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## The European Union's Role in the Fight Against Terrorism\*

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I am pleased to share with you today some thoughts on the role and policies of the European Union in the fight against terrorism.

Terrorism is a scourge with which European nations, from Ireland to Spain, are only too familiar. Islamist terrorism, of the kind that hit Washington and New York on 11 September 2001 and Madrid on 11 March 2004, is new, however. Neither America nor Europe was prepared for the kind of indiscriminate, wanton violence against the civilian population unleashed by al-Qaeda and its followers. In response, law enforcement agencies and security services have increased their international cooperation significantly. Various plots have been disrupted; suspects have been arrested and convicted in several EU countries. However, there remains a substantial and sustained threat of further terrorist attacks in Europe. The threat emanates mainly from Islamist networks, groups or individuals, though non-Islamist groups as well continue to pose risks to security.

EU member states have adopted a wide range of policies to defend themselves against terrorism. As part of their response they have strengthened the role of the European Union. Since 2001 the Council—notably the Justice and Home Affairs Council—has adopted important legislative measures and policies to facilitate cross-border cooperation by national law-enforcement authorities and intelligence agencies. In June the European Council adopted a plan of action containing well over 100 initiatives to be taken during the Dutch, Luxembourg and British presidencies. It also identified four priority areas: information sharing, combating terrorist financing, mainstreaming counter-terrorism in the EU's external relations, and improving civil protection and the protection of critical infrastructure. In a few weeks from now the European Council will be presented with proposals in each of these areas. Additional recommendations will focus on national arrangements of member states in the field of counter-terrorism. Let me say a few words about these priority issues.

### EXCHANGE OF INFORMATION

Timely and accurate information—its collection, analysis and dissemination—is essential to prevent acts of terrorism and to bring terrorist suspects to justice. Progress is being made in implementing the decisions of the Council to improve the

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exchange of terrorism-related information. In June the Council decided to stimulate cooperation among Europe's security and intelligence services by reinforcing the Situation Centre (SitCen) in the Council Secretariat. From 2005 SitCen will provide the Council with strategic analysis of the terrorist threat based on intelligence from member states' security and intelligence services and, where appropriate, on information provided by Europol. Europol, meanwhile, is reconstituting its counter-terrorism task force and developing the Europol Information System. Cooperation between the security services in the Counter-Terrorist Group and the Chiefs of Police Task Force has also been enhanced.

Earlier this month the Council adopted the Hague Programme on Freedom, Security and Justice, its multi-annual programme in the fields of justice and home affairs. The heads of state and government called for 'an innovative approach' to the cross-border exchange of law-enforcement information: '[t]he mere fact that information crosses borders should no longer be relevant'. Information should be provided according to the principle of availability, which means that a law enforcement officer who needs information in order to perform his duties can obtain this from another member state, subject to certain conditions. The Commission has been invited to submit proposals before the end of 2005 to implement this availability principle.

The European Council wants to see agreement on initiatives concerning exchange of information and cooperation concerning terrorist offences and on data retention by June 2005. Agreement should be reached by December 2005 on simplifying the exchange of information and intelligence between law enforcement agencies. The Commission has not yet responded to the European Council's invitation in March to present proposals for enhanced interoperability of European databases (SIS II, VIS, Eurodac) and for the exchange of personal information (DNA, fingerprints and visa data) to combat terrorism (the Commission issued a Communication instead). It has also still to propose common rules for the use of passenger data for border and aviation security and other law enforcement purposes.

Notwithstanding the importance that is rightly being attached to the sharing of information, it must be recognised that the specific measures to implement this principle have sparked controversy. A common framework for data protection in relation to law enforcement is among the measures needed to address the concerns expressed. The Commission is working on a Framework Decision on Data Protection.

