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FIFTY-FIRST SESSION

Fighting international terrorism: a challenge for Europe

REPORT

submitted on behalf of the Political Committee
by Lluís Maria de Puig, Rapporteur (Spain, Socialist Group)
and Bart van Winsen, co-Rapporteur (Netherlands, Federated Group)

ASSEMBLY OF WESTERN EUROPEAN UNION
THE INTERPARLIAMENTARY EUROPEAN SECURITY AND DEFENCE ASSEMBLY
43, avenue du Président Wilson, 75775 Paris Cedex 16
Tel. 01.53.67.22.00 – Fax: 01.53.67.22.01
E-mail: info@assembly.weu.int
Internet: <http://assembly.weu.int>

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¹ Adopted unanimously by the Committee on 8 November 2005.

RECOMMENDATION 775¹

on fighting international terrorism: a challenge for Europe

The Assembly,

- (i) Recalling Assembly Recommendation 763 on defence aspects of the fight against international terrorism;
- (ii) Strongly condemning all forms of terrorism irrespective of its alleged causes or objectives;
- (iii) Aware that the trademark of the international terrorist threat is an ideology that preaches violence against democracy and the destruction of the fundamental values of Western society that enable people from all walks of life and faiths to live and prosper together;
- (iv) Convinced that the only reaction to this threat can be to contest, fight and defeat it;
- (v) Considering that this should be done by strengthening our democratic societies which are based on mutual respect among all individuals, cultures, faiths and races;
- (vi) Recognising that the EU, not being a sovereign state, has only a limited capability to fight terrorism;
- (vii) Noting, however, that all EU member states agree on the need for concerted European action and for the EU to take a broad approach, given the cross-border nature of the terrorist threat and the range of different instruments that are required to conduct an efficient counter-terrorism strategy;
- (viii) Noting that it is vital for both the EU and NATO to intensify their cooperation in the field of counter-terrorism and to ensure that their cooperation is in no way impeded by competition or disputes over competences and capabilities;
- (ix) Emphasising the importance of close cooperation between the EU and its member states on the one hand, and between the EU and the United States on the other, notwithstanding the differences of opinion that exist on the ways and means of conducting the fight against terrorism;
- (x) Supporting the EU Counter-Terrorism Coordinator in his difficult but vital task of promoting better coordination of national counter-terrorism policies at EU level and monitoring the implementation of the EU's counter-terrorism action plan;
- (xi) Considering that despite the reticence of some national authorities with regard to the proposals for creating a European intelligence agency and the arguments contesting the usefulness of such a body, those proposals should be re-examined in a constructive spirit;
- (xii) Considering that all EU member states should make sustained efforts to introduce similar legislation to isolate and outlaw individuals and organisations which promote armed violence, incite religious or racial hatred and glorify terrorism;
- (xiii) Recognising that in a democratic society there must be a balance between the protection of individual rights and the protection of society as a whole, which guarantees the democratic values that allow individuals to live in safety and security under the rule of law;
- (xiv) Aware that the fight against terrorism and the defence of the fundamental values of freedom and democracy may require national parliaments to pass legislation which could affect certain fundamental rights and freedoms;
- (xv) Noting the urgent need at EU level to overcome the paradox that the almost total absence of border controls within the Schengen area enables terrorists to cross frontiers unimpeded, while law enforcement officers remain hamstrung by national borders;
- (xvi) Aware that even within the EU different legal traditions, cultures and practices make it difficult to take a coherent law-enforcement approach towards counter-terrorism;

¹ Adopted by the Assembly on 7 December 2005 at the 10th sitting.

(xvii) Welcoming the European Commission's comprehensive counter-terrorism package covering all main aspects of the EU's counter-terrorism strategy that was presented in September 2005 and looking forward to the European Council's new counter-terrorism strategy and reinforced action plan due to be presented in December 2005;

(xviii) Considering that a large part of the EU's counter-terrorism policy is based on intergovernmental cooperation, which calls for oversight by a European interparliamentary body;

(xix) Concerned about the threat of nuclear terrorism and the failure of the seventh NPT Review Conference to reach agreement on new measures to stop the spread of nuclear weapons,

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

1. Guarantee regular parliamentary support and scrutiny, both at the national and international levels, ensuring that the adoption of any counter-terrorism legislation liable to affect fundamental rights and freedoms is the result of a democratic process in which both citizens and their representatives in the parliaments are fully involved;
2. Improve and intensify cooperation between the EU and NATO in the field of counter-terrorism and ensure that it is in no way impeded by competition or disputes over competences and capabilities;
3. Further improve and strengthen counter-terrorism cooperation between member states while continuing to examine the possibilities for establishing a European counter-terrorism intelligence agency in the future;
4. Find an effective solution to improve cooperation in cross-border counter-terrorism operations carried out by national law-enforcement agencies, in particular within the Schengen area;
5. Make sustained efforts to identify and put a stop to the activities of nuclear proliferators and adapt the NPT by including specific measures to prevent nuclear weapons from falling into the hands of terrorist organisations, groups or individuals;
6. Step up the EU's efforts to promote peace and stability in the Middle East and South Mediterranean and to contribute actively to resolving the remaining conflicts in that area;
7. Intensify cooperation with countries in the Middle East and South Mediterranean, making use, in particular, of the specific possibilities offered by the Barcelona Process and the European Neighbourhood Policy;
8. Promote the application of IAEA safeguards in the Middle East, calling upon all states in that region to take steps, including confidence-building and verification measures, aimed at establishing a nuclear weapon-free zone in the Middle East.

