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The fight against international terrorism: defence aspects

**REPORT**

submitted on behalf of the Defence Committee  
by Ignacio Cosidó Gutiérrez, Rapporteur (Spain, Federated Group)

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*The fight against international terrorism: defence aspects*

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<sup>1</sup> Adopted unanimously by the Committee on 12 May 2005.

## RECOMMENDATION 763<sup>1</sup>

### *on the fight against international terrorism: defence aspects*

The Assembly,

- (i) Condemning all forms of terrorism, particularly acts of terrorism against civilian populations;
- (ii) Expressing solidarity with the Spanish people, victims of the attacks of 11 March 2004 in Madrid, and with all those in the world who suffer the consequences of terrorism;
- (iii) Recognising that recourse to terrorism has highly complex causes which must be tackled using many means and noting that this recommendation refers only to the defence aspects;
- (iv) Recognising that the best political response to terrorism is the unswerving upholding of human rights, the rule of law and democratic norms;
- (v) Recognising that the primary responsibility for the prevention and management of the consequences of terrorist acts lies with national homeland security structures;
- (vi) Recognising also the central role of intelligence in the fight against terrorism and of cooperation among European states in this field;
- (vii) Considering that the armed forces make an important contribution to the fight against terrorism in external situations and that their actions complement those of national security forces in internal situations;
- (viii) Acknowledging the expertise and knowledge gained by individual WEU nations in their own fight against terrorist groups within their borders over the years and endorsing their call for greater cooperation;
- (ix) Recognising NATO's efforts to adapt its policies and force structures in the fight against terrorism;
- (x) Recalling the 2003 European Security Strategy, which defines the new face of terrorism and lays down the foundations upon which Europe should build its security and defence strategy;
- (xi) Recalling that the EU General Affairs and External Relations Council stated on 17 November 2003 that it intended to re-examine and redefine the Petersberg tasks under a new Headline Goal 2010;
- (xii) Noting that Article III-309 of the Treaty establishing a Constitution for Europe specifies that the EU may use civilian and military means to contribute to the fight against terrorism, including by supporting third countries in combating terrorism in their territories;
- (xiii) Recognising the importance of the EU's 2004 Plan of Action on Combating Terrorism and its aims and priorities for the future;
- (xiv) Noting the establishment of EU battlegroups which can be made available for external operations in the fight against terrorism;
- (xv) Noting the creation of a European Security Research Programme (ESRP) and its importance in moving a step closer towards harmonising different technologies which can be used to prevent terrorist acts and manage their consequences;
- (xvi) Noting the establishment of a Preparatory Action to enhance cooperation among EU member states and ensure that the ESRP operates efficiently;
- (xvii) Highlighting the significant progress made to date in the fight against terrorism in terms of preventing the financing of terrorist groups, law-enforcement cooperation, border and transport security, relations with third countries and security cooperation,

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<sup>1</sup> Adopted by the Assembly on 14 June 2005 at the 3<sup>rd</sup> sitting.

RECOMMENDS THAT THE COUNCIL INVITE THE WEU MEMBER STATES AS MEMBERS OF THE EU AND NATO TO:

1. Continue their work with a view to building a more secure European Neighbourhood through greater cooperation with third states, the Middle East and North African countries;
2. Enhance cooperation between European states in the military sphere, and take steps to adapt their military forces so that they can respond more effectively to the new threats within and outside the homeland;
3. Ensure that the timetable set for the EU battlegroups is kept to and that they are operational by the end of 2006;
4. Maintain efforts to ensure that the NATO Response Force is fully operational as soon as possible, and facilitate its decision-making mechanisms with a view to obtaining a higher level of efficiency;
5. Increase awareness of the importance of intelligence cooperation among European states and move towards strengthening the intelligence community across three fronts: reinforcement of domestic intelligence services, better integration of the information gathered by the various agencies, and more cooperation over intelligence within the European Union framework;
6. Strengthen and adapt Europe's security forces so that they can respond to the new threats and are better prepared to cooperate with the military and intelligence communities;
7. Ensure that Europe's capabilities are further strengthened and developed, particularly as regards technologies which enhance the performance of the armed forces and the intelligence and security services;
8. Move towards a more proactive, and not merely reactive, defence strategy on terrorism, without this signifying a justification for preventive military action;
9. Continue to maximise the effectiveness of a European security network against terrorism by developing existing structures such as the Schengen Information System and Eurojust.

## EXPLANATORY MEMORANDUM

*submitted by Ignacio Cosidó Gutiérrez, Rapporteur (Spain, Federated Group)*

### *I. Introduction*

1. Terrorism constitutes the main threat to security for democratic countries in the coming decades. The 11 September 2001 attacks in the United States and those of 11 March 2004 in Spain serve to demonstrate that this threat, far from being either remote or imaginary, is real and present. They show that we are facing a new form of terrorism characterised by a massive onslaught leading to the loss of hundreds, even thousands of lives, with the aim of destroying or at least destabilising democratic nations as a necessary stage in the process of establishing religious totalitarianism throughout the world. They also bear the stamp of fanaticism and suicidal commitment on the part of the perpetrators.

2. This “jihad” terrorism also has as one of its main aims the procurement of weapons of mass destruction (WMD) in order to carry out even larger-scale attacks with an even greater strategic impact. Access to nuclear or biological weapons is difficult for such groups unless they are state-supported. This risk is one that, when looking to the future, should not be discounted. Conversely, the manufacture of weapons containing radiological and chemical substances is a much more attainable goal. Although attacks involving these types of substances would cause far fewer deaths than nuclear or biological weapons, the psychological impact on the societies against which they were directed would be far greater than that of conventional explosives. Moreover, attacks against nuclear power stations or chemical plants could produce similar effects without the need for access to the technology.

3. The scale of the attacks already carried out by terrorist organisations of this kind, and the risk that they could carry out others using WMD, is producing a revolution in our strategic thinking and security and defence policies. First, the threat is not from other states but from transnational networks of terrorists and criminals. Such networks are often loosely structured and make extensive use of new forms of global communications, particularly the internet, to maintain their identity of purpose and to organise. The absence of a clearly identifiable foe combined with the suicidal fanaticism of the majority of their members means that the traditional concepts of deterrence on which the whole of modern defence strategy has been based are in large part rendered worthless.

4. Secondly, the scale and high death tolls in such attacks mean that they cannot be sustained politically or militarily by democratic nations. In other words, we cannot wait for the next strike to occur before taking action. The goal must be to prevent further attacks. Our defence strategy therefore has to be far more proactive than reactive. Nor is there any consolation in the certainty that the full weight of the law will be brought to bear on the perpetrators, as most of them are prepared to die in carrying out their attacks.

5. Thirdly, terrorism is by definition an asymmetric conflict and implies that terrorists can, with very few resources, cause huge amounts of damage with a massive strategic effect. It also means that they must keep their capabilities well under wraps until they strike, as they would otherwise immediately be wiped out. However, the asymmetry is not only one of means, but also of concepts and ethics. Thus there are no legal or moral constraints on terrorists in planning and carrying out their actions. On the contrary, the onus is rather on democratic governments, which are forced to fight terrorism from within the framework of the rule of law, in compliance with the principles of democracy and mindful at all times of the human rights of the terrorists themselves. All this undoubtedly adds to the difficulty of the struggle, but one of the objectives of terrorists is precisely to cause others to abandon their democratic convictions and deprive their opponents in the fight against them of the political and moral high ground.