#### TERRORISM FINANCING

Terrorists need money to prepare and carry out attacks. Identifying and disrupting the mechanisms through which terrorism is financed are therefore key elements of the Union's counter-terrorism strategy. As well as reducing the financial flows to terrorists and disrupting their activities, action to counter terrorist financing can provide vital information on terrorists and their networks. In accordance with resolutions adopted by the Security Council, the Union has established lists of individuals and groups designated as being involved in terrorist acts, whose assets must be frozen. In part as a result of increased attention by governments and the financial sector, the methods involved in terrorism financing appear to have changed since 11 September 2001; intelligence indicates that there is now less use of the regular banking system. This implies that terrorists may be seeking alternative means of moving funds, for example cash couriers and alternative remittance systems. The

adoption of a regulation on cash movements and a new directive on money-laundering are a priority for the Council. The Commission is preparing legislation to improve the supervision of money remitters.

The European Council will shortly be presented with additional proposals from the Secretary-General/High Representative (SG/HR) and the Commission. Their aim is to provide the Union with a coordinated, cross-pillar strategy, based on an intelligence-led approach including input from the SitCen and Europol, and in close cooperation with international bodies such as the UN and the Financial Action Task Force.

#### EXTERNAL RELATIONS

Terrorism is a global phenomenon that requires a global response. Terrorism poses a serious threat to international peace and security, including the security of the European Union, as was recognised in the European Security Strategy proposed by Javier Solana. Acts of terrorism are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature. This fundamental principle was restated with admirable clarity in UN Security Council Resolution 1566, adopted in the wake of the terrorist attack on a school in Beslan, Russia. Although many countries increasingly work together, much remains to be done to strengthen the global alliance against terrorism.

The United Nations is a key partner of the Union in many fields, including the fight against terrorism. UN Security Council resolutions 1267, 1373, 1540 and 1566 have considerably enhanced the role of the UN in countering terrorism. The revitalisation of the UN's Counter-Terrorism Committee, including the creation of the post of executive director, is a welcome step, and I look forward to working closely with Ambassador Javier Ruperez.

The UN and the EU share a strong commitment to the protection and promotion of human rights in the world. Based on this shared approach, there are three areas that offer much scope for cooperation. First, promoting the universal ratification of all twelve UN Conventions in the fight against terrorism. In recent years the rate of ratification of these instruments has gone up. Still, of the 191 member states of the UN only 57 are a party to all twelve instruments, and 47 have ratified fewer than six. To improve this record is one of the objectives of the EU's common foreign and security policy.

A second area for cooperation between the EU and the UN is the provision of aid and technical assistance to countries lacking the capability to implement this common legal framework. Counter-terrorism assistance is already part of the aid strategy of the EU and its member states, and the Council has resolved to further enhance the contribution of the Union. In the Hague Programme on Freedom, Security and Justice, agreed on 5 November 2004, the European Council agreed to set up a network of national experts on preventing and combating terrorism and on border control, who will be available to respond to requests from third countries for technical assistance. The European Council invited the Commission to increase the funding for counter-terrorism-related capacity-building projects in third countries and to ensure that there is sufficient flexibility in the budgetary procedures.

Thirdly, the UN and the EU have similar agendas in addressing the factors underlying recruitment and support for terrorism. There is general recognition that regional conflicts, bad governance and state failure can provide fertile ground for recruitment into terrorism. Efforts to resolve regional conflicts and to promote

human rights and good governance must therefore be at the heart of international counter-terrorism strategies. The EU and its member states are already providing most of the world's official development aid. Through the African Peace Facility (€250 million) the EU is contributing to stability and security in Africa. Efforts to engage with moderate Muslims in defence of our common commitment to a humane society, free of terrorism, are equally critical. The EU has recently agreed, to name but one example, to set up a joint interfaith dialogue with Indonesia.