EXPLANATORY MEMORANDUM

*submitted by Lluís Maria de Puig, Rapporteur (Spain, Socialist Group)
and Bart van Winsen, co-Rapporteur (Netherlands, Federated Group)*

I. Introduction

1. The multiplication of terrorist activities worldwide, the upsurge of attacks in 2004 and the more recent terrorist strikes targeting Europe make it important to keep this worrying issue on the Assembly's agenda. Last June, well before the London and Sharm el-Sheikh bombings, the Assembly recommended that the European governments adopt a more proactive defence strategy on terrorism² and since 11 September 2001 it has focused much of its work on the ways and means of dealing with the different forms of international terrorism³.

2. However, in order to be effective the efforts to combat terrorism must take account of a number of new factors that have emerged over the past year. First of all, the terrorist threat is increasingly directed at the continent of Europe itself and the prospects are that this danger, far from decreasing, will become even more acute in the future. Secondly, terrorists are now being recruited from among the citizens of European states themselves.

3. And yet there has been no improvement this year as regards creating the political and legal conditions for strengthening European and international cooperation in the fight against terrorism. Following the rejection of the draft Constitutional Treaty by the citizens of France and the Netherlands, it now seems unlikely that the provisions it contained for extending the Petersberg missions so as to contribute to the fight against terrorism, and in particular the solidarity clause concerning common efforts to avert terrorism and the provision of assistance to a member state attacked by terrorists will be put into practice in the foreseeable future.

4. Admittedly the European Council did decide in March 2004 to take anticipatory action in the spirit of that solidarity clause, but in the absence of any binding obligation the member states' participation remains purely voluntary. The question that must be asked is whether a more comprehensive assessment of the terrorist threat incorporating all these new aspects will not make it necessary to enter into firmer commitments. However, during the United Nations World Summit in New York from 14 to 16 September 2005, the states were unable to adopt a general agreement on combating terrorism or to agree on a joint definition of terrorism in the final document as proposed by the UN Secretary-General. The responsibility for taking measures to counter terrorism is placed first and foremost with the member states⁴.

5. However, a non-negligible development was the adoption on 14 September 2005 of UN Security Council Resolution 1624 on the basis of an initiative by the British Prime Minister, calling on all member states "to prohibit by law incitement to commit terrorist acts and prevent such conduct", as well as to strengthen the security of their international borders and to broaden understanding among civilisations. Furthermore, an international Convention for the Suppression of Acts of Nuclear Terrorism was opened the same day for signature by the UN member states, but it will only enter into force after ratification by at least 22 signatory states.

6. On the European side, following the events of 11 September 2001, a whole range of measures have been adopted or are being envisaged in order to deal with the threats posed by acts of terrorism affecting the external and internal security of the EU and its member states and calling for a response both at community and intergovernmental level, as well as at purely national level.

7. During the half-yearly meetings of the Assembly Committees with the members of the WEU Permanent Council/EU Political and Security Committee (PSC) on 19 September 2005 in Brussels, the President of the Assembly quite rightly underlined that the governments concerned need the support of

² Assembly Recommendation 763 on the fight against international terrorism: defence aspects, Assembly Document [1900](#), 14 June 2005.

³ See, for example, Document [1754](#), 18 October 2001, Document [1764](#), 3 December 2001 and Document [1858](#), 3 June 2004.

⁴ An extract concerning terrorism from the World Summit final document is reproduced in the Appendix.

their parliaments for any action destined to guarantee the security of their citizens, particularly when it is deemed necessary for their protection to impose certain restrictions on the individual and collective freedoms guaranteed by law.

8. Hence it is indispensable for the governments of the European states to regularly consult the representatives of the national parliaments for the decision-making process in the security area. For all matters concerning external security the national parliaments have only the WEU Assembly through which to conduct a regular dialogue with the bodies within which the governments of the EU member states coordinate their action.

9. Many of the measures needed to combat terrorism require coordination in the areas of homeland security and justice, a field in which the current treaties make no provision at all for consultations at European level with the representatives of the member states' parliaments. Hence, in order to guarantee the democratic legitimacy of the fight against terrorism, there is a need for broader information and for greater coherence and transparency in the process for the collective consultation of the national parliaments.

10. However that need for coherence applies also and above all to action by the executive. As was stressed by the UK Presidency representative during the abovementioned meetings with the Assembly Committees on 19 September last, "there is perhaps no greater challenge that requires a coherent approach than the fight against terrorism". Yet only a very small part of the British Presidency's presentation was devoted to this problem, even though it was central to the questions raised by the parliamentarians at that meeting. The replies thus far have not provided sufficient clarification about general strategy or the activities of the different players and working groups within the EU bodies and the cooperation between them.

11. Furthermore, the Council has so far given no indication of the extent to which the obligations of the signatory states under the modified Brussels Treaty apply also to their cooperation in the fight against terrorism. This question has become even more urgent now that the entry into force of the Treaty establishing a Constitution for Europe and the introduction of the various instruments for combating terrorism for which it made provision have been called seriously into question.

II. The nature of the terrorist threat

12. Although it takes account of the numerous terrorist groups that are active all over the world in pursuit of widely varying objectives, this document concentrates on the terrorist threat posed by Islamic fundamentalists and more particularly on actions inspired, planned or organised by al-Qa'ida or its "affiliated" groups. This focus is justified not only by the fact that the most deadly attacks perpetrated most recently in Europe and elsewhere have been attributed to those groups, but also because on 16 July last al-Qa'ida brandished the threat of further terrorist attacks in a number of European countries⁵, including the United Kingdom, Italy, Denmark and the Netherlands, a threat which is taken very seriously by the relevant intelligence services.

13. Moreover, according to a report entitled "Terrorist activity in the European Union" published by Europol on 2 December 2004, which covers the period from October 2003 to October 2004, "while the European Union as an entity might not be subject to a specific threat from al-Qa'ida or its affiliates, these groups are targeting a number of member states that are perceived as enemies of Islam and designated as 'legitimate targets' due to their involvement in Iraq or in Afghanistan or to specific factors such as the law banning the Islamic veil in French schools. As such, France, Germany, Italy, Poland, Spain and the United Kingdom (as well as other countries, including the United States and Israel) have been specifically designated by the al-Qa'ida leadership".

