



The Counter-Terrorism Coordinator

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4. Summary

1. Introduction

The office of the Counter-terrorism Coordinator (CTC) was first introduced to EU structures in March 2004 by, Javier Solana, then the EU's High Representative for the Common Foreign and Security Policy. The office itself sits within the Council of the European Union. It reports to other EU institutions and coordinates counter-terrorism policy within their work. Initially, the Counter-terrorism Coordinator's office fell under the third pillar of the European Union.¹ With the introduction of the Lisbon Treaty in 2009, the pillar structure was removed. The office currently has ties to the European External Action Service (EEAS), Directorate General of Justice (DG Justice), and Directorate General Home Affairs (DG HOME).

2. The role of the CTC

The CTC was given three main tasks:

1. to analyse the work that has been done so far and see how it can be done in a more efficient manner;
2. to do preparatory work, so that ministers of the interior can have as much information as possible to make serious decisions when they meet in the Council; and

¹ More information on the Pillar Structure available here: http://www.euo.dk/euo_en/spsv/all/12/ (accessed 14/05/2012)

3. to make sure that every country, once a decision has been made collectively by the European Union, implements it at national level.²

To this end, the CTC has regularly reported on the implementation of the Counter-Terrorism Action Plan³ along with reporting on the progress made in areas such as terrorist financing, Passenger Name Records (PNR) and the European Arrest Warrant. The former CTC, Gijs de Vries, highlighted that although the EU had a growing role in counter-terrorism policy, it remained in the hands of the nation state. However, with the evolution of the EU, some cross-border cooperation is more likely to be regulated through the EU than before.⁴

In 2007, there was a changeover of Counter-Terrorism Coordinators and Gilles de Kerchove took office in September. In line with this, Javier Solana issued a press release with an updated function of the CTC:

1. coordinate the work of the Council of the EU in the field of counter-terrorism;
2. maintain an overview of all the instruments at the Union's disposal;
3. closely monitor the implementation of the EU counter-terrorism strategy; and
4. ensure that the Union plays an active role in the fight against terrorism.⁵

This new description for de Kerchove appears to take a step away from the Council of the EU and implementation of policy by increasing stretching the role of the CTC to also cover the tools at the disposal of the EU and its global role in counter-terrorism.

3. Discussion Paper issues

The second Counter-terrorism Coordinator, Giles de Kerchove, has written discussion papers approximately every six months since he has been in office; these are then relayed to the Council of the European Union and are published on the Counter-terrorism Coordinator's website.⁶ These papers illustrate the way in which policy has been led and highlights the challenges or issues that are given top priority every six months. Below is the analysis of these discussion papers, divided into the areas that garner the majority of analysis.

3.1 Transport:

² Council of the European Union, *Summary Transcription of Joint Press Briefing Javier Solana, EU High Representative for the CFSP, Gijs de Vries, Counter-terrorism co-ordinator*, S0090/04 (March 2004), available online <http://www.consilium.europa.eu/uedocs/cmsUpload/Transcript.pdf>

³ Council of the European Union, *The European Union Counter-Terrorism Strategy*, 14469/3/05 REV 3 (November 2005), available online at <http://register.consilium.eu.int/pdf/en/05/st14/st14469-re04.en05.pdf>

⁴ Gijs de Vries, *Presentation by Gijs de Vries The European Union and the fight against terrorism*, (January 2006), available online:

<http://www.consilium.europa.eu/uedocs/cmsUpload/060119CenterEuropeanReform.pdf>

⁵ Council of the European Union, *Javier Solana, EU High Representative, appoints Mr Gilles de Kerchove as EU Counter-Terrorism Coordinator*, S256/07 (September 2007), available online

http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressdata/EN/declarations/95988.pdf

⁶ Discussion Papers available here: <http://www.consilium.europa.eu/policies/fight-against-terrorism/eu-strategy/previous-reports-and-discussion-papers?lang=en> (accessed 14/05/2012)

Transport was not mentioned in the CTC's discussion papers until November 2009, when it is in reference to previous attacks such as the Madrid train bombing and the London 7/7 attacks. Further in this discussion paper, transport systems come under the soft target heading as a 'favourite target for terrorist groups.'⁷ At this point, the CTC brings in the issue of land based travel such as urban mass transit and high speed rail.

The May 2010 discussion paper reiterates the threat to transport and highlights the Stockholm Programme's aim to work on aviation and maritime security. Land based transport is still an issue and this again focuses on the rail infrastructure and urban mass transport. The recommendations relate to information sharing between countries and increased funding for research on relevant projects.

Transport becomes a higher priority after the Cargo Bomb Plot, which originated in Yemen, and brought aviation back to the CTC's attention.⁸ The concern that this may lead to further attacks on land based transport led to the recommendation that the Commission set up a body on land transport security and an action plan. This is followed by the recommendation that there is a '...need to further analyse gaps in the protection of major components of land based infrastructure...'⁹ These recommendations follow the pattern established in the former discussion papers, that land based travel is a priority and not given sufficient discussion at a European policy level.