6. In the fight against terrorism, the essential factor is democratic society’s unanimous resolve to overcome terror. The terrorists’ basic aim is to force that society, through the perpetration of acts of terror, to give way to their totalitarian demands. Democratic governments can take an effective stand against terrorism only if there is wide consensus in their midst about what kind of strategy they should employ and a broad basis of support for it within society. Defeating terrorism is consequently the task

of society as a whole, not just of governments, and there is even less of a case for claiming that it is the sole responsibility of the security services.

7. Assuming that the will to win exists politically and socially, three essential instruments are available to governments to enable them make an effective stand against terrorism. They are the intelligence services, the security forces and the armed forces.

8. Intelligence is the most effective weapon in states' armoury for fighting terrorism – in view of the secret and pervasive character of the services involved. Furthermore, infiltration of terrorist networks by the secret services is the only effective way of preventing further attack or of breaking up terrorist networks. Intelligence work must be done in the organisations, both inside and beyond our countries' borders, whose aim it is to attack us.

9. The security forces must work essentially on three fronts. Tight control and supervision of borders can go a long way towards preventing the movement of terrorists themselves and circulation of the weapons they need to carry out attacks. Additionally, widespread deployment of the security forces throughout the homeland can help head off attacks – particularly when they are used to protect prime terrorist targets – and hinder terrorist movement within the country. Lastly, the security forces are responsible for bringing alleged terrorists to justice and furnishing the proof required for the courts to sentence them accordingly.

10. Lastly, the armed forces can, and must, play an important part in the fight against terrorism. The fact that the army is not the sole or the main instrument governments can draw on to combat terrorism does not mean that counter-terrorism should not be a core element of our nations' defence policies or that the armed forces' contribution is not a vital one to a campaign in which, as suggested earlier, not only the government but society as a whole must be involved.

11. Jihad terrorism is a threat that the majority of European Union member states are facing today. Consequently, there is a clear need for a joint response and a shared strategy towards combating this form of terror. The EU's response in the area of police and judicial cooperation, particularly in the wake of the 11 March 2004 attacks in Madrid, continues to be satisfactory. Nevertheless, cooperation in the military sphere needs strengthening so that the European Security and Defence Policy can make a more effective contribution to the fight against terrorism. What is more, inasmuch as this is a struggle common to all democratic countries, that cooperation must also, necessarily, have a transatlantic dimension.

## ***II. The European Union and the threat of terrorism***

12. The traditional concepts of European and national defence concentrated on deterring large-scale military invasion during the cold war, a time when not only was the threat easily identified but possible action was to an extent predictable. This "balance of power" between east and west has since faded: the threat of terrorism is not just of a military nature; there are no longer "headquarters" but a network of cells which operate globally even in the very countries that are the target of an attack. Approaching, analysing and dealing with this threat has therefore required the EU first to develop a new set of "rules" and secondly to adapt and evolve traditional defence mechanisms in order to maximise their effectiveness.

### ***1. The political and institutional framework***

#### *(a) Declarations and initiatives*

13. Following its initial declaration of solidarity with the United States, the EU pressed forward with a number of initiatives in the fight against terrorism. With the international security dimension evolving rapidly, the EU reached the point where it had to prepare for the future and defend itself against a new threat. Europe's wherewithal to fight terrorism was far from adequate in 2001 and arguably is still inadequate today, at a time when even the European mainland has suffered a direct terrorist attack. A great deal has however been done with a view to combating international terrorism and protecting Europe's borders.

14. The fight against terrorism in the 21<sup>st</sup> century has progressed through a number of stages. It was imperative first to form an alliance and identify the root and nature of the threat. Only after doing so

could a proper defence strategy against terrorism be planned. The second stage was to take immediate decisions which would focus on dealing with the terrorist attacks in New York and Madrid and preventing similar attacks. Finally, through long-term initiatives the EU is currently increasing its counter-terrorist capabilities.

*(b) The European Security Strategy*

15. One of the first and most significant studies into European security across a wide range of areas has been the European Security Strategy of 2003. It has been central in defining the problems we face today and laying down the foundations for building Europe's security and defences architecture. The European Security Strategy is divided into three distinctive parts: *i)* challenges and threats; *(ii)* strategic objectives and *(iii)* policy implications for Europe.

16. The first step – defining the challenges that lie ahead and the threats to European security – is central in tackling the problems. Terrorism is defined as a global threat: it knows no borders and it can operate and strike anywhere. The European Security Strategy also defines the proliferation of weapons of mass destruction, regional conflicts, state failure and organised crime as key threats in the 21<sup>st</sup> century. The last three may be directly linked to terrorism; regional conflict and state failure often create extreme situations and conditions which provide a breeding ground for terrorist groups. Often, states experiencing such conditions inadvertently harbour terrorist cells within their borders as they do not possess the means or the necessary structures to conduct investigations leading to infiltration of those cells.

17. The main strategic objectives of the European Security Strategy are “addressing the threats” and “building a secure neighbourhood”. A number of actions which have already been implemented – the European Arrest Warrant, combating terrorist financing, intervention and aid to regions experiencing conflict and restoring good government in the Balkans and fostering democracy – have been successful in staking out an effective EU defence against terror. However, since terrorism is so different in nature to traditional threats, new actions such as global cooperation and exchange of information are necessary. Furthermore, Europe cannot be sure of its security unless more effort is put into bringing peace to its “neighbourhood” and the surrounding regions, particularly the Middle East. Stronger relations must also be developed with its Mediterranean and north African neighbours as well as with international organisations active in the area, such as the UN and the OSCE, and regional organisations which possess a unique knowledge of the areas and are in contact with the people who live there.

18. In attempting to assess the policy implications for Europe when pressing forward with a coherent foreign policy and effective crisis management, the Security Strategy outlines several points which need to be addressed. Firstly, the EU should focus on the development of operations with both military and civilian capabilities. It should also concentrate more on troubled regions and countries and take the action necessary to stop a situation deteriorating.

19. The EU's capabilities must also be strengthened and enhanced. The establishment of the European Defence Agency, as proposed in the Security Strategy, has now been achieved. Similar efforts need to be made in order to transform militaries into “more flexible, mobile forces”. So that they can address the new threats, “more resources for defence and more effective use of resources are necessary”.<sup>2</sup> Lastly, strengthening diplomatic capabilities can be achieved through the creation of a network which combines the resources of member states. Members should take advantage of the diverse and special relationships they each have with different countries around the globe. Pooling such knowledge and expertise can help create strong links beyond the EU's borders and will prevent its neighbours from feeling alienated.

*(c) Coordinating the fight against terrorism*

20. Following the call for the establishment of the position of Counter-terrorism Coordinator in the EU Declaration on Combating Terrorism (25 March 2004), Gijs de Vries was appointed to head the office set up to coordinate the fight against terrorism. As detailed in paragraph 3, the EU Declaration stated that the main tasks of the Coordinator were to work within the Council Secretariat and

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<sup>2</sup> European Security Strategy.

coordinate the work of the Council in combating terrorism and, with due regard to the responsibilities of the Commission, maintain an overview of all the instruments at the Union's disposal with a view to regular reporting to the Council and effective follow-up of Council decisions.

