries clearly has its shortcomings, but it is important to prevent terrorists from exploiting them for their own ends. From the point of view of strategy, in order to bring about the necessary unity of Europe's societies against the terrorist menace, it is important to achieve political unity among the parties and States. Only that unity and a commitment to

avoid the temptation to benefit politically from the collateral effects of terrorism can help to make the attacks completely futile.

Even as the threat perceptions within government circles across the Atlantic have narrowed, the perceptions among publics in different EU states and the US continue to vary widely. For many Europeans, the attacks on Madrid and London were viewed as attacks on Spain and the UK, not the EU, and they were attacks based on those countries' participation in Iraq rather than because they were considered modern, Western states (Föhrenbach 2006). Such variance in public attitudes may constrain government officials from taking greater risks in implementing controversial counterterrorism measures.

What is essential is that the EU remains credible and adopts counter-terrorism measures that are necessary, proportionate and legitimate for the declared objective. The protection of fundamental rights is deeply rooted in the European culture and societies. The respect for fundamental rights and freedoms, apart from being a laudable stand-alone goal, is also a tool for destroying the root causes of terrorism because in an environment where tolerance and freedom reigns, terrorism or sympathy towards terrorists can never thrive. Furthermore, European civil society must be strengthened in such a way as to increase the moral commitment of Europeans to the defence of human rights, particularly the right to life and physical integrity, and the right to religious freedom. The global terrorist threat has taken over from the threat from other, enemy states, and that means that patriotism must give way to a civic moral conscience.

The biggest challenge European countries will now face are two-fold: how to deal with the young offspring of Muslim immigrants living in Europe who have become captivated by the idea of global jihad, and how to deal with their own, self-imposed restrictions. Investigators are hampered in their efforts to pursue terrorists by Europe's open borders, by a lack of effective communication among intelligence agencies and, finally, by a lack of uniformity in counterterrorism strategies.

Their adversaries, on the other hand, are highly mobile, networked across the entire continent, supported by sympathizers and powerful financiers, but also able to operate independently. This new generation of holy warriors has already established

sufficiently deep roots in Europe to be able to move about freely and without attracting attention. Many have German, Spanish, British or French passports. They often speak several languages, are employed and develop their attack plans in their free time. Security officials are dealing with fewer and fewer extremists who have just arrived from abroad -with the exception of globetrotting preachers of hatred.

What has changed in Europe as a result of such horror scenarios? Have the continent's security agencies, spurred to action by the terrorist attacks in London and Madrid, truly become more agile? Or is the joint battle against terrorism hampered by the same kind of routine thinking that has plagued Europeans in other legislative endeavors?

So far, the results of Europe's efforts to fight terrorism have been modest. National governments have been slow to implement resolutions adopted in Brussels. And although information gleaned by investigators reaches Europe's joint police agency, Europol, far more quickly these days, the volume of data remains sparse. In many cases, agencies are still dragging their feet when it comes to exchanging information. But there is one thing that no country in Western Europe seems to lack: the heartfelt words of politicians claiming to want fundamental change.

It is clear from reading almost any EU document that Europeans regard terrorism as primarily a criminal, not military, act. A review of the EU Counterterrorism Action Plan and EU Counterterrorism strategy reveals that the emphasis is on legislation to criminalize terrorism. "Framework Decisions" are the main instruments for such legislation. In contrast to economic and trade legislation, where the European Commission has significant power, counterterrorism falls under the so-called Third Pillar of Justice and Home Affairs. Framework Decisions are made by the national ministers (usually Justice or Interior), and unanimity is the rule. The European Security and Defence Policy (ESDP) in practical terms has had very little direct connection to counterterrorism. From the European Security Strategy standpoint, ESDP's emphasis is on regional conflict stabilization and reconstruction, peacekeeping, rule-of-law, and humanitarian missions.

The US sees Iraq as part of the war on terror; Europe sees US in Iraq as part of the problem. Europe is very worried about Iraqi returnees coming back to Europe.

Europe is more concerned about root causes. We shouldn't take this generalization too far—they are interested in aggression against terrorism. But Europeans do pay a lot more attention to this, because the threat manifests itself differently for them. The US has an elimination approach. Europe has a management approach, treating it like crime.

So what are the policy implications of all this? It is important to emphasize that different strategies that stem from different views of the threat, do not mean that cooperation is impossible. Cooperation doesn't require perfect harmony of interests, just mutual benefits. As should be clear, cooperation is both possible and important. Still, these differences have created a lot of difficulties. The US has been a pretty tough negotiator on things like passenger name records, extradition, and container security. But because these do not reflect European threats, there is little political support and enforcement of them.

One way for the US to demonstrate support for this process would be to make more information available for terrorist trials in Europe. The US has received a lot of information from Europe, but it has largely withheld information that the Europeans want to conduct their proceedings. This is a diplomatic success, but in the long term it is a disaster. Having the US minimizing flow of information for use in trials creates a lot of anger among EU counter-terrorism officials.