14. The report goes on to say that within the European Union, the United Kingdom appears "to be a primary target for al-Qa'ida and/or its affiliates as demonstrated by the bomb attacks in Istanbul in November 2003 against the British Consulate and the HSBC bank, which targeted United Kingdom interests in Turkey (...)". Interestingly, the same report confirmed as of December 2004 "the fact that

⁵ See *Le Figaro*, 19, 20 and 21 July 2005.

recent disruptive activity in more than one Member State has revealed active extremist cells of *European Union citizens* of second-generation Pakistani origin”.

15. Since September 2001, Europol has been tasked by the European Union with the annual drafting of a non-classified document on the situation as regards terrorism in Europe. Once approved by the Council these reports are transmitted to the European Parliament. The document of 2 December 2004 stipulates that “The report is intended to inform the European Parliament on the phenomenon of terrorism targeting the Member States”. Since the report presents the situation in the member states, it would be highly desirable for it to be sent also to the national parliaments. Moreover, the means must be found for establishing a process of collective consultation and dialogue on the basis of such reports between the governments of the member states on the one hand and the national parliaments on the other.

16. It should be pointed out that the approach taken by the Constitutional Treaty to these issues would have constituted a significant improvement, given that in Article I-42, paragraph 2, it made provision, among other things, for the participation of the national parliaments in the evaluation mechanisms in the area of freedom, security and justice and for their involvement in the political scrutiny of Europol.

1. The causes and perpetrators of Islamic terrorism

17. The terrorist threat now comes from within member states of the Union and other European countries, since terrorists are also being recruited from among the citizens of our own countries and no longer necessarily come from outside. However, opinions diverge as to the motives which make it possible to recruit individuals prepared to commit the most horrific acts of terrorism⁶. Religious fervour and a particular way of interpreting the Koran, amongst others, have been identified as the phenomena which most frequently lead to the planning and perpetration of such acts.

18. However, while religious inspiration may play an important part, it does not explain everything and it is quite conceivable that in addition to other, multiple causes, there may also be groups or individuals acting without any obvious religious motives.

19. What is incontestable is that the terrorist threat persists, even though according to experts the core of the al-Qa’ida organisation in Afghanistan has been destroyed. Its ideology is spreading, the number of attacks increased significantly in 2004 and the process of recruiting individuals prepared to sacrifice their lives as suicide-bombers goes on. One component of the fight against international terrorism is to prevent the radicalisation of the individuals and groups in the Middle East that conceive and propagate this phenomenon. It is therefore essential to determine the cause of that radicalisation. Many explanations have been put forward.

20. One line of reasoning is that Islam is incompatible with modernity, leading inevitably to a clash of civilisations and pitching Muslims against the Judeo-Christian world. It draws attention to the growing influence in the Muslim world of preachers of jihad who make plain their abhorrence of Western values.

21. Others claim that the Koran itself calls for violence against non-believers. However, it should be noted that similar calls for violence can be found in the Old Testament and that in the Muslim world Islam has peacefully coexisted with other religions for many centuries.

22. Another school of thought attributes the present craving for jihad to a deep cultural malaise in the Muslim world symbolising a massive breakdown of identity as a result of the growing penetration of Western modernist thinking. At the end of the nineteenth century the Western modernist influence caused different reactions, with the development, on the one hand, of a modernist secular Arabism which tried to apply Western ideas to the Muslim world and on the other, of a modern Islam with an adapted identity. In the post-colonial era modernist Arabs gained control of the government in most Muslim countries. In the closing years of the 20th century, those modernist Arabs, who for the most

⁶ See also Raphaël Mathieu: “La lutte contre les terrorismes sécuritaires de coopération au sein et entre les organisations sécuritaires en Europe”, *Sécurité et Stratégie* No. 89, Brussels, May 2005.

part had established authoritarian regimes, found themselves engaged in a struggle for power with the Islamists, who aspired to a different identity for the Muslim world. The tension between those two poles of identity is identified as a major cause of terrorism.

23. According to a political assessment which is widely accepted in the Middle East and North Africa, as well as by many in Europe, the terrorism which is now threatening the world has its roots in the political suffering and injustice born out of Western colonialism and neo-imperialism. The West is blamed for the humiliation of the Palestinians and for its continued support for authoritarian regimes throughout the Muslim world.

24. However, many Islamists might prefer to place the blame for the political failings of the region's regimes elsewhere, in order to evade the issue of domestic responsibility. One expert recently argued that radicalisation, Islamism and Jihadism in the Middle East are the result of a combination of factors: authoritarian governments which have pushed opposition movements towards extremism and violence by excluding them from any meaningful participation in political life; the violation by the West of the sovereignty of Muslim countries such as Afghanistan, Iraq and others and the prevailing sense of Western dominance over and exploitation of Muslim culture and natural resources⁷.

25. It has been suggested that the "clash of civilisations" is taking place within the Middle East itself, rather than between the West and the Middle East, and that the West is being targeted by terrorist violence because in the inter-Arab or inter-Muslim fight over identity it has always taken the modernists' side.

26. As regards the initiators or perpetrators of terrorist attacks, one expert has identified three different circles of threat⁸. The first is the core group of members of the al-Qa'ida network, with whom no negotiation is possible and who, more than just an organisation, are becoming increasingly dangerous as the propagators of an ideology.

27. The second circle consists of national ethnic groups, which have local rather than global objectives, and which are active in specific territories, such as Chechnya or Kashmir. The activities of these groups could be halted by finding local solutions to each of these conflicts. The third group finally is that of the "freelance jihadists" who are not necessarily inspired by al-Qa'ida. They pick their own targets and plan and execute their own attacks.