As was confirmed during the EU–US Summit meeting in Ireland in June, cooperation with the US is an important dimension of the EU's strategy to combat terrorism. Four bilateral agreements are in place, covering maritime container transport security, air transport security (passenger name records), mutual legal assistance and extradition. Within the International Civil Aviation Organisation (ICAO) the EU and the US jointly pursue global standards for the introduction of biometric standards in passports. This year we have created a transatlantic policy dialogue on border and transport security, which helps us to avoid policy surprises. The US and the EU have agreed to provide data on lost and stolen passports to Interpol. Other areas of cooperation range from measures against the financing of terrorism to protection against terrorist attacks with weapons of mass destruction.

In December the Council will discuss three sets of proposals to further strengthen the external dimension of its counter-terrorism strategy. The SG/HR and the presidency have proposed ways to intensify the EU's dialogue on counter-terrorism with third countries. Together with the Commission I have tabled a review of the counter-terrorism clauses the EU has been introducing into its external agreements. And a third policy paper covers the ESDP dimension of the fight against terrorism.

#### EMERGENCY RESPONSE

The main objective of the EU's counter-terrorism strategy is to help the member states prevent terrorist attacks. However, should prevention fail, member states need to ensure that essential public services are maintained or restored as soon as possible and that emergency relief is provided to citizens and businesses. Civil protection and emergency response management for the most part fall under the national competence of member states. Nevertheless, in March the Union's heads of state and government declared their firm intention to 'act jointly in a spirit of solidarity if one of them is the victim of a terrorist attack' and pledged to mobilise all the instruments at their disposal, including military resources, to assist a member state affected by such an attack. The June European Council invited the Commission 'to assess the capabilities of the Member States both in preventing and coping with the consequences of any type of terrorist attack, to identify best practices and to propose the necessary measures'. The Commission has also been invited to make proposals to protect the Union's critical infrastructure, such as transport, energy and communications. At their June summit meeting the EU committed itself, together with the US, to 'take concrete steps to expand and improve our capabilities to prevent and respond to bioterrorism'.

As you know, several terrorist groups, including al-Qaeda, are actively seeking capabilities to carry out an attack with weapons of mass destruction. The risk of these weapons being used, in addition to conventional tactics, is real. Attacks in Europe have been planned with chemical and toxic agents. Ricin plotters have been arrested in London in January 2003.

So what is being done to enhance the capacity of the EU and its member states to cope with the consequences of a terrorist attack? The Commission has announced its intention to propose, in 2005, a European programme for the protection of critical infrastructure with a transboundary dimension. It has also proposed to create a critical infrastructure warning information network of national experts. Based on the information provided by member states, the Commission is drawing up an assessment of the national assets and capabilities that can be made available through the Community Civil Protection Mechanism in the event of a major terrorist attack. The Dutch presidency has drawn up an EU Solidarity Programme on the consequences of terrorist threats and attacks, which will be discussed by the Council in the next few weeks. This programme will cover, among other items, the interoperability of equipment, the holding of joint exercises and the sharing of information on vaccines and other medical resources that might be made available in case of a major terrorist attack. From this programme it is clear that a great deal of important work remains to be done. The European Council is expected to discuss these various contributions in December.

#### PEER REVIEW OF NATIONAL ARRANGEMENTS

As individual member states—not the European Union—continue to be responsible for most operational aspects in the fight against terrorism, the quality of national anti-terrorist arrangements is of crucial importance. This is why the ministers of justice and home affairs decided to evaluate these national arrangements. In particular, they resolved to assess how information is being exchanged between law enforcement services, intelligence services and other domestic agencies. It was decided to proceed in two stages and to start with an assessment of the situation in the ‘old’ fifteen member states. A final report, covering also the ten states that joined in May, will be prepared in 2005.