It is important to counter the perception that American and European counterterrorism efforts are at odds. By focusing on commonalities, the US-EU partnership can be enhanced to improve both tactical and strategic cooperation. An augmented role in Europe for the EU as an institution, as distinct from its Member States, to coordinate counterterrorism policy among Europeans goes hand in hand with this notion, and will help develop overarching solutions to a shared challenge. The United States should comment less publicly on counterterrorism prosecutions and be more careful in its use of counterterrorism statistics so as to preserve the credibility that is essential for successful prosecutions.

The EU published its first Counter-Terrorism Strategy in December of 2005. After four years of reacting to the major terrorist attacks in the United States in 2001,

Madrid in 2004, and London in 2005, the EU has enacted a substantial body of counterterrorism measures across multiple functional areas. The implementation of these actions, however, has not always been consistent or timely, due to a number of issues, including public threat perception, concern over social tensions, and competing national priorities. These roadblocks to a successful counterterrorism policy were often discovered upon new terrorist attacks and a renewed evaluation of EU counterterrorist activity.

After the London bombings, the United Kingdom held the EU Presidency and immediately set to work on a strategy to counter terrorism, both similar and subordinate to the European Security Strategy (2003), which specifically listed terrorism and weapons of mass destruction among the top five threats to the EU. The new strategy of 2005 outlines EU efforts over the long term and provides a tool for public information. Despite the EU's embrace of its new strategy, the document has many shortcomings. In all, the European Union Counter-Terrorism Strategy serves limited use as a strategy document, but does serve to guide the EU's efforts in fighting terrorism, as well as deepen EU integration in security affairs and in justice and law enforcement.

There are multiple facets to terrorism, and many have argued that the United States cannot win the 'war against terror' alone and will need to use more than the military instrument to combat it. For example, RAND analyst Nora Bensahel identifies several different functional areas where governments must work together against terrorists. These include: military, financial, law enforcement, intelligence, and stabilization and reconstruction (Bensahel 2006). While all these dimensions are important, diplomacy is particularly important because it serves as an umbrella framework for the others. Diplomacy sustains the various coalitions, and addresses the long-term goal of persuading the world that democratic values and respect for Rule of Law are more beneficial to humanity and global prosperity than ideologies focused on perpetuating intolerance, instability, and destruction.

Working to find diplomatic solutions to the problems in West Asia represents another area where the US and EU can work together (Everts 2004). Solving the conflict between Israelis and the Palestinians would not eliminate the threat of

transnational terrorism, but it might go a long way to diminishing recruitment and radicalization. As the EU Counterterrorism Strategy states, “Working to resolve conflicts and promote good governance and democracy will be essential elements of the Strategy ...in order to address the motivational and structural factors underpinning radicalization” (EU Counterterrorism strategy 2005).

There is an undoubted requirement of a very different approach from that of the US. Besides increasing its real level efficiency, the EU also has to be perceived to be responding to the concerns of its citizens not just in economic sphere but in others as well. It is currently threatened by indifference among large sections of its population and distrust by a small minority. The lack of transparency in EU’s political process, the notorious democratic deficit and the remoteness of decision making from ordinary people give rise to disillusionment.

The EU needs a stronger role as an international actor. It needs a distinctive foreign policy, defence and security posture. It should have the self-confidence to pursue its own course in cases where interests diverge significantly. This implies greater self-sufficiency in military means and further developing its own foreign policy agenda with regard to international aid and trade. The EU should not allow itself to become involved in a destructive cycle of tit-for-tat protectionist trade measures with the US but it needs to develop policy-making processes which enable it to pursue an independent and effective course in international affairs. If the EU does succeed it can become an effective agent to address the international problems.

What we need is a mixture of enlightened realism and international idealism. A straightjacket response is insufficient to counter terrorism. We need powerful institutions with real capabilities of implementation and enforcement and binding multilateral commitments and willingness to use coercive measures against those who evade their responsibility. The international economic institutions need to be strengthened with real oversight to monitor the use of resources.

In the global village, terror may have physical hubs but knows no national boundaries. The terrorist has no country. Efforts to tackle terror successfully therefore must be global in scope. If response against a terrorist attack is fundamentally local,

then information gathering and sharing must be global. Nations can no longer pretend that terrorism affects only their neighbours. And democracies can no longer assume that their liberal social and political outlets can always manage the hot steam of blind religious wrath. One of the major concerns is that the threat crosses not only borders but also across sectors. Thus, what is needed is a multi-level, multi-sector approach that also includes public/private cooperation. Layered approaches may represent one answer. Reflection on the counter-terrorism strategy, however, needs to be a continuous process. Lessons learned could help mitigate current and future threats.

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