28. Clearly there is no readymade solution for managing this complex situation and putting an end to international Islamic terrorism. However, there is some action that could yield significant results. As part of its counter-terrorism strategy, the EU should try to isolate potential terrorists from their supporters, supplies and targets, both in Europe and around the world. Its member states should make more dedicated efforts to better integrate the Muslims living on European territory into Western societies. The West should also more vigorously promote political reform throughout the Middle East region and put maximum effort into the search for a negotiated solution to the conflict between Israel and the Palestinians and the creation of a viable Palestinian state. Sustained efforts should also be made to find solutions for other conflict areas in which Islamic terrorism plays an important role.

29. The West should actively promote the establishment of a democratic process throughout the Muslim world, without acting in a way that identifies it as an ally either of modernist or Islamist movements. If Islamist governments are elected as the result of a truly democratic process, the West should accept them fully.

2. The fight against proliferation of weapons of mass destruction

30. A particularly worrying issue is the growing risk of jihad groups getting hold of weapons of mass destruction (WMD), including so-called "dirty" bombs. This form of terrorism, sometimes called "catastrophic terrorism", can strike without warning with devastating consequences that may also affect the neighbouring countries of the targeted state. Some experts take the view that the European states do not yet take this threat as seriously as the Americans, who have focused their

⁷ Turi Munthe, *Terrorism: Not Who But Why?*, RUSI Journal, August 2005.

⁸ Philippe Errera, *Three Circles of Threat*, Survival, spring 2005

homeland security efforts on it. According to one view, the fact of not knowing when terrorists will be able to strike using WMD constitutes the biggest threat that we face today⁹.

31. The manufacture and handling of WMD is a complicated process; despite the difficulties, however, their use in future terrorist attacks is almost a certainty¹⁰. Given the relatively more complex nature of nuclear and biological weapons, the use of chemical agents for terrorist attacks is considered by experts to be the most worrying threat in the near future.

32. A major instrument for combating the proliferation of nuclear weapons and nuclear explosive devices or their technology is the Nuclear Non-Proliferation Treaty, which entered into force in 1970 and now has 189 signatory states. Only Cuba, Israel, India and Pakistan have not signed up to it, while North Korea's withdrawal from the Treaty was effective as of January 2003.

33. There is serious concern that the emergence of new nuclear states such as North Korea and possibly Iran, together with the threat of nuclear terrorism and the slowness of nuclear disarmament all strongly point to an erosion of the existing non-proliferation regime founded on the NPT.

34. In May 2005 the seventh NPT Review Conference took place at the UN headquarters in New York, but it ended without reaching agreement on new measures to stop the spread of nuclear weapons. The conference became bogged down in arguments over perceived differences of interest, when what is urgently required is a new definition of proliferation. More efforts are needed to identify the major proliferators and put a stop to their activities. The Treaty should draw a clear distinction between civil and military nuclear programmes and contain measures to prevent links between terrorist groups and trafficking in nuclear technologies and materials.

35. A number of countries, in particular the US and its European allies, were concerned that Iran's nuclear energy programme was a pretext for producing weapons-grade fissile material. Others considered that the five recognised nuclear powers had not done enough to fulfil the treaty requirement that they take steps to reduce their nuclear arsenals. Moreover, they argued that the United States' plans for developing and testing a new generation of nuclear weapons directly contravened its treaty obligations. At present all existing nuclear powers are determined to maintain their nuclear capability, particularly since the further proliferation of nuclear weapons appears increasingly to be a certainty.

36. Although little progress has been made towards modernising and adapting the NPT, there have been many other efforts to prevent the proliferation of nuclear weapons and their components and technology. Mention should be made, for example, of UN Security Council Resolution (UNSCR) 1540, which was a major step forward in the national and international efforts to address the challenges of WMD terrorism and to keep such weapons and weapon materials out of the hands of dangerous parties, terrorist organisations in particular.

37. This Resolution requires all states to enact and enforce legal and regulatory measures to combat WMD proliferation by state and non-state players and recognises the importance of cooperation among states to prevent trafficking in WMD.

III. Providing appropriate responses under democratic scrutiny

38. Efforts in the area of prevention and protection must now take place within our own societies. There must be a dialogue with the citizens of our countries with the aim of consolidating and strengthening a common aspiration to defend the fundamental values of freedom and democracy. To defend those values people must be made to understand that this process may call for measures which are painful for the exercise of certain rights and certain individual and collective freedoms.

39. It must constantly be explained that all these measures are temporary and that it is not the state which is imposing them on citizens, but the citizens themselves as a whole who have given the state a mandate to defend their interests. The parliaments play an essential role here as the representatives of the people vis-à-vis their governments. The more governments envisage the adoption of measures

⁹ Working Paper No. 162, June 2005, Geneva Centre for the Democratic Control of Armed Forces.

¹⁰ John Eldridge, Terrorist WMD: threats and responses, *Jane's International Defence Review*, September 2005.

restricting individual or collective freedoms or affecting the protection of private data, the more vital it is to guarantee regular parliamentary support and scrutiny.

40. But it is also first and foremost up to parliaments to conduct the necessary debate with all sectors of civil society in order to promote this sense of responsibility and of civic duty to defend common values. These values include the principle that no ends can justify violence or acts of terrorism. This debate is particularly difficult with those sectors of society which for all sorts of reasons feel excluded or marginalised and which hate the system and society in which they live. Individuals from such minority groups may become choice targets for recruitment by terrorist groups.

41. While it is indispensable to step up the inter-cultural and inter-faith dialogue within society, it is necessary at the same time to take the measures needed to protect citizens from individuals or groups who are impervious to any kind of discussion or argument. There are also “travelling terrorists” in Europe who exploit the freedom of movement that exists across the national borders within the European Union.

42. Effective cooperation at both European and international level is essential to tackle this permanent threat. It is true that since 11 September 2001 the EU and its member states have adopted a range of measures and action plans which are constantly reviewed and updated. We can only support the European Security Strategy when it calls for a *global approach* to terrorism combining intelligence, political, judicial, military and other resources.