21. Following the EU's June 2004 Plan of Action on Combating Terrorism, a note from the EU Council was released at the end of 2004 outlining key developments as well as priorities for 2005. In strengthening the fight against terrorism, and taking into account the knowledge gained in recent years in this field, the EU's main progress by December 2004 was in the following areas<sup>3</sup>: (i) the fight against the financing of terrorist organisations had been stepped up and a new agreement on money laundering made; (ii) in law-enforcement cooperation, the EU had reached a decision to strengthen the roles of Europol and Eurojust; (iii), various agreements had been concluded in 2004 on border and transport security, most notably concerning the European border agency, which is expected to be operational in May 2005, and an agreement on more exchange of information on lost and stolen passports was reached for the purpose of fighting identity fraud; (iv) regarding external relations, there were a number of developments, the most important of which were an intensification of relations with third countries (Algeria, Indonesia, Morocco), greater cooperation with the UN and with the US, the decision by the EU Council to establish a network of counter-terrorism experts to work closely with third countries and advise them on how better to defend themselves; (v) regarding intelligence cooperation, the Council Secretariat had significantly expanded its ability to provide analytical support on counter-terrorism policy and encouragement was being given to reinforced cooperation between the police and customs authorities of EU member states and Europol; lastly, a peer review exercise focusing on coordination of the fight against terrorism by EU member states had been completed and an interim report drawn up outlining areas where improvements could be made.

22. The EU Council's main priority areas of action in the fight against terrorism for 2005<sup>4</sup> are the following:

- the role of financial intelligence units in the fight against terrorist financing is to be enhanced;
- a Critical Infrastructure (transport, communications and energy) Programme will be set up;
- increasing civil protection through greater cross-border cooperation;
- the continuation and enhancement of information exchange;
- greater efforts will be made to pursue terrorists and bring them to justice and also to reduce the vulnerabilities of European economies and infrastructures.

## ***2. Developing ESDP capabilities***

### *(a) Expanding the Petersberg missions*

23. These missions were adopted on the basis of the tasks endorsed in June 1992 by the Ministerial Council of Western European Union, which decided that military units of WEU member states could be employed for humanitarian and rescue tasks; peacekeeping tasks; and tasks of combat forces in crisis management, including peacemaking. The 1997 Amsterdam Treaty took up the description of the three types of potential military mission. The Petersberg tasks feature in Article 17 of the Treaty on European Union and form an integral part of the ESDP. Within this framework the EU has contributed decisively to crisis management around the globe.

24. Following the 11 September 2001 terrorist attacks in the US, there was a good deal of pressure, especially from the EU Spanish Presidency, to have the fight against terrorism included among the Petersberg tasks. However, because not all member states welcomed this decision, a compromise was reached for practical and legal reasons in the Seville European Council Declaration of June 2002, which stressed that CFSP and ESDP means could be used in the fight against terrorism.

25. Numerical targets for the ESDP to develop an operational capability for the Petersberg tasks were adopted during the Helsinki European Council of 1999. These have since come to be known as

<sup>3</sup> European Council. Brief note on counter-terrorism. <http://europa.eu.int>.

<sup>4</sup> European Council. Brief note on counter-terrorism. <http://europa.eu.int>.

the Headline Goal<sup>5</sup>. Decisions and subsequent contributions are made on a voluntary basis by each member state. The General Affairs and External Relations Council, at its meeting on 17 November 2003, expressed the intention of revisiting and defining the Petersberg tasks under a new Headline Goal 2010<sup>6</sup>.

26. The next step towards the expansion and reform of the Petersberg missions was the discussion on the draft Constitutional Treaty in the European Convention. The final text reflecting the political agreement reached, which was formally adopted in Rome on 29 October 2004, focuses on some of the main issues for EU military missions, beginning with the introduction of a new definition:

“The Union may use them [civil and military assets] on missions outside the Union for *peace-keeping, prevention and strengthening international security* in accordance with the principles of the United Nations Charter”<sup>7</sup>.

The Constitutional Treaty also provides for new types of prospective EU missions. More precisely, Articles I-41(7) and I-43 deal respectively with military assistance in the case of an armed attack or aggression against an EU member state and with the solidarity clause. In both cases the ground has been prepared for future EU missions.

27. The European Security Strategy also focuses on the tasks and missions of EU forces in the future, going one step beyond the Petersberg tasks. It acknowledges the urgent need for an EU rapid response to threats as well as for further cooperation with NATO. The European Security Strategy also introduces the idea of a wider role for future missions, suggesting that the Union must be:

“... more active in pursuing our strategic objectives. This applies to the full spectrum of instruments for crisis management and conflict prevention at our disposal, including political, diplomatic, military and civilian, trade and development activities.”<sup>8</sup>

### **3. Security cooperation in the EU**

28. In order to maximise the effectiveness of a European security structure against terrorism, the EU has gone ahead with improving its existing mechanisms, such as the Schengen Information System, in order to adapt to the new security environment, and by creating new bodies, such as Eurojust, specialising in the areas of serious cross-border and organised crime.

29. In looking to the future and developing new ways to combat terrorism and maximise the effectiveness of European research into the fields of security and defence both at home and abroad, the Union is concentrating on developing a fully operational European Security Research Programme (ESRP) by the end of the decade. It will not only focus on protecting Europe’s borders but will also aim to develop technologies, increase cooperation among member states in both the civil and defence sectors and build peace in Europe’s neighbourhood.

#### *(a) Intensifying information exchange (Schengen, Eurojust)*

30. The intensification of information exchange and greater cooperation among member states has become central to the fight against terrorism. Stemming from cooperation between Belgium, France, Germany, Luxembourg and the Netherlands, the creation of the “Schengen Area” or Schengen Information System (SIS) was decided in 1985 and had been established by 1995, under the Schengen Convention, to eliminate the internal borders of participating states, facilitate the free movement of persons within them and subsequently create a common external border. Today the SIS has expanded

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<sup>5</sup> Helsinki European Council 10-11 December 1999. Presidency Conclusion. <http://europa.eu.int> .

<sup>6</sup> Headline Goal 2010. <http://ue.eu.int/> .

<sup>7</sup> Draft Treaty establishing a Constitution for Europe. Article I-41 (1). <http://europa.eu.int> . Article III-309 also notes: The tasks referred to in Article I-41 (1), in the course of which the Union may use civilian and military means, shall include joint disarmament operations, humanitarian and rescue tasks, military advice and assistance tasks conflict prevention and peace-keeping tasks, tasks of combat forces in crisis management, including peace-making and post-conflict stabilisation. All these tasks may contribute to the fight against terrorism, including supporting third countries in combating terrorism in their territories.

<sup>8</sup> European Security Strategy. <http://europa.eu.int> .

its membership to 13 states, all of them EU members, but does not include the United Kingdom, Ireland or the 10 new member states which joined the EU in 2004<sup>9</sup>.

31. The SIS architecture is, to an extent, nationally-based. It consists of an interconnection of national files and data shared among the competent authorities of the member states. The system's national networks (N-CIS) supply the information and are supported by the central core (C-SIS). The N-CIS can exchange information using a permanently available structure – the SIRENE Offices (Supplementary Information Request at the National Entry). Their principal mission is to receive and transmit additional data needed for the computer data provided by the SIS. The SIRENE Offices are interconnected through a protected telecommunication system, the SISNET, which has been operational since 2001.

32. On 28-29 May 2001 the European Council decided to launch a second-generation system, SIS II. This decision was followed by a Council Regulation of 6 December 2001 which confirmed development of SIS II by 2006<sup>10</sup> as a priority. SIS II will concentrate on advancing beyond simply reporting data and the aim is to use it as a full-scale investigation tool.

33. Authorised personal details which can be entered in the SIS currently include civil status, permanent physical features, and an indication that the person concerned may be armed or violent. The SIS can also contain data relating to persons wanted for extradition, individuals who have disappeared, aliens declared ineligible to enter national territory or who represent a threat to public order, and persons who must be subject to discreet monitoring or specific surveillance.