The June 2011 discussion paper follows the same basis as the November 2010 paper. Papers discovered during the operation in Abbottabad that removed Osama Bin Laden unveiled plans for specific attacks against trains in the United States.¹⁰ No action had been reported by the CTC on land based transport in the June 2011 discussion paper, although this issue is again highlighted in his recommendations, land based transport is expressly indicated as one of the key issues.¹¹ The December 2011 report on the EU Action Plan on combating terrorism does refer to the Commission Communication 'Internal Security in Action' which is to '...extend existing work on urban transport security to cover local and regional rail and high-speed rail, including related infrastructure.'¹² The January 2011 EU Action Plan on combating terrorism states that land transport is still an issue but fails to mention any work that has been done in this area.¹³ De Kerchove does highlight the recent achievements of EU bodies, such as the 'speedy implementation' by the Commission of the Action Plan regarding air

⁷ Council of the European Union, *EU Counter-Terrorism Strategy - Discussion Paper*, 15359/1/09 REV1 (November 2009), p.8

⁸ Two explosive devices found in printer cartridges originating in Yemen were put into air cargo. One was intercepted in the United Arab Emirates, the other in England. Authorities in UAE were tipped off by a member of al-Qaeda who handed himself in. The devices were addressed to Synagogues in Chicago, although it is thought that the devices would have exploded during the flight to the United States. Summarised from: Bart Elias, *Screening and Securing Air Cargo: Background and Issues for Congress*, Congressional Research Service (December 2010), p.3, available online <https://www.fas.org/sgp/crs/homsec/R41515.pdf>

⁹ Council of the European Union, *EU Counter-Terrorism Strategy - Discussion Paper*, 15894/1/10 REV1 (November 2010), p.3

¹⁰ Council of the European Union, *EU Counter-Terrorism Strategy - Discussion paper*, 10622/1/11 REV1 (June 2011), p.9

¹¹ *ibid.*, p.9

¹² Council of the European Union, *EU Action Plan on combating terrorism*, 17594/1/11 REV 1 (December 2011), p.19

¹³ Council of the European Union, *EU Action Plan on combating terrorism*, 15893/1/10 REV 1 (January 2010), p.13

cargo security – Directorate General MOVE began work on a legislative proposal on enhanced cargo screening.¹⁴

By the final 2011 discussion paper, there is a reduced focus on the issue of transport security. By this point, events such as the Arab Spring have occurred and a significant quantity of space is devoted to them. However, transport security is still on the agenda, and de Kerchove welcomes the new legislation (EU No 859/2011)¹⁵ on EU-bound cargo and mail. The main areas that the CTC highlights for further work are related to information exchange. This ranges from the exchange between countries themselves, and between Member States and their private sectors – when there is a special environment for sensitive information.¹⁶

Overall, it is clear that transport has remained a priority for the CTC since the Cargo Bomb Plot. This emphasised the importance of security within cargo, either through aviation, maritime or land transport. It is clear that a lot of work has gone into making transport, as a whole, more secure. However, the legislation is clearly aimed at cargo and de Kerchove is still emphasising the security areas around land based transit.

3.2 Reaction to the Arab Spring

As 2010 came to a close, the world watched as a series of revolutions altered the face of North Africa, creating ‘great potential risk, but also great opportunity.’¹⁷ Beginning in Tunisia in December, followed by Algeria, Lebanon, Jordan, Mauritania, Sudan, Oman, Saudi Arabia, Egypt, Yemen, Iraq, Bahrain, Libya, Kuwait, Morocco, Western Sahara, and Syria have all been involved in turmoil. The countries that have garnered the most publicity are Tunisia, Egypt, Libya, and Syria.

No two states have had a similar experience. For example, the Tunisian government was overthrown and replaced by various incarnations of politicians from the former-government and opposition parties, until democratic elections were held to vote in a 217-member constituent assembly to be responsible for a new constitution. By comparison, Libya was a more difficult, bloody revolution. Within Libya, Muammar Gaddafi’s rule left the nation divided, and Libya has descended into civil war.

These differing outcomes mean that from the EU’s perspective, one overarching solution will not do the job as it did with the collapse of the Iron Curtain in 1989. Instead, the differences between the Arab Spring countries mean many diverse and multifaceted situations exist, in which the EU may be able to help in lending expertise in a variety of different situations.

Potential security issues surrounding terrorist groups, such as al-Qaeda in the Islamic Maghreb (AQIM), make the transition to a peaceful democracy for North African countries a priority for the EU. In 2011, arrests were made in Tunisia apparently linked to AQIM, which suggests that there is a possibility for it to concern Europe.¹⁸

¹⁴ *ibid.*, p.9

¹⁵ European Commission, *Commission Implementing Regulation: amending Regulation (EU) No 185/2010 laying down detailed measures for the implementation of the common basic standards on aviation security in respect of air cargo and mail*, (EU) No 859/2011 (L 220/9) (August 2011), <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:220:0009:0015:EN:PDF>

¹⁶ Council of the European Union, *EU Counter-Terrorism Strategy – Discussion paper*, 17595/11 (November 2011), p.10

¹⁷ Council of the European Union, 10622/1/11 REV1, p.2

¹⁸ *ibid.*, p.2

Security Sector Reform (SSR) has been one area in which the EU has had experience, with toppled dictators in the Eastern Bloc, and is able to help willing governments. This is the case in Tunisia, where the Minister of Interior has approached the EU for assistance.

