



## EU and the United Nations

### Introduction

It is important to note that international co-operation is seen as an absolute requirement in the response to terrorism. This international co-operation does not just mean EU Member States and the United States it also means co-operation with the United Nations. The United Nations has 191 members from all across the world - not just from the Western world. This means that the UN has greater scope for broader co-operation, but its jurisdiction and approach to terrorism is different from other international bodies.

### The UN Approach

The UN was formed for a completely different reason from the EU and the UN Charter reflects that. The UN's approach to terrorism is different from that of the EU as a whole and significantly different from that of the EU Member States individually. Since 1963,<sup>1</sup> when the UN began to address terrorism in different ways, it has not created a coherent definition of international terrorism and is finding it difficult to define modern terrorism.

Instead, it has addressed specific issues mainly dealing with aviation and maritime terrorism in 10 Conventions and 2 Protocols. The last convention was the International Convention for the Suppression of the Financing of Terrorism in 1999 in New York.

After 11 September 2001, both the UN and the EU have urgently called for all UN nations to adopt and implement this Convention as quickly as possible. However, only 4 States have adopted the convention whilst 22 are needed for it to come into force. The UN has thus "developed a wide range of international legal instruments that enable the international community to take action to suppress terrorism and bring those responsible to justice."<sup>2</sup> This leaves implementation up to the members of the UN, but in accordance with the UN legal framework.

### The UN Charter

The purposes of the UN (in relation to *modern terrorism*) as stated in Article 1 of the UN Charter are as follows:

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<sup>1</sup> The United Nations has been addressing specific issues of terrorism since 1963 which will be explained further in this briefing paper.

<sup>2</sup> *Public Inquiries Unit: Department of Public Information, Fact.* "Sheet 8: What is the UN doing to combat terrorism?" UN. 18 October 2004. <<http://www.un.org/geninfo/faq/factsheets/FS8.HTM>>.

- “To maintain international peace and security, and to that end: to take effective measures for prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace.”
- “To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion.”
- “To be a centre for harmonizing the actions of nations in the attainment of these common ends.”<sup>3</sup>

The UN, in resolution 1368 (which will be discussed below), specifically cites self-defence in Chapter VII of the UN Charter as the legal basis for any nation in the UN, and specifically for the US after 11 September 2001, to take action against terrorism. Chapter VII states the following:

- Article 39 - “The Security Council shall determine the existence of any threat to the peace, break of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken...to maintain or restore international peace and security.”
- Article 41 - “The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions...including complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.”
- Article 42 - “Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security.”
- Article 51 - “Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security.”

The Charter does not prohibit the UN from using military force in their response to terrorism. The UN has, however, never implemented Chapter VII to this extent. The farthest the UN has been willing to go has been the use of sanctions.

For example, in the 1990s, the UN used enforcement provisions by putting economic, travel, arms, and diplomatic sanctions on Libya and Sudan. As a result, Libya did give up two bomb suspects in relation to the bombing of Pan Am 103 and UTA 772; Sudan forced Osama bin Laden to shift his operations to Afghanistan.

The effectiveness of sanctions has also been questioned on humanitarian grounds because of their impact on civilians.

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<sup>3</sup> The United Nations Charter

## UN Resolutions after 11 September 2001

### Resolution 1368 (12 September 2001)

- Condemns the 11 September attacks in “strongest terms” and calls upon all UN Member States
  - to share information and co-operate with each other - and to report to the Counter-Terrorism Committee
  - To “refrain from providing any form of support, active or passive, to entities or persons involved terrorist acts,” to freeze terrorist assets, to prohibit fundraising or transferring assets on their behalf, and to deny them safe haven, passage, arms, or other material assistance
- “Expresses its readiness to take all necessary steps to respond to the terrorist attacks of 11 September 2001, and to combat all forms of terrorism, in accordance with its responsibilities under the Charter of the United Nations”