34. In the light of a changing security environment following the terrorist attacks in the US in 2001, on 5 February 2002, the EU Spanish Presidency invited the states participating in the SIS to reach an agreement on simplifying procedures for giving alerts and strengthening cooperation on information exchange within the non-military security and intelligence services of member states. It also suggested the creation of a restricted-access terrorist database as an additional source of information for the competent national units<sup>11</sup>. The Spanish Presidency also put forward proposals for the designation of a state security or intelligence department as a central authority to act in the case of an alert by every member state. Regarding the SIS's role on combating terrorism, several articles in the 1990 Schengen Convention were amended to include new threats and the collection of data under a new set of criteria, specifically targeting terrorism, thereby transforming the SIS's role. Furthermore, reinforced cooperation with other bodies such as the European Police Office (Europol) and Eurojust was also agreed. The initiatives taken during the Spanish Presidency were adopted by the Council on 24 June 2003<sup>12</sup>. The Council also reaffirmed the need to develop SIS II, but acknowledged the fact that a number of adaptations could be incorporated in the current version of the SIS.

35. Another EU body with the task of monitoring cross-border and serious organised crime is Eurojust. The initial idea of creating Eurojust was floated during the Tampere European Council of 1999<sup>13</sup>. It was eventually set up in 2002 by means of a Council Decision of 28 February<sup>14</sup>.

36. Eurojust's primary objectives are:

- to stimulate and improve the coordination of investigations and prosecutions between competent authorities in the member states;
- to take into account any request emanating from a competent authority of a member state and any information provided by any body competent by virtue of provisions adopted within the framework of the treaties;

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<sup>9</sup> Although Denmark has signed the Schengen Agreement, it can choose within the EU framework whether or not to apply any new decision taken under the agreement. In addition, an association agreement has been concluded with Iceland and Norway, two countries which apply the Schengen provisions in full. In July 2002, negotiations began with a view to associating Switzerland, which wants to participate in the Schengen *acquis*. <http://europa.eu.int/>

<sup>10</sup> Council Decision 2001/886/JHA. <http://europa.eu.int> .

<sup>11</sup> Requirements for SIS related to the Action Plan Against Terrorism. <http://europa.eu.int> .

<sup>12</sup> Council Decision 10054/03 of 24 June 2003. <http://europa.eu.int> .

<sup>13</sup> Tampere European Council 15-16 October 1999. <http://europa.eu.int> .

<sup>14</sup> Council Decision of 28 February 2002 <http://www.eurojust.eu.int> .

- to improve cooperation between the competent authorities of the member states, in particular by facilitating the execution of international mutual legal assistance and the implementation of extradition requests ; and
- to support the competent authorities of the member states in order to render their investigations and prosecutions more effective when dealing with cross border crime.

37. In pursuing the above objectives, Eurojust aims to enhance cooperation between national investigating and prosecuting authorities. It is a self-governing “Third Pillar” body, chaired by a president. Its College, which is the central organ, is composed of nationals of the 25 EU member states (one delegate from each state). The Eurojust College is required to provide regular reports to the European Council. However, it should be noted that to date six EU member states (Belgium, Finland, Greece, Italy, Luxembourg and Spain) have not brought their national laws into line with the Council Decision to establish Eurojust.

38. Eurojust’s primary role within the EU and regarding organised crime is to facilitate cooperation and communication on these matters between member states. To that end it has the following features:

- it is the first permanent network of judicial authorities to be established anywhere in the world;
- it hosts meetings between investigators and prosecutors from different states dealing with individual cases and at a strategic level, and specific types of criminality;
- it aims to enhance the development of Europe-wide cooperation on criminal justice cases;
- lastly, it has privileged partnerships with Liaison Magistrates, the European Judicial Network and organisations such as the European police office (Europol) and the European Anti-Fraud Office (OLAF). Eurojust is a legal melting-pot which will give rise in due course to developments intended to strengthen the European judicial area.

39. The first two annual reports from Eurojust in 2002 and in 2003, showed a big difference in the numbers of bilateral and multilateral cases, the former being much higher. This is a characteristic the College is striving to change in order to create a more focused and consolidated approach to the problems it aims to solve and to bring more members around the same negotiating table.

40. The Eurojust Decision provides for Eurojust to exchange information (including personal data) with authorities in the member states and also with EU bodies, international organisations and third country authorities. It may also store and process data, including personal data<sup>15</sup>.

41. Regarding information about terrorist investigations and prosecutions, Eurojust’s report to the Council on 1 June 2004 suggests that such investigations be limited to judicial data for the time being because of a lack of capacity to process large amounts of information<sup>16</sup>. The same report also urges that copies of all European Arrest Warrants issued in respect of terrorist offences should be sent to Eurojust, as well as copies of letters of request sent by the competent authorities of one member to others.

42. A number of bodies, databases and information systems currently operate within the EU in order to maximise cross-border cooperation. As it is within this sphere of cooperation that the EU has currently made least progress, these bodies have been set up to create links between national agencies which have traditionally worked within their own borders and under their own mandates. Since the threats have evolved and do not target one specific country, it is no longer realistic for member states to continue withholding “otherwise sensitive” information which would be central to the security of another state. Similar to the SIS and Eurojust described above are the:

- *Europol Information System (EIS)*: this involves exchange of information between member states and third countries to aid investigations, focusing on criminal investigations;
- *Europol Analysis System*: this allows the authorised analyst to store data and extract relevant information in such a way that criminal patterns and links can be discovered or confirmed.

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<sup>15</sup> Council Decision of 28 February 2002 <http://www.eurojust.eu.int> .

<sup>16</sup> Document Eurojust 49. 10008/04. <http://ue.eu.int> .

- *Europol Index System*: this allows authorised users to verify whether data included in the Europol Analysis System concerns their own member state; only the existence of information is confirmed, not its content;
- *EURODAC*: this assists in the prevention of multiple asylum applications through the checking of fingerprints and facilitates the application of the Dublin Convention;
- *Customs Information System (CIS)*: this increases the effectiveness of the cooperation as well as the control procedures of competent custom authorities;
- *Customs File Identification Database (FIDE)*: its aim is to enable the national authorities responsible for carrying out customs investigations to identify competent authorities of other member states which are investigating or have investigated the same persons or businesses;
- *Europol Secure Communication Network (ESCN)*: this provides technical infrastructure to support the encrypted exchange of data and voice information between Europol and the National Units;
- *European Anti-Fraud Office (OLAF)*: this strengthens the means of fraud prevention and combats corruption and any other irregular activity, including misconduct within the European Institutions;
- *Anti-Fraud Information System (AFIS)*: managed by OLAF, this assists in preventing, investigating and prosecuting operations which are in breach of customs legislation, through more rapid process of information;
- *Europol INFOEX/Liaison Network*: this is a system used for the exchange of information between Liaison Desks and Europol Offices.

*(b) The European Security Research Programme*

43. In the European Security Strategy of December 2003, the EU recognised the threats and the security challenges that lie ahead and set out a number of objectives with a view to increasing the continent's security in a number of areas. It is acknowledged that the Union must be able to develop capabilities and deploy efficiently significant resources for peacekeeping, humanitarian aid and institution-building activities abroad.

44. In order to achieve the stated objectives in the fight against terrorism, Europe's technological strengths must be used to deliver results. In establishing a European Security Research Programme (ESRP) Europe is moving a step closer to harmonising different technologies and eliminating the many barriers that exist between different technological fields: research with dual-use potential increasingly being carried out separately by the military and civilian sectors; limited cooperation between member states and a lack of coordination between national and political bodies.