43. However, before reviewing the achievements and shortcomings of all these activities and action plans, we need to define the basis for any action taken by the European states. Apart from certain specific cases in which the member states are bound by international agreements, European cooperation is founded on the principle of solidarity. However, that principle is in turn based on the voluntary nature of the contributions of the EU member states and on full respect for the individual responsibilities of states which remain free to take any measures they deem appropriate.

44. Yet the seriousness of the threat is such that it calls for a readiness to accept more binding obligations among the states concerned to provide each other with aid and assistance when their common values are endangered. This is the kind of commitment entered into by the signatory states of the modified Brussels Treaty who undertake, in the preamble to the Treaty, “To fortify and preserve the principles of democracy, personal freedom and political liberty, the constitutional traditions and the rule of law, which are their common heritage”. This gives tangible expression to the principles of basic human rights enshrined in the United Nations Charter.

45. No-one can seriously contest the fact that any act of terrorism in a member state – particularly if it involves the use of WMD – is designed to damage or even destroy that country’s democratic system and that hence it also directly targets the fundamental rights of its citizens. This makes it all the more paradoxical that it has so far proved impossible in the UN framework to treat terrorist attacks as violations of human rights. According to a doctrine which still prevails, it is above all states that are responsible for protecting human rights and hence only state players that can under normal circumstances infringe those rights. This distinction is highly questionable, particularly in the EU framework, but it has to do with the fact that there are still many countries in the world where human rights are not respected. This explains why it is so difficult to reach agreement within the United Nations on a global definition of terrorism and on a general Convention against terrorism. Some organisations such as the Islamic Conference Organisation (ICO) insist on including an exception clause concerning the activities of “liberation movements” or of non-state players engaged in “peoples’ struggles” against “occupation, opposition, colonialism and hegemony”¹¹. Such a clause is unacceptable, for neither a violation of human rights by a state nor the defence of any cause, however legitimate, can justify acts of terrorism.

46. In the EU and WEU member states the respect and protection of human rights is an integral part of their democratic political systems. The aim of a terrorist attack is precisely to destroy those values.

¹¹ See *Deutscher Bundestag: Siebter Bericht der Bundesregierung über ihre Menschenrechtspolitik in den auswärtigen Beziehungen und in anderen Politikbereichen* (7th Report of the Federal Government on its human rights policy in foreign relations and other policy areas), 17 June 2005.

This makes it important not only to ensure that any measures to protect citizens against the terrorist threat are taken in full respect of human rights, but also to emphasise that such measures are designed precisely to protect the political system that guarantees those rights.

47. The danger of international terrorism as it has existed since 11 September 2001 – and in particular the risk of “catastrophic terrorism” using WMD – is such that it can justifiably be described as a “situation which may constitute a threat to peace” calling for consultations among the signatory states to the modified Brussels Treaty. In the event of an attack of this type in Europe it would be even more justified to talk about “an armed attack” in the sense of Article V of the modified Brussels Treaty. The distinction between attacks from “outside” and those from “inside”, which was an important criterion when NATO decided to invoke Article 5 of the Washington Treaty following the attacks of 11 September 2001, no longer makes sense today.

48. If it was possible in the EU framework to apply the spirit of the solidarity clause of the draft Constitutional Treaty in an anticipatory fashion, it should be possible for the WEU states to take action in the more binding spirit of Article V to avert a terrorist attack using WMD in Europe. Indeed, the natural right to self-defence also applies to threats emanating from non-state entities¹². Some people propose in that regard the creation of a “civil defence” spirit within society¹³.

49. Such an approach would also help solve the problem posed by the fact that there is no provision in the current Treaty on European Union (TEU) for the use of ESDP instruments within the European Union. However, talking about the legitimate right of self-defence against terrorism does not mean that we wish to “militarise” the fight against terrorism or that we go along with the approach of the United States which considers itself to be engaged in a “global war on terrorism”. According to certain experts, “it should be noted that the global war on terrorism as announced by the US Administration is analytically counter-productive as it recognises terrorists as warfighters and does not condemn them as criminals”.

50. The European Union’s more global approach to the fight against terrorism is more adapted to the multidimensional nature of the threat. More recently the Pentagon seems to have moved closer to the European position in its use of the term “fight against violent extremism”, although this change of terminology does not so far seem to have been approved by the White House¹⁴.

51. If the European Union and its member states wish to successfully implement a global approach against terrorism combining a variety of instruments, then those instruments need to be coherent, effective and transparent. Above all, however, a strategy is needed.

IV. In favour of a coherent, effective and transparent strategy

52. Following the Madrid terrorist attacks, the European Council decided to draw up a long-term Union strategy to tackle all the factors that provide a breeding-ground for terrorism. Already in the wake of the 11 September 2001 terrorist attacks the EU had launched a broad-based work programme including action plans that were revised and updated several times and which made provision for a whole range of preventive and protective measures in the fields of internal and external security.

53. Following this year’s bombings, the Council of the European Union announced its intention to adopt a new strategy by December 2005 and to present a reinforced action plan to the European Council. However, it is very difficult for the member parliaments, whose job is to scrutinise their government’s security policies, to evaluate the justification for and coherence of all those activities.

54. Even within the complex institutional system of the European Union it does not appear to be easy to ensure that the actions taken by the different bodies involved in combating terrorism are fully coherent. Indeed, in order to achieve a perfectly coordinated approach the European Council has confirmed the creation of the post of EU Counter-terrorism Coordinator to which it has appointed Gijs de Vries. Working directly under Javier Solana in the General Secretariat, his task is to coordinate all

¹² See Karl-Heinz Rambke: “The war on terror – security sector programme and military implications”, Geneva Centre for Democratic Control of Armed Forces (DCAF) Working Paper No. 162, Geneva, June 2005.