### Resolution 1373 (28 September 2001)

- Begins by “any act of international terrorism is a threat to international security” and reaffirms “the inherent right of individual or collective self-defence” and “the need to combat by all means, in accordance with the Charter of the United Nations, threats to international peace and security caused by terrorist acts”
- Says that States shall:
  1. “prevent and suppress the financing of terrorist acts;”
  2. “criminalize funding of terrorist acts;
  3. “freeze without delay funds and other financial assets or economic resources” of any person connected with terrorist activities;
  4. “prohibit their nationals or any persons and entities within their territories” from helping directly or indirectly the financial assets or economic resources of persons who facilitate, commit, or attempt to commit terrorist acts.
- Says that states shall also actively participate to prevent such acts by refraining from providing any form of active or passive support (for example, elimination of the supply of weapons to terrorists) by criminalizing terrorism-related activities, denying safe haven to those connected with terrorist activities, assist in criminal investigation, and prevent the free movement of terrorists and those linked to terrorist activities.
- Calls upon all states to encourage informational exchange and co-operation between States especially by exchanging operational information and to fully implement UNSCR 1269 (1999) and UNSCR 1368 (2001) and to ensure that refugee status, under international law, is not abused by terrorists.
- Notes that there is a “close connection between international terrorism and trans-national organized crime, illicit drugs, money-laundering, illegal arms-trafficking and illegal movement of nuclear, chemical, biological and other potentially deadly materials.” In addition, it states that all forms of terrorism including knowingly financing terrorism are contrary to the “purposes and principles of the United Nations.”<sup>4</sup>

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<sup>4</sup> *UN Security Council*, “Resolution 1373.” 28 September 2001. UN. 19 November 2004. <<http://www.state.gov/p/io/rls/othr/2001/5108.htm>>.

## Resolution 1566 (2004)

- This further develops the definition of terrorism by including individuals and groups beyond those affiliated with Al Qaeda as terrorists.
- "Recalls that criminal acts, including against civilians, committed with the intent to cause death or serious bodily injury, or taking of hostages, with the purpose to provoke a state of terror in the general public or in a group of persons or particular persons, intimidate a population or compel a government or an international organization to do or to abstain from doing any act, which constitute offences within the scope of and as defined in the international conventions protocols relating to terrorism" are unjustifiable.
- Establishes a working group consisting of Security Council members to develop prosecution/extradition procedures.

## International Treaty for the Suppression of Acts of Nuclear Terrorism

The UN General Assembly adopted an International Treaty for the Suppression of Acts of Nuclear Terrorism on 13 April 2005. In short, it states that terrorists who possess or threaten to use nuclear weapons are committing a criminal act.

(<http://www.useu.be/Article.asp?ID=1FBF649D-6723-4A0F-A1A7-95F7D21EDF1D>)

## UN Institutional Organization

### 1) Department of Political Affairs (DPA): New York - July 1997

- The Department that deals with "peace and security," but there is no specific office in it that deals with the issue of terrorism.
- The Department is divided geographically, but terrorism is no longer limited to certain geographical areas.
- It lacks funding and personnel especially with the new demands that the terrorism agenda is making.
- It is under the Secretariat of the United Nations.

### 2) UN Office on Drugs and Crime: Terrorism Prevention Branch (TPB): Vienna

- Existed prior to 11 September 2001, although it is still very small, (Only 7 full-time personnel devoted to this branch out of the entire OCDDP which has 400 posts.) It addresses legal affairs, rather than political ones.<sup>5</sup>
- Only office in the UN that has a budget allocated specifically to target terrorism.
- Mostly deals with administrative and legislative capacity-building in Member States that need help (as identified by the Counter-Terrorism Committee).