45. In attempting to plan and coordinate the first steps towards an effective ESRP, the EU has put in motion the first stages of a Preparatory Action designed to focus on all topical issues<sup>17</sup>. In particular, the Preparatory Action is open to all EU members and operates on the basis of Community principles. The European Commission has furthermore stated that such an action is needed to "provide an opportunity to undertake activities to identify and address critical issues in order to prepare the foundations for a comprehensive European Security Research Programme from 2007 onwards"<sup>18</sup>. The Preparatory Action's fields of activity include:

- improving situation awareness;
- optimising security and protection of networked systems;
- protecting against terrorism (including bio-terrorism and incidents with biological, chemical and other substances);
- enhancing crisis management (including evacuation, search and rescue operations, active agents control and remediation);

<sup>17</sup> Commission Decision, 3 February 2004. <http://europa.eu.int> .

<sup>18</sup> Commission Communication 3 February 2004. <http://europa.eu.int> .

- achieving interoperability and integrated systems for information and communication<sup>19</sup>.

46. 15 million euros were allocated to funding the Preparatory Action in Security Research (PASR) in 2004. In addition, the PASR-2004 call for tenders received 179 proposals from 18 EU member states for a total of 123 projects relating to the security research support. For 2005 the Commission has requested a budget totalling 24 million euros. The fields of activity have remained identical to those announced in 2004, whilst a second call for proposals has currently been published with a 5 May 2005 deadline.

47. In setting up an effective ESRP, a number of goals and objectives on which the programme will concentrate have been defined, the primary one being to take advantage of dual-use technologies and the multi-functional character of capabilities and to bridge the gap between civil and defence research. Furthermore, it is stressed that the ESRP should fund research activities with a view to developing systems and products for two distinct areas: (a) the protection of member states' territory, sovereignty, domestic population and critical infrastructure against transnational threats, and (b) EU missions "outside the Union for peace-building, conflict prevention and strengthening international security"<sup>20</sup>.

### ***III. The ESDP and combating the threat of terrorism***

#### ***1. The role of the armed forces in the fight against terrorism***

48. The armed forces will need to adapt in order to be able to combat transnational terrorist groups within and outside the homeland. The novelty and the difficulty of that mission resides in the fact that not only are such groups "stateless", they are not even, strictly speaking, military in nature. Additionally, armies need to cooperate actively to achieve the overarching goal of preventing such groups from gaining possession of weapons of mass destruction in the future.

49. The increasing overlap between internal and external threats, particularly in regard to terrorism, must not lead to confusion between the functions of the armed forces and the security forces but should produce a much closer and effective framework of cooperation between them.

50. There is a need, therefore, to define specific limits to armed forces' intervention against terrorism. These basically concern two areas: territory and the degree of force employed. In regard to the first – territory – the armed forces should only intervene on national soil in support of the security forces and under control of the civil authorities. Thus the armed forces can cooperate with the security forces both in preventive security functions in order to forestall terrorist attacks and in dealing with the effects of an attack once it has taken place.

51. This doctrine of use of the armed forces for internal security presupposes at least two conditions being met: first, there has to be a change of attitude on the part of armies, making them more receptive to cooperation with other civilian agencies. Secondly, there needs to be specific legislation defining the circumstances under which armed forces' intervention within the homeland is admissible, the procedure to be followed, accountability and the parameters of the relationship between the military command and the civilian authorities.

52. The other factor to consider is degree of force it is proposed to use. Armed forces are equipped, trained and designed for operations involving high-intensity force, including the destruction of a potential aggressor. Conversely, security forces are equipped, trained and designed for operations involving a minimum use of force such that the safety of the aggressor becomes part of the goal of the operation. According to this criterion, the armed forces' involvement is unavoidable when – irrespective of where the action is – there is a serious and imminent risk to homeland security. The most obvious example would be the threat of a plane being blown up by being flown into a building. Secondly, the use of the armed forces would be fully justified when the terrorist capability it is sought to neutralise is superior to that of the security forces. Lastly, action by the armed forces is unavoidable when distances or the logistical difficulty of the operation mean that it cannot go ahead without their assistance.

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<sup>19</sup> Commission Communication 3 February 2004. <http://europa.eu.int>.

<sup>20</sup> Research for a Secure Europe. European Commission, 12 March 2004 <http://europa.eu.int>.

53. It is important to point out, however, that cooperation between armed forces and security forces has to be a two-way process. Thus when it comes to external counter-terrorist action, where the armed forces take control of operations, the security forces can contribute components supplementing the armed forces' own capabilities: crowd-control units, criminal investigation teams, information specialists, military police or border guards, etc. In this case, it will be the security force components that need to be fully integrated into the military chain of command.

54. The establishment of this new cooperation framework thus requires the definition of a legal structure to regulate as closely as possible both the involvement of the armed forces in internal security matters and any security force cooperation in missions abroad. Such regulations will need to be adapted to the specificity of the constitutional order of individual nations.

55. The armed forces must, besides, be fully aware of the seriousness of the risks that they are facing. This means that their procurement policies and armed forces' planning and training need to regard counter-terrorism as a core mission. In that sense, it is often the case that the biggest contribution the armed forces can make is to make available to the security forces the sophisticated technical assets with which the military are equipped. Moreover, those assets should in future be increasingly orientated towards this type of mission.

*(a) The armed forces and the threat of external terrorism*

56. The fight against terrorism falls within the list of missions set out in Article III-309 of the Treaty establishing a Constitution for Europe, currently in the process of being ratified. This provides as follows:

“The tasks (...) in the course of which the Union may use civilian and military means, shall include joint disarmament operations, humanitarian and rescue tasks, military advice and assistance tasks, conflict prevention and peacekeeping tasks, tasks of combat forces in crisis management, including peacemaking and post-conflict stabilisation. All these tasks may contribute to the fight against terrorism, including by supporting third countries in combating terrorism in their territories”.

57. In addition, the solidarity clause in the Constitutional Treaty, which refers to terrorist attacks against a member state, provides for the mobilisation of all the necessary instruments, including military resources, to deal with the following: preventing the threat in the territory of any of the member states; protecting democratic institutions and the civilian population from any terrorist attack; and assisting a member state in its territory at the request of the political authorities, in the event of a terrorist attack.

58. Both provisions highlight the fact that the prevention of terrorism has become an important element of the ESDP as set out in the Constitutional Treaty. Counter-terrorist military operations outside the Union's borders could be the result of four different types of circumstances: action against a state that harbours or uses terrorism; cooperation with a third state in its fight against terrorism; intervention in a failed state in whose territory terrorist groups are established or the destruction of the WMD of an outlaw state.

59. Notwithstanding the amorphous nature of terrorist networks, such groups have no hesitation, whenever they have the possibility, in making use of a territory as a base for operations. At times, moreover, there is collusion between a state and a terrorist group or state “sponsorship” of such a group. This was the case with the Taliban regime in Afghanistan and its relationship with the al-Qa'ida terrorist organisation before the 11 September 2001 attacks in the United States. Therefore, we cannot discount the possibility that Europeans may in the future be obliged to intervene in a country that uses terrorism as a strategic weapon to achieve its objectives. On this assumption, the principle of deterrence might also come into play. A combination on Europe's part of military capability and political will to act could deter a totalitarian regime from using or sponsoring terrorism against its security or vital interests.

60. At the present time it is difficult to imagine an autonomous operation of this type being undertaken by the European Union. This form of action would most probably be carried out in the NATO framework or in specific coalitions involving the United States. But in any event such missions demand a greater projection capability on the part of Europe's armed forces, which must be capable of

being deployed in sufficient strength to any part of the globe. A real combat capability is also required to be able to beard the enemy on his home ground and carry the day. Such capability necessarily requires full interoperability with American armed forces so that the two can work together effectively on the battlefield.