¹³ See Raphaël Mathieu, *op. cit.*

¹⁴ *Ibid.*

the Council's counter-terrorism activities and provide an overview of all the instruments available to the EU in this area, while respecting the responsibilities of the Commission.

55. This means that the Coordinator has a difficult task, in particular because he works for the governments and cannot interfere with the work of the European Commission, which will be eager to protect its role and influence in this field. Mr de Vries does not have real powers or a specific budget and he cannot chair meetings of ministers when they are discussing the fight against terrorism.

56. As well as ensuring visibility of the EU's counter-terrorism policy, Mr de Vries will first of all have to define the EU's role in that area. His task is not only to promote better coordination of national policies at EU level, but also to monitor progress in the implementation of the more than 150 measures which have been included in the EU's counter-terrorism action plan.

57. Finally, Mr de Vries should try to encourage greater cooperation between the Commission – with many of its directorates having a role in counter-terrorism – and the European Council, as well as better coordination of the work of the many committees, institutions and other bodies working in this area and which may have to be rationalised and streamlined.

58. These are difficult and important tasks and in order to strengthen his role it is essential that he should have the support of parliamentarians and of our Assembly, which should give him the opportunity to present his activities. In addition to the work being done by the different Commission Directorates, a whole host of intergovernmental bodies are engaged in combating terrorism. These include, among others:

- Europol (European Police Office) with its rapid-reaction counter-terrorism task force;
- Eurojust (European Judicial Cooperation Unit), an organisation which can help national prosecutors to coordinate cross-border terrorist investigations;
- the Coordination Committee set up under Article 36 of the Treaty on European Union for cooperation in the fields of police and justice;
- several counter-terrorism working groups within the Council;
- the European Border Control Agency;
- the Torrejón Satellite Centre;
- the Situation Centre (Sitcen);
- the Intelligence Division of the EU Military Staff (EUMS);
- the Policy Planning and Early Warning Unit (PPEWU);
- the Political and Security Committee (PSC), etc.

59. Furthermore, Article III-261 of the draft Constitutional Treaty makes provision for setting up a standing committee within the Council “in order to ensure that operational cooperation on internal security is promoted and strengthened within the Union”. It seems likely that this Committee (COSI) which already exists in interim form will be created by a Council decision, even if the Constitutional Treaty is not ratified.

60. Given the complexity of the task of coordinating the activities of all these committees, working groups and other bodies engaged in combating terrorism, there have been many proposals for rationalising and streamlining the system. The temptation is always to propose the creation of additional coordination bodies, which is what Daniel Keohane does when he suggests that “the EU should create a cross-institutional body, a European Security Committee (ESC)”¹⁵.

61. It is proposed that this ESC should meet monthly and report to the European Council. It should identify and quantify threats and suggest responses, help the European Council to agree on a coordinated response to terrorism and draft a long-term anti-terrorism strategy.

¹⁵ The EU and international terrorism, in: *Securing the European homeland: The EU, terrorism and homeland security*, Bertelmann Foundation, Grüterloch, August 2005.

62. As regards the effectiveness of the efforts to combat terrorism, the problems of intelligence and of sharing highly sensitive data among the member states remain on the agenda.

63. At present, the heads of the domestic intelligence services of all EU member states, together with those of Norway and Switzerland, meet each other in the “Club of Berne”, a non-EU body. They have established a counter-terrorism group (CTG) to coordinate their work in this field. This group cooperates with the EU, but there are no formal links.

64. The five largest EU member states which together form the G5 (France, Germany, Italy, Spain and the United Kingdom) strongly oppose any initiative to create an EU version of the CIA, in particular because they are very worried that such an organisation would inevitably be far from leak-proof. In general, intelligence services prefer to share specific and sensitive information on a bilateral basis or just work with a few countries.

65. On the other hand, there is a clear trend within the EU towards more sharing of data that are important for the fight against terrorism. The G5 has decided to create a common data bank for the sharing of data on suspect individuals and to establish a single point of contact for information on the theft or loss of weapons and explosives.

66. In addition to the G5 a number of other multilateral groupings have started meeting on a regular basis to discuss their counter-terrorism efforts; these include the Benelux countries, the Salzburg Group (Austria, the Czech Republic, Poland, Slovakia and Slovenia, and Ukraine as an observer) and the Baltic Sea Task Force, which includes Denmark, Estonia, Finland, Germany, Iceland, Latvia, Lithuania, Norway, Poland, Russia and Sweden.

67. For the time being, these flexible arrangements seem to be effective in stimulating cross-border cooperation and given the direct interests of the participants they are easier to set up and implement than agreements between the 25 EU member states.

68. Notwithstanding the reticence of some national authorities with regard to the proposals for creating a European intelligence agency and the arguments contesting the usefulness of such a body, those proposals should be re-examined in a constructive spirit. Indeed, several EU bodies are already working on this issue, for intelligence is a key component in the fight against terrorism.

69. The EU Council has now agreed that the EU Situation Centre should provide it with strategic analyses of the terrorist threat drawn up on the basis of intelligence assessments from member states. Since the beginning of 2005 the Situation Centre has been combining its assessments of threats emanating from outside EU territory with information from internal security services and Europol.

70. However, the creation of such a body automatically raises the issue of parliamentary scrutiny: since cooperation on intelligence will necessarily be intergovernmental, our Assembly has a major role to play. Furthermore, it cannot be over-emphasised in that regard that more use can and should be made of the Torrejón Satellite Centre for the purpose of gathering counter-terrorism intelligence.

71. Regarding the actual content of the strategy to be adopted, a number of fundamental questions remain. Are there useful lessons to be learned for this strategy from the IRA’s decision to renounce the use of violence, or is this a very special case? Is it possible to envisage certain conditions (and if so, which ones?) in which it might be possible to engage in a dialogue with terrorist groups, or is this possibility excluded from the outset? Most experts take the view that this would be unthinkable for the hard core of the al-Qa’ida group.