### 3) Counter-Terrorism Committee (CTC)

- This was developed in the wake of Resolution 1368.
- It is a subsidiary body of the Security Council composed of all 15 Member States
- It is staffed by 6 short-term experts, and only has money from "a fund for special political missions."<sup>6</sup>

<sup>5</sup> Luck, Edward E. "Another Reluctant Belligerent: The United Nations and the War on Terrorism," *The United Nations and Global Security*, Ed. Price and Zacher. Palgrave Macmillan, New York, NY, 2004

- Its purpose is to monitor implementation of Resolution 1373, and it reports to the Security Council. It gives positive feedback to Member States who submit a report. For countries that are unable to implement the recommendations of the CRC, they can be helped and funded by the TBP.
- Even though it was formed under Chapter VII of the Charter, it does *not* have the authority to invoke penalties or sanctions for non-compliance.
- Its actions are *not* approved by the General Assembly, and its future is uncertain.
- It has been highly criticized because it has not taken human rights considerations into account when monitoring how the States have used the provisions of Resolution 1373.

#### 4) Counter-Terrorism Executive Directorate (CTED)

- Was developed in the wake of Resolution 1535 on 26 March 2004;
- It works with and reinforces the CTC (basically an extension of the CTC);
- It monitors the implementation of Resolution 1373 and CTC reforms.

#### 5) The United Nations Policy Working Group on Terrorism (est. Oct 2001)

- Its purpose was to identify the implications and broad policy dimensions of terrorism for the United Nations and formulate recommendations.
- It states that "terrorism often thrives where human rights are violated."
- Says that the UN should:
  - Support global efforts to dissuade disaffected groups from embracing terrorism, by means of norm setting, human rights and communications;
  - Realize the linkages between instruments of international criminal law and counter-terrorism conventions;
  - Deny groups or individuals the means to carry out acts of terrorism;
  - Make public statements that "the fight against terrorism will not obscure the core work of the UN;"
  - Sustain broad-based international co-operation in the struggle against terrorism
  - Support the CTC in denying the opportunity for terrorists to be financed.

### EU and UN Coordination

EU countries make up a large part of the UN.<sup>7</sup> Since they are required to take common positions within the UN by the Treaty on European Union, coordination between the two bodies is very important.

Each year, there are more than 1,000 EU coordination meetings at all levels of the UN and the EU including an annual meeting with the Secretary General.

Under Article 19 of the European Union Treaty, "Member States which are also members of the UN Security Council will concert and keep other Member States fully informed. Member States which are permanent members of the Security Council will, in execution of their

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<sup>6</sup> Luck, Edward E. "Another Reluctant Belligerent: The United Nations and the War on Terrorism," *The United Nations and Global Security*, Ed. Price and Zacher. Palgrave Macmillan, New York, NY, 2004. These numbers could not be verified outside of this source after the publication date of this source.

<sup>7</sup> Even though there are only 25 EU countries out of the 191 members of the UN, the coalition still remains quite strong in the face of the prevalent divides within the UN. In addition, the EU is one of the most prosperous areas of the world economically.

functions, ensure the defence of the positions and interests of the Union, without prejudice to their responsibilities under provisions of the UN Charter' Thus, the EU's new CFSP has created a unified and strong voice within the UN.

One of the primary positions of the EU President along with the European Commission is to oversee everyday coordination with the UN. The Presidency is also responsible for presenting the CFSP of the EU in discussions with other UN Member States and other UN organizations.

Troika Format - in issues dealing with non-EU members, discussions are usually debated between a representative group of the Presidency of the non-EU country, the UN's Council Secretariat, and the EU Presidency and European Commission.<sup>8</sup>

### Joint EU and UN Action

- The Choice for Multilateralism: EU and the UN
  - This is a communication between the European Commission and the United Nations that reinforces the idea that multilateralism is a key element in the external relations of both international bodies (2003).
- Discussions on EU-UN Joint Declaration on Crisis Management began in Sept 2003.
- Other formal agreements exist between the European Commission and individual parts of the UN structure including the ILO, WHO, UNESCO, WMO, and UNHCR. The most important agreement though, was on the financing and co-financing of UN projects by the European Commission concluded in April 2003.
- Development and Co-operation and Humanitarian Affairs: this is the area where the UN and the EU are most directly integrated. In 1997-99, the European Commission provided over 350 million Euro each year to UN activities in this area. The European Commission declared that it would continue funding UN programmes as long as the European Union's priorities were met.
- Conflict Prevention and Human Rights
  - The European Commission supported the implementation of the Brahimi Report and believes that there needs to be more structured dialogue between the two bodies to prevent conflict especially by coordinating peace operations.
  - The EU is a strong supporter of the UN Declaration of Fundamental Rights, yet how to address these issues poses difficulties for the two bodies.
- Counter-Terrorism
  - The UN and EU jointly supported the *Action Plan Against Terrorism*;
  - EU adopted the Security Council Resolution 1373;
  - The EU Member States are in close contact with the CRC, in addition the EU as a whole has reported to the CRC on the implementation of Resolution 1373;
  - The European Council has worked with the CRC on existing EC assistance to Resolution 1373, to prevent overlap.<sup>9</sup>