61. A second type of mission could potentially be cooperation with a third state in the fight against terrorism. The operations in which several EU countries are involved in Afghanistan or Iraq are probably missions of this type. Provision for them is also made expressly in the new Constitutional Treaty. Thus in future it is quite possible that this type of cooperation could extend to other countries.

62. European armed forces therefore need to be capable of working together with the armies of other countries to defeat local terrorist forces or transnational networks that have based themselves in the territory of the latter. This type of mission also requires a major forces projection capability, although less so than in the previous instance. It implies additionally a combination of ultra-high tech strategic capabilities: complex command, control, communications and intelligence systems, precision weapons and robotic vehicles and highly armed individual soldiers trained for urban combat. Protection of one's own forces, especially the supply chain and logistics support, in the face of terrorist action is another vital element.

63. A third scenario in the fight against terrorism is one where it is necessary to intervene in failing states or post-conflict situations in territories where terrorist groups are trying to gain a foothold by taking advantage of the power vacuum thus created. The grounds for this type of operation have in the past been strictly humanitarian rather than for reasons of counter-terrorism, but in future they might be undertaken as complementary or convergent missions. The type of capability required is very similar to the other missions described.

64. Lastly, military intervention might be unavoidable as a last resort in the event of the illegal or uncontrolled development of weapons of mass destruction by a country, and there is an obvious risk of such weapons ending up in the hands of one terrorist group or another. Missions of this kind might have two different objectives. They could be observation and reconnaissance missions to verify on the spot the real position as to the development of such programmes and capabilities. At the other end of the scale, missions involving the destruction of those types of weapon could also prove necessary. For these, the European Union would need to develop a counter-proliferation strategy, and the military capabilities necessary for undertaking such missions.

65. In short, European armed forces have an essential part to play in fighting terrorism beyond their borders. Clearly, the struggle must be conducted in accordance with the principles and rules of international law. It would also be appropriate for such missions to be undertaken jointly with NATO. But in any event, it is urgent that the European Union define more closely this external dimension of its fight against terrorism and for that task to be given high priority in the planning of the EU's future military capabilities.

*(b) The armed forces and internal security*

66. The solidarity clause against terrorism contained in the EU Constitutional Treaty also covers, as noted above, mobilisation of military resources to protect democratic institutions and the civilian population from terrorist attack, and the case of providing assistance to a member state in its territory at the request of its political authorities in the event of a terrorist attack.

67. That provision, together with those of national legislations for armed forces' cooperation in internal security and the accumulated experience of the various Union member states in the practical implementation of those types of mission, show that armies can play an important, if subordinate part in the fight against terrorism within a country's own borders by preventing and in managing the effects of possible terrorist attacks, particularly an NBCR attack.

68. The preventive missions the armed forces can undertake within the homeland are of a very different kind and include protection of strategic sites, such as nuclear power stations, the nerve centres of communication or energy distribution and other strategic infrastructure; also, the surveillance of major communications routes, railway stations or airports. Another of their tasks is cooperating with the security forces in the surveillance of large crowds of people or very busy public

areas. Lastly armies and navies can also work together extensively on surveillance and monitoring tasks and tightening external border security.

69. Such traditional preventive measures must now be supplemented by more proactive measures to overcome, for example, the challenge presented by the use of civilian aircraft or, hypothetically, that of unmanned airborne vehicles (UAVs) to commit acts of terrorism. Faced with this as a possibility, all countries are obliged to protect their airspace adequately against the threat of such attacks. It is clear that today only the armed forces have the means and capability to deal with this type of threat. Nor can the possibility be ruled out in the future of the armed forces' capabilities being used to neutralise a terrorist cell in the face of imminent attack.

70. Lastly, it is clear that the armed forces can play a major part in assisting and evacuating the wounded in the event of a large-scale attack, and in measures to avoid further damage in the aftermath. Military capabilities must be integrated into civilian protection systems, as a fall-back in case the civilian services are unable to cope. In particular, the armed forces must make their capabilities available to the civilian authorities in order to cope with any NBCR attack that might occur. All of this requires appropriate resource planning and organisation of joint exercises. The European Union for its part should draw up a coordinated catalogue of capabilities and contingency plans for member states.

71. In the past, such support to the security forces has been provided on a one-off basis in the event of isolated terrorist alerts. However, the on-going nature of the present threat means they are now routine. In any event, this type of mission needs to be incorporated into defence planning as one of the basic future tasks for the armed forces.

72. The inclusion of such internal security missions in military planning in turn raises two questions. The first is concerned with the appropriate equipment for these new types of mission. For example, certain types of combat vehicle are too expensive and unsuitable for the surveillance of railway lines or patrolling public areas. Thus, given military units could be assigned special vehicles for such tasks. Moreover, it is also necessary to ensure that their communications and command and control systems are compatible with those used by police forces.

73. The second question concerns the use of heavy combat units in these types of mission. In that connection, it might be helpful to strengthen armies' mobilisation and reserve systems so that they can undertake these internal security missions, thus avoiding interference in the operability and training of crack military units.

74. Finally, it is also essential to overhaul legal systems so as to define more closely issues such as who has the authority to launch missions of this kind and generate the relevant forces; who commands them; how to achieve appropriate coordination between them and the political authorities, the police and the military; what the legal status is of military personnel taking part in such missions. In many cases, these details are insufficiently worked out.

*(c) National cases*

75. The threat of terrorism has been perceived differently in the various EU member states in the past and acts of terrorism of differing kinds have occurred as well. In examining how different states have used their military forces to combat terrorism and consolidate security within their borders it is important to focus briefly on a few national cases. Many European countries have had to deal with terrorist groups and attacks originating within their homeland: one of them is the UK. The threat the Irish Republican Army (IRA) and its terrorist attacks have posed for the UK in past decades is well known. The UK has over the years provided military aid and support to a number of sectors, primarily to the civil powers and the civilian community. British military forces have cooperated closely with local powers and the police to maintain law and order. The role of British military forces however is not confined to Northern Ireland. Following the September 2001 terrorist attacks, the Anti-Terrorism, Crime and Security Act 2001<sup>21</sup> was adopted, whilst the army's military assistance to the civil authority<sup>22</sup> was reviewed and upgraded. The UK is also currently increasing nuclear, biological and

<sup>21</sup> The Anti-Terrorism, Crime and Security Act 2001. <http://www.publications.parliament.uk>

<sup>22</sup> Strategic Defence Review. <http://www.mod.uk>

chemical (NBC) military training and is expected to become the leading chemical, biological, radiological and nuclear (CBRN) battalion country from January 2006<sup>23</sup>.

76. Following the attacks in New York, France's military forces were first upgraded in three specific ways to take account of terrorism: to (a) improve the reactivity of military action planning; (b) increase civil-military cooperation; and (c) better educate and train personnel on CBRN risks<sup>24</sup>. Furthermore, the French *gendarmerie* was made central to France's operational defence<sup>25</sup> with forces numbering up to 140 000 concentrating on four forms of action to protect the mainland: deterrence; prevention; protection and projection. Certain *gendarmerie* divisions also specialise in CBRN risks.

77. In Germany the army has little role in counter-terrorist operations, but it is on standby to provide assistance in the event of a crisis. The German armed forces have a bigger role in the EU and NATO frameworks.