For each member state national good practices have been identified and recommendations issued. National good practices with a significance for all or most other member states were identified as best practices; an interim report, containing recommendations based on these best practices, will be presented to the Council in December. The recommendations range from information gathering and information sharing to the capacity to respond to a terrorist attack with chemical, biological, radiological or nuclear means. The purpose of the exercise is to provide national actors—governments as well as parliaments—with ways to learn from the experience of other member states. I am convinced this instrument of peer review offers significant possibilities to improve our defences against terrorism, and I trust governments and parliaments will scrutinise the recommendations closely. After all, the better our national arrangements in the fight against terrorism, the greater the potential for European cooperation. Domestic coordination and European coordination are two sides of the same coin.

#### A LIMITED ROLE

As will be clear from this brief overview, the role of the European Union in the fight against terrorism is a growing one. Once ratified, the new constitutional treaty will permit the EU to exercise its duties more effectively and more democratically. The Council of Ministers will be able to adopt legislation in the field of counter-terrorism (including public health aspects of emergency response management) on

the basis of qualified majority voting instead of unanimity, as is the case today. The European parliament will gain key legislative powers. National parliaments will obtain additional powers to scrutinise EU draft legislation. And European citizens will benefit from better civil rights protection based on the EU Charter of Human Rights and EU accession to the European Convention on Human Rights. Nevertheless, it is important to recognise the limits to the role of the Union in combating terrorism. There has been no decision to create, at European level, executive agencies modelled after the FBI and the CIA. Police forces, judicial authorities, security and intelligence agencies and border authorities all remain under national control. Most operational work in the field of counter-terrorism will therefore remain the preserve of national authorities. We have to be clear about what the EU can and cannot do so as not to create expectations the EU could not meet. The role of the EU in fighting terrorism, as defined by the Council, is to assist member states, not to supplant them.

#### IMPLEMENTATION

One thing the new treaty will not change is the obligation of member states to implement EU legislation fully, correctly and in the agreed time-frame. Council decisions must be implemented properly. However, national administrations often find this difficult to do. Counter-terrorism is not the only area where member states' implementation record is patchy, but neither, unfortunately, does it constitute an exception. All member states still have to implement one or more of the twelve legislative instruments highlighted in successive European Council conclusions. These include the three protocols to improve Europol's powers to combat terrorism, and several other instruments that would make the EU more effective in the fight against terrorism financing, such as the convention and the protocol on mutual legal assistance. Several member states have yet to implement the mutual legal assistance and extradition agreements with the United States, which are important instruments to reinforce transatlantic cooperation. Two framework decisions (on confiscation of crime-related proceeds and on protection against cyber attacks) have been the subject of a political agreement in the Council—in December 2002 and February 2003, respectively. However, adoption has so far not been possible due to the maintenance of parliamentary scrutiny reserves in two member states. Most member states have signed, ratified and implemented the twelve main United Nations Conventions in the fight against terrorism, but fewer than six Conventions have been ratified by all 25 EU member states. The sooner national authorities close this implementation gap, the stronger our defence against terrorism will become.

Crucial though these legislative instruments are, they are but one dimension of the EU's counter-terrorism strategy. Time does not permit me today to discuss some other important elements, such as the counter-terrorism aspects of the EU's non-proliferation policy or the European Security and Defence Policy. Several EU policies help to address the causes of radicalisation and recruitment into terrorism. The EU's development strategy and its contribution to the Middle East peace process play a significant role in this respect, as does the process of comparing and analysing member state policies with respect to integration of minorities and countering discrimination, which ministers embarked upon in the city of Groningen earlier this month, and which led the Justice and Home Affairs Council to adopt a set of principles about immigrant integration policy. The further development of strategies to counter radicalisation will be high on the Council's agenda in 2005.

As most people recognise, free societies such as ours cannot enjoy absolute protection against acts of terrorism. Notwithstanding the efforts of public and private actors, our societies remain vulnerable. Our citizens rightly expect their governments to do everything in their power to protect them, within the limits of the rule of law. European cooperation and coordination are essential to this fight. As opinion surveys show, citizens—whether sceptical or supportive of European integration—expect the EU to play its full part in combating terrorism. The Council, the Commission and the parliament are determined to honour these expectations.