72. Nevertheless, it will be indispensable to choose an appropriate strategy on the basis of an analysis of the aims and characteristics of the different groups. Some of them do not have global objectives but are concerned rather with specific local or regional conflicts. Some experts recommend a strategy geared towards settling those regional conflicts which are a source of terrorism.

73. Regarding the jihad groups operating all over the world and which do not necessarily depend on al-Qa’ida, some recommend the adoption of a strategy geared to isolating them “from their supporters, supplies and targets”¹⁶. Drawing on the experience of the member states in the integration of

¹⁶ See Daniel Keohane, *op. cit.*

minorities, Muslims in particular, we need to shed full light on past mistakes to help define future integration policies.

74. As regards international cooperation, the European Union has placed emphasis on strategies of assistance to vulnerable third countries in order to help them strengthen their capacity to combat terrorism and to make terrorism a key component of the political dialogue with them. Above all, however, the Union was counting on the United Nations to play a role in this area. However, given the mitigated results of the UN World Summit, there is now a new challenge for international cooperation, because agreement still has to be reached on a general UN Convention and on a common definition of terrorism.

75. In the meantime we need to strengthen practical cooperation at international level, taking on board also the results of international counter-terrorism conferences such as the one held in Ryad in February 2005, which proposed the creation of an international counter-terrorism centre for the exchange of information and expertise, and the Madrid Summit in March 2005 on “democracy, terrorism and security”.

V. EU counter-terrorism policy in the Barcelona Process and the European Neighbourhood Policy (ENP)

76. As noted earlier in this report, dedicated foreign policy efforts are a vital component of any counter-terrorism strategy: improving and intensifying relations with southern Mediterranean and Middle East countries and sustained efforts to help find solutions for conflicts in that area are of the utmost importance. A recent WEU Assembly report addressed this issue in detail¹⁷. It should be enough for the purposes of this report to refer to the Barcelona Process and the new European Neighbourhood Policy, both of which deal extensively with those regions.

77. A major instrument developed by the EU in order to intensify its relations with the Muslim world is the Barcelona Process, or Euro-Mediterranean Partnership, launched in November 1995 with the Barcelona Declaration. Ten years on, the EU recognises that the achievements of this partnership have not lived up to the initial expectations. This is due to a number of factors, such as the Middle East conflict, the unsolved status of the Western Sahara and the reluctance on the part of a number of Mediterranean Partner governments to make progress in certain areas.

78. Of the three components of the Barcelona Process, the economic and trade pillar has proved to be sound, but the others, covering political and security issues on the one hand, and social, cultural and human aspects on the other, have turned out to be much weaker.

79. The EU takes the view that there is a need for increased visibility of the Partnership in both the EU and in partner countries, and it has seized upon its tenth anniversary as a major opportunity to address this situation. On 12 April 2005, the European Commission presented an outline for a work programme for the next five years. This includes pushing ahead with political reform in the area of human rights and democracy as a key to achieving sustainable security and stability.

80. The European Commission emphasises that acting in partnership to fight security threats such as organised crime, trafficking and terrorism and to revitalise the process of government and the development of democracy, human rights and the rule of law will help bring the Mediterranean Partners closer to the EU.

81. Regarding the fight against terrorism, the Commission considers that progress has been made in strengthening cooperation among the police, judicial and other authorities. Much remains to be done in order to build the necessary confidence for stepping up exchanges of information on the threats emanating from organisations and individuals. Bilateral state-to-state cooperation has proved insufficient for tackling the global threat of terrorism. Regional dialogue on dealing with this issue has too often foundered over disagreements on definitions.

¹⁷ See Assembly Document [1894](#) adopted on 15 June 2005: “Developments in the Broader Middle East”, submitted on behalf of the Political Committee by Josette Durrieu, Rapporteur (France, Socialist Group).

82. The Commission proposes that partners should agree to pursue the parallel tracks of greater practical cooperation in the fight against terrorism in full respect of human rights and political dialogue on its root causes. In addition, the Commission proposes that the Euro-Mediterranean Partners should start discussions on a Code of Conduct concerning measures to fight terrorism, including its financing aspects, as proposed by the Arab partners, with the objective of reaching an agreement before the end of 2007.

83. Addressing the WMD issue, the Commission suggests that partners should agree to cooperate effectively in order to implement their commitments, in particular as regards export, transit and end-use control and enforcement procedures, and it is prepared to examine appropriate technical assistance in this field.

84. Confirming that continuing conflicts and in particular the Middle East conflict are an obstacle to progress in the partnership, the Commission argues that the Barcelona Process can make a contribution to promoting peace.

85. The other important foreign policy instrument in the region is the European Neighbourhood Policy adopted by the Council in June 2004, which has the objective of sharing the benefits of an enlarged EU with neighbouring countries in order to contribute to the increased stability, security and prosperity of the EU and its neighbours.

86. Action plans adapted to each country's situation and capabilities set out a number of priorities with a view to strengthening commitments to common values such as democracy and the rule of law, the reform of the judiciary, the fight against corruption and organised crime, and respect for human rights and fundamental freedoms. Commitments to certain essential aspects of the EU's external action will also be sought including, in particular, the fight against terrorism and the proliferation of weapons of mass destruction, observance of international law and efforts to achieve conflict resolution.

87. Needless to say, it makes sense to mention these commitments in action plans only if they are specific and are implemented by both sides.

VI. Counter-terrorism cooperation between the EU and NATO

88. While cooperation between the European Union and the United States is judged in a fairly positive light, at least in specific areas, there appear to be major gaps in cooperation with NATO. The reticence in this area is reflected in the wording of the revised EU action plan which proposes to "identify areas for closer cooperation in preparedness and consequence management with other international organisations within their respective competences, including NATO". The conceptual framework for the ESDP dimension of the fight against terrorism, drawn up by the Political and Security Committee, also implies that the efforts to establish cooperation with NATO in this area are still in their early stages.