<sup>8</sup> European Commission, 'EU-UN Brochure-2/EN.' 1 May 2004. EU. 25 December 2004. <[http://www.europa-eu-un.org/articles/en/article\\_1002\\_en.htm](http://www.europa-eu-un.org/articles/en/article_1002_en.htm) >.

<sup>9</sup> European Commission, January 2004 EU 25 December 2004. <[http://www.europa.eu.int/comm/external\\_relations/un/intro/index.htm](http://www.europa.eu.int/comm/external_relations/un/intro/index.htm)>.

## Comparing the UN's and the EU's Approach

The United Nations approaches the counter-terrorism agenda from the development and co-operation angle. This is where the European Union and the United Nations have the most co-ordination mechanisms.

In all the other areas, and especially the counter-terrorism area, the ideas behind declarations are fully supported from both sides but there is less consensus and thus less coordination in terms of implementation.

The UN's approach is similar to that of the European Union in identifying and addressing "root causes." Yet the European Union has had more success internally in achieving their goals of co-operation and collective security because they are much more direct and explicit in their demands in the fight against terrorism.

The United Nations is plagued by stronger divisions amongst its member states. The EU does have strong policy differences amongst the different member states, but the EU is only composed of *European States*. The UN, on the other hand, is composed of more than 191 countries, big and small, from all parts of the globe each with their own political history and agenda. Thus, the approach to addressing terrorism reflected by them ranges more widely than in the EU.

The EU also has a stronger and more coherent institutional framework that is specifically designated to address terrorism.<sup>10</sup> The UN departments that deal with terrorism are understaffed and have very small budgets in comparison to the magnitude of the task.

### "In Larger Freedom" - UN Reform

On 21 March 2005, Kofi Annan proposed a new plan to the General Assembly entitled "In Larger Freedom" calling for UN reform. Among many of the major issues put forward, such as an increase in Security Council members from 15 to 24, the proposal calls for a comprehensive convention on terrorism.

Specifically, the proposal backs a common definition which is very similar to that of ***Resolution 1566***:

**Terrorism is defined as any action that is "intended to cause death or serious bodily harm to civilians or non-combatants with the purpose of intimidating a population or compelling a government or an international organization to do or abstain from doing any act."**

Furthermore, it proposes that "States commit to a comprehensive anti-terrorism strategy based on five pillars," push disarmament and non-proliferation, and the creation of an inter-governmental Peacebuilding Commission to help nations in the transition from war to

<sup>10</sup> Although, one cannot deny that resources are also scarce in the EU, just that they are available to a much lesser extent in the UN in terms of the UN's size and capacities.

peace.<sup>11</sup> Most importantly, it calls on the Security Council to adopt a resolution which sets out “principles to be applied in decisions relating to the use of force and express its intention to be guided by them when deciding whether to authorize or mandate the use of force.”<sup>12</sup> Thus, if passed by the 60<sup>th</sup> General Assembly in September, it would be the first - although extremely belated - major step to the development of a concrete UN anti-terrorism strategy.

## References

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- Complete List of UN Conventions and Protocols - <http://untreaty.un.org/English/Terrorism.asp>

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<sup>11</sup> Annan, Kofi. *In Larger Freedom*, Executive Summary, March 2005. <<http://untreaty.un.org/English/Terrorism.asp>>

<sup>12</sup> Annan, Kofi, *In Larger Freedom*