78. In the case of Italy, a considerable amount of effort has been made to combat terrorism pre- and post- 11 September. Italy has experienced two distinct periods of terrorism, pre-1989 with both fascist and communist Red Brigade bombings, and in the late 1990s, involving assassinations of government officials. Following the attacks in New York, Italy implemented a number of changes to its counter-terrorism policy to update its intelligence and response efficiency. One of the most significant and efficient responses to terror was the transfer of a team of high-ranking professionals from the fight against organised crime to counter-terrorism<sup>26</sup>. Furthermore, the powers and responsibilities of the Political-Military Unit (NPM) were strengthened<sup>27</sup> following 11 September. NPM was created by the Office of the Prime Minister and reports directly to him. It is responsible for updating the National Emergency Plan to deal with CBRN attacks as well as plans relating to transport safety, bio-terrorism and coordinating and strengthening preventive operations. The Unit also cooperates with police forces, in particular regarding the suppression of terrorist crime. Lastly, since 2001, the responsibilities and role of the Committee for Security and Public Order – chaired by the Minister of Home Affairs – have been enhanced to focus more on terrorism.

79. As the Spanish authorities have had to deal with the ETA-related terrorism threat in their own territory for many years, they set up a body with the task of combating terrorism earlier than other countries. This body is the *Guardia Civil*; it has an exclusive right to carry weapons and carry out checks to search for arms and explosive materials. Furthermore, its agents are responsible for the protection of high-level officials and of buildings of strategic importance. After the attacks of 11 March 2004 in Madrid, the *Guardia Civil* stepped up its efforts to combat terrorism and numerous operations were initiated. Most importantly, an operational plan for the fight against terrorism was adopted. One of the most important missions of the *Guardia Civil* today is Operation Verano, which focuses on the protection of tourists and the tourist industry in Spain during the summer months. In addition, during 2004, the *Guardia Civil* arrested 70 people connected with the ETA network; 36 of those arrests were made in France. It is also holding 19 individuals with links to Islamic terrorist cells. Currently, a project called the *Plan Estratégico de Seguridad* (Strategic Security Plan) for the years 2005 and 2006 is being implemented. Its main objective is to upgrade the *Guardia Civil*'s capacity to combat terrorist threats on both the national and international levels by increasing the resources in terms of manpower and equipment employed to that end.

## ***2. The role of intelligence***

80. Obviously, intelligence is an essential part of the fight against terrorism. One of the main difficulties in that struggle is the fact that the enemy is an invisible one. No one may be aware of its presence until it strikes. Intelligence therefore has to "reveal" the enemy – a preliminary and essential requirement for defeat.

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<sup>23</sup> NBC Training: Accelerating capability increases. Military Training and Simulation News Vol. 7, Issue 1 – February / March 2005

<sup>24</sup> Adaptation nécessaire des outils de défense français et européens pour faire face aux menaces asymétriques. <http://www.defense.gouv.fr>

<sup>25</sup> Gendarmerie Nationale, Une Fonction de Protection. <http://www.defense.gouv.fr>

<sup>26</sup> National Report pursuant to paragraph 6 of UN Security Council Resolution 1373. <http://www.esteri.it>

<sup>27</sup> National Report pursuant to paragraph 6 of UN Security Council Resolution 1373. <http://www.esteri.it>

81. The intelligence community must therefore be strengthened on at least three fronts: reinforcement of the home intelligence services; achieving better integration of the information gathered by the various agencies and more cooperation over intelligence within the European Union framework.

82. Strengthening national intelligence services is the first step. There are three ways in which this should be done: first resources must be increased. Bigger budgets for the intelligence services in a situation where resources are limited should in due course lead to a review of the priority given to our information-gathering capabilities. In this respect, it is clear that in Europe there is a very large intelligence “deficit” in regard to the new terrorist networks.

83. Terrorism has highlighted the importance of human intelligence. Increasingly sophisticated and powerful intelligence technology is necessary but not sufficient. Put another way, they add value but cannot replace traditional intelligence based on human sources. This is particularly true in the aftermath of the 11 September 2001 and 11 March 2004 attacks. The fight against terrorism now more than ever requires the capacity to infiltrate the international networks behind it.

84. Giving priority to human intelligence means not only increasing the number of people involved in intelligence activity, first and foremost intelligence gathering; it also means improving the quality of that intelligence which in turn implies better selection, training and rewards for intelligence staff.

85. Finally, the fact that technology is no substitute for human intelligence does not mean that the European Union should not continue developing new capabilities of this kind: for example in the fields of observation satellites, eavesdropping and target surveillance or data analysis and information. In all of those areas, there has to be constant innovation so that new capabilities can be developed based on the most up-to-date technology available.

86. The second essential measure, which is even more important than strengthening our intelligence networks, is improving coordination between the various information services at work in individual countries, so as to achieve better integration of the data gathered by all of them.

87. This need for integration arises from the fact that in most democratic countries not one but several intelligence services are involved, depending on the task to be carried out. The most widespread pattern is for there to be at least three services involved in intelligence work: one external, one internal and one within the armed forces.

88. The involvement of a number of agencies could create problems in regard to their effectiveness in the face of new threats, which as noted earlier, tend to be convergent. The answer to this dilemma can only come from strengthening the national intelligence communities so that there is better coordination between the various services, joint planning of objectives and a ready flow of information between them. Recently, investigations carried out post-11 September 2001 in the United States and post-11 March 2004 in Spain revealed that there were important pieces of intelligence in the hands of different services which together could have led to the pre-emption of those attacks, but the information was spread among a number of agencies and its significance not properly understood by any of them.

89. In order to strengthen national intelligence communities it is necessary to establish high-level political and special committees in which all the various intelligence bodies are represented, and a single intelligence directorate. There must also be effective integration of databases using facilities made available through the new information technologies. This “revamped” intelligence community must also include both the criminal intelligence services within the security forces and the armed forces’ intelligence services.

90. The contribution military intelligence makes to the national intelligence community must be expanded. To that end, the armed forces’ intelligence services must broaden their remit to include non-state threats, especially from those terrorist organisations which imply a direct threat to our security. Work in this area should concentrate on threats from outside and priority should systematically be given to information regarding such organisations’ ability to get hold of weapons of mass destruction.

91. Finally, reinforcing our national intelligence communities is not sufficient in the face of threats, such as terrorism, which are typified by a strong transnational dimension. Consequently, it is essential

to create a genuinely European intelligence community. What is more, that community must be capable of being further extended at a later date to the entire transatlantic community. There has been some movement in that direction already, but so far not enough.

### ***3. Security forces of a military nature***

92. Over and above the cooperation that is essential between the armed forces there is a need to consider how internal security instruments can be strengthened so as more effectively to meet the new challenges terrorism presents. In this respect, security corps of a military nature, like the Spanish *guardia civil*, the French *gendarmarie* and the Italian *carabinieri*, are arguably the most flexible and effective tools for dealing with these new transnational threats.

93. The need to ward off attack within the homeland makes it necessary to develop a new concept of home defence that is very different from the old idea of national defence current during the cold war. This new concept might for example cover areas as diverse as more effective protection of external borders to prevent clandestine immigration and all forms of illegal traffic, security of communications networks and information likely to be of strategic value in running the country: airport security and other means of transport, security at nuclear power plants and other vulnerable critical installations or tighter control over financial systems to cut off funding to terrorist movements or organised crime syndicates.

94. To carry out all these internal security tasks, states need to have forces that can be deployed widely throughout the territory, with the wherewithal to carry out such preventive duties, possessing the most advanced border surveillance and control equipment and capable of dealing with highly organised and dangerous gangs. These requirements go beyond the usual capabilities of local police forces and most national ones whose main function is the routine protection of the general public.