89. It should be noted that the working relations between NATO and the EU concern a vast area of security and defence cooperation of which the fight against terrorism is but one part. The "Berlin plus" arrangement was established only recently, in December 2002, and the issue of operational autonomy between the two organisations has not been settled yet.

90. The US remains suspicious of the EU's efforts to achieve operational autonomy and considers NATO to be a suitable forum in which to convey its views on ESDP developments. This leads to debates which are not always conducive to improving cooperation. At the same time, recent events have clearly demonstrated that for reasons of the required speed and flexibility of action, the US is in fact not particularly keen to employ NATO in its fight against terrorism. This reticence is shared by a number of European member states, which are wary of too pronounced a US influence on the EU's defence against terrorism.

91. A number of experts attribute the lack of EU-NATO cooperation in the fight against terrorism to the fundamentally different character of the two organisations¹⁸.

¹⁸ Raphael Mathieu: "Défense contre le terrorisme : quels liens entre l'OTAN et l'UE?" in *Cahiers du RMES*,

92. The EU's counter-terrorism efforts are based mainly on cooperation in the area of police and justice (third pillar), while its cooperation with NATO can only take place in the ESDP framework, where it is developing its own new capabilities. NATO is traditionally a defence organisation with its focus on military operations. In an effort to adapt to the changed situation of the post-cold war era it has turned towards new missions such as crisis management and defence against terrorism, but it has little experience of operations which are not purely military.

93. In principle, the EU and its member states have a wider range of instruments to fight terrorism than does NATO, although they still lack a number of military capabilities that at present only NATO can provide.

94. Each organisation is in a state of flux and engaged in developing capabilities corresponding to what were originally the tasks of the other. Understandably, this does not create the best possible atmosphere in which to establish cooperative relations for a relatively new activity such as the fight against terrorism.

95. Nevertheless, NATO and the EU are engaged in a permanent exchange of information at all levels regarding their activities in the fight against terrorism, including civil protection against terrorist attacks using nuclear, biological or chemical devices and the non-proliferation of weapons of mass destruction.

96. Such practical cooperation will certainly be intensified and improved. However, if the EU and NATO wish to deepen their cooperation in the fight against terrorism, they will have to agree on a common Euro-Atlantic counter-terrorism strategy backed up by the requisite financial resources.

97. Indeed we cannot over-emphasise the importance of constructive cooperation between the two organisations. The experience and strategic approach of NATO may be pertinent for those aspects of the ESDP that are implemented within states, particularly for the purpose of prevention and protection against terrorist attacks using WMD and for strengthening the "homeland security" of the member states.

98. In order to draw up and implement a coherent and effective strategy against terrorism there must be total transparency and an ongoing dialogue with parliaments and citizens at all stages in the process. The aim must be to establish a solid partnership between citizens and their elected representatives on the one hand, and the executive, on the other. At European level the competent bodies, the Council in particular, should make more use of this Assembly to help build such a partnership.

APPENDIX

Extract from the Final Document of the World Summit in New York, adopted by the United Nations General Assembly on 15 September 2005

(...)

80. We also reaffirm that the Security Council has primary responsibility in the maintenance of international peace and security. We also note the role of the General Assembly relating to the maintenance of international peace and security in accordance with the relevant provisions of the Charter.

Terrorism

81. We strongly condemn terrorism in all its forms and manifestations, committed by whomever, wherever and for whatever purposes, as it constitutes one of the most serious threats to international peace and security.

82. We welcome the Secretary-General's identification of elements of a counterterrorism strategy. These elements should be developed by the General Assembly without delay with a view to adopting and implementing a strategy to promote comprehensive, coordinated and consistent responses, at the national, regional and international levels, to counter terrorism, which also takes into account the conditions conducive to the spread of terrorism. In this context, we commend the various initiatives to promote dialogue, tolerance and understanding among civilizations.

83. We stress the need to make every effort to reach an agreement on and conclude a comprehensive convention on international terrorism during the sixtieth session of the General Assembly.

84. We acknowledge that the question of convening a high-level conference under the auspices of the United Nations to formulate an international response to terrorism in all its forms and manifestations could be considered.

85. We recognize that international cooperation to fight terrorism must be conducted in conformity with international law, including the Charter and relevant international conventions and protocols. States must ensure that any measures taken to combat terrorism comply with their obligations under international law, in particular human rights law, refugee law and international humanitarian law.

86. We reiterate our call upon States to refrain from organizing, financing, encouraging, providing training for or otherwise supporting terrorist activities and to take appropriate measures to ensure that their territories are not used for such activities.

87. We acknowledge the important role played by the United Nations in combating terrorism and also stress the vital contribution of regional and bilateral cooperation, particularly at the practical level of law enforcement cooperation and technical exchange.

88. We urge the international community, including the United Nations, to assist States in building national and regional capacity to combat terrorism. We invite the Secretary-General to submit proposals to the General Assembly and the Security Council, within their respective mandates, to strengthen the capacity of the United Nations system to assist States in combating terrorism and to enhance the coordination of United Nations activities in this regard.

89. We stress the importance of assisting victims of terrorism and of providing them and their families with support to cope with their loss and their grief.

90. We encourage the Security Council to consider ways to strengthen its monitoring and enforcement role in counter-terrorism, including by consolidating State reporting requirements, taking into account and respecting the different mandates of its counter-terrorism subsidiary bodies. We are committed to cooperating fully with the three competent subsidiary bodies in the fulfilment of their tasks, recognizing that many States continue to require assistance in implementing relevant Security Council resolutions.

91. We support efforts for the early entry into force of the International Convention for the Suppression of Acts of Nuclear Terrorism and strongly encourage States to consider becoming parties to it expeditiously and acceding without delay to the twelve other international conventions and protocols against terrorism and implementing them.

(...)