95. Consequently, governments seeking to deal with these new forms of threat need new instruments that can combine police methods with more typically military capabilities – flexible instruments capable of a graduated response as a function of the gravity of the threat; multifunctional organisations that can act both in the national defence and internal security field and, as mentioned above, be the focal point of the coordination that is needed between the armed and the security forces.

96. These types of forces can moreover be used elsewhere than at home. Some specialised units can supplement armed forces' capabilities abroad. The military character of such forces greatly helps to facilitate cooperation in this connection, whether their components are to be integrated in international military missions or to provide support to the armed forces themselves in internal security tasks when such assistance is absolutely essential.

97. Forces such as these, mid-way between police forces, strictly speaking, and regular armies, also mean that governments can make a more measured and flexible response to the new threats, reducing the risk of the armed forces becoming too involved in internal security, with the attendant harmful effects this might have on our democratic systems.

98. In short, the conclusion would seem to be that this form of military-style security organisation is the best suited to emergent transnational threats which, like terrorism, now constitute the main risks to our societies, our democracies and to the stability of the international system itself.

99. In any event, irrespective of the military or civilian character of such forces, there is undeniably a need to develop a new concept of homeland defence which, instead of armed forces geared to external projection, takes as its main plank "robust" forces capable of operating throughout the homeland, of sufficient strength to deal with the full range of tasks covered by this new defence concept, with leading-edge equipment and a response capability that goes beyond that normally expected of traditional police forces.

### ***IV. Conclusions***

100. The European Security Strategy defined terrorism, together with the proliferation of weapons of mass destruction, as the greatest threat to the security of the European Union and the world as a whole. Terrorism has in practice become the main threat, not only to the Union but to worldwide peace and

security. Its emergence is obliging us to undertake an in-depth strategic review, the first stage of which must involve adapting the instruments of our security in order to deal with the new threat.

101. The boundary between what we have traditionally regarded as external and internal risks has largely disappeared in the face of new-style threats such as terrorism. Thus the traditional division of labour between the armed and the security forces has been superseded by the new reality. Besides, none of the traditional security instruments, police forces or armed forces, are alone able to provide a fully effective response to these new threats.

102. Europe's armed forces must therefore face up to the threat posed by non-state organisations with no defined combatant status, which are not even strictly military in character. The task facing the armed forces involves fighting those organisations outside Europe and making an increasingly significant contribution to its internal security. In particular, the armed forces must help prevent at all costs the eventuality of an attack involving the use of weapons of mass destruction taking place on European soil.

103. The fight against terrorism is already a factor in the European Security and Defence Policy framework and in national defence policy. Nevertheless, that task must have higher priority still. Inasmuch as the threat of terrorism continues to be present in the longer term, it will need to be a basic objective of military planning. Success will depend basically on two factors: firstly on the armed forces' ability to work together with other security instruments such as the security forces and the intelligence and civilian protection services; and secondly on the European Union's ability to go further in developing a global counter-terrorism strategy, with the ESDP as one of its main pillars.

## APPENDIX

*Principal European decisions and actions on terrorism*

	<i>Before 11 September 2001</i>
15-16 December 1995	European Council, Madrid: the first to refer to terrorism as a threat to democracy, the free exercise of human rights and economic and social development.
3 December 1998	Vienna Action Plan implementing the provisions of the Treaty of Amsterdam on an Area of Freedom, Security and Justice.
15-16 October 1999	Tampere Council Decision: a comprehensive approach to reinforce the fight against serious crime was adopted.
3 December 1998	Council Decision instructing Europol to deal with crimes committed or likely to be committed in the course of terrorist activities against life, limb, personal freedom or property.
9 December 1999	Council recommendation on cooperation in combating the financing of terrorist groups.
	<i>After 11 September</i>
20 September 2001	Extraordinary Justice and Home Affairs Council meeting, adopting a range of measures to fight terrorism in the fields of judicial, police and intelligence cooperation.
21 September 2001	EU Action Plan to Fight Terrorism, endorsed by the Extraordinary European Council, adopting a framework decision on terrorism, defining terrorist offences and approximating the level of sanctions between member states.
27 December 2001	Council Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism.
28 February 2002	Council Decision setting up EUROJUST with a view to reinforcing the fight against serious crime.
27 May 2002	Council Common Position concerning restrictive measures against Osama bin Laden, members of the al-Qa'ida organisation and the Taliban and other individuals, groups, undertakings and entities associated with them and repealing Common Positions 96/746/CFSP, 1999/727/CFSP, 2001/154/CFSP and 2001/771/CFSP.
13 June 2002	Council Framework Decision 2002/465/JHA on joint Investigation teams.
	Council Framework Decision 2002/584/JHA on the European Arrest Warrant and the surrender procedures between member states.
22 July 2002	Council Decision 2002/630/JHA establishing a framework programme on police and judicial cooperation in criminal matters (AGIS programme).
28 November 2002	Council Decision 2002/996/JHA on establishing a mechanism for evaluating the legal systems and their implementation at national level in the fight against terrorism.
19 December 2002	Council Decision 2003/48/JHA on the implementation of specific measures for police and judicial cooperation to combat terrorism in accordance with the Article 4 of Common Position 2001/931/CFSP.
20 December 2002	Joint Council and Commission Programme 14627/02 to improve co-operation in the EU for preventing and limiting the consequences of chemical, biological, radiological and nuclear threats (the 2002 CBRN-programme).
24 June 2003	Council Decision 10054/03 concerning the introduction of some new functions for the Schengen Information System, including the fight against terrorism.

22 July 2003	Council Framework Decision 2003/577/JHA on the execution in the European Union of orders freezing property or evidence.
12 December 2003	A Secure Europe in a Better world – European Security Strategy, identifying the key security challenges facing Europe in the 21 <sup>st</sup> century, explores the EU’s strategic objectives in addressing these challenges.
22 December 2003	Council Decision 2003/902/EC implementing Article 2(3) of Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism and repealing Decision 2003/646/EC.
	<i>After 11 March</i>
19 March 2004	Extraordinary Justice and Home Affairs Council.
25 March 2004	European Council’s declaration on combating terrorism, adopting a declaration of solidarity and appointing a coordinator for EU actions on terrorism.
17-18 June 2004	European Council concludes an agreement on the draft “A Constitution for Europe”.
	Revised EU Plan of Action on Combating Terrorism translating the overarching objectives of the Declaration into strategically achievable tasks.
26 October 2004	Council Regulation 2007/2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the EU.
4- 5 November 2004	The Hague Programme, “Strengthening Freedom, Security and Justice in the European Union”, adopted European Council. It defines the measures to be implemented in the area of freedom, security and justice for the years 2005-2010, putting immigration and asylum, alongside the prevention of terrorism on the top of the agenda.
18 November 2004	Conceptual Framework of the ESDP dimension of the fight against terrorism.
23 November 2004	Interim Report on the Evaluation of National Anti-Terrorist Arrangements.
25 November 2004	Council Conclusions on prevention, preparedness and response to terrorist attacks.
1 December 2004	Council Decision 2004/15480 on the EU solidarity programme on the consequences of terrorist threats and attacks (revised/widened CBRN programme).
13 December 2004	Council Regulation 2252/2004/EC on standards for security features and biometrics in passports and travel documents issued by the Member states.
14 December 2004	Council Decision 2004/16089 on the fight against terrorist financing.
	EU Plan of Action on Combating Terrorism – Update.
16-17 December 2004	European Council Conclusions, calling for prompt implementation of measures identified in the Hague Programme, mainly information exchange and sharing between relevant authorities.