However, in Egypt, although the Hosni Mubarak was overthrown, mass protests have continued while human rights abuses go on being perpetrated. This is, in part due to the lack of progress of the new Egyptian government. Although the Muslim Brotherhood's Freedom and Justice Party won the January 2012 elections, the Supreme Council of the Armed Forces (SCAF) is still clinging on to control of the interior and the defence ministry and budget.¹⁹ Violence began again in October 2011, however unrest has continued in Cairo, with anger about the disastrous football riot in early February and the long awaited elections in May. The revolution cannot be viewed as over, and the situation does not look like one in which SCAF would accept SSR advisors from the European Union.

In June 2011, the CTC cited his expectation for 'the new Egyptian Government to be able effectively to police demonstrations and to ensure civil order, including protecting the rights of minorities, but in a way that does not cause human rights abuses.' The CTC goes on to mention the use of lethal force to protect the Israeli Embassy, stating that 'we need to work with them on better ways.'²⁰ Unfortunately, better ways are still not in place and this has led to an increase in the use of lethal force and human rights abuses.

3.3 Terrorist Finance Tracking Programme (TFTP)

TFTP has been on the EU agenda since the CTC office was created. Gijes de Vries pushed for movement on Fighting Against Terrorist Financing (FATF). Throughout his time in office, he did this through the Third Money Laundering Directive and the Regulation on Controls on Cash Entering and Leaving the Union.²¹ It belonged in the 'Pursue' strand of the 2005 Counterterrorism Strategy and has steadily been promoted by the CTC.²² The key issue surrounding the TFTP is the failure of Member States to implement certain Council Decisions, such as the Decision of 2007 (2007/845/JHA) on Asset Recovery Offices.²³

Pursuing TFTP has been a successful programme for the Counter-Terrorism Coordinator's office and has come a long way since 2005. However, as QCEA has pointed out in our Briefing Paper 14b (Counter-Terrorism Policy Initiatives: Main Areas of Concern²⁴), TFTP can create difficulties for data protection. A report by the Europol Joint Supervisory Body (JSB) found that often no notes were written down at the request of the US Treasury Department when information had been provided orally by the United States.²⁵ However, the report goes onto

¹⁹ Garton Ash, Timothy, 'Egypt a year on: This is not the Tahrir dream, but there's much to be won', *The Guardian* (29 February 2012), <http://www.guardian.co.uk/commentisfree/2012/feb/29/egypt-year-on-tahrir-dream>

²⁰ Council of the European Union, 10622/1/11 REV1, p.3

²¹ Council of the European Union, *Implementation of the Action Plan to Combat Terrorism*, 15704/05 (December 2005), p.13

²² Council of the European Union, *The European Union Counter-Terrorism Strategy*, 14469/4/05 REV 4 (November 2005), p.12

²³ Council of the European Union, 17595/11, p.11

²⁴ QCEA, *The EU's Response to the Threat of Terrorism: Counter-Terrorism Policy Initiatives: Main Areas of Concern*, December 2011, available online: <http://www.qcea.org/wp-content/uploads/2011/12/bp-terrorisml4b-oct-2011.pdf>

²⁵ Joint Supervisory Body, *Report on the inspection of Europol's implementation of the TFTP agreement, conducted in November 2010 by the Europol Joint Supervisory Body*, JSB/Ins. 11-07 (March 2011), p.5,

say that this has made the job of the JSB increasingly difficult and has led to accusations of Europol rubberstamping the requests for information.

3.4 Passenger Name Records (PNR)

PNR has been on the Commission's agenda since September 11, 2001. An agreement with the US, however, has been much harder to secure. This is due to the objections raised by the European Parliament, which led to the Commission and Council decisions on PNR being annulled by the European Court of Justice in November 2005, thereby making the agreement void.²⁶

The concern over PNR is that it stores a large quantity of personal data, not just the name, of passengers. Another criticism included in the latest draft rejection of the EU-US PNR agreement by the European Parliament highlights that the data could be used to pursue individuals for crimes other than those related to terrorism.²⁷ The sharing of data with third countries has also been a sticking point for the European Parliament.

In the November 2011 Discussion Paper by the CTC, Giles de Kerchove indicated that certain legislation currently pending in the US Congress would make the closure of Guantanamo impossible. The legislation also prohibits criminal trials in regular courts for Guantanamo inmates. De Kerchove writes that it is '...attracting adverse attention in Europe and is making it more difficult, for example to persuade the European Parliament to back cooperation agreements essential to Europe's security such as on PNR.'²⁸

It is clear that there are significant differences between EU-US terrorism policy, and this is producing a considerable conversation as to the need for freedom versus the importance of security. However, on the 19th April 2012, a PNR agreement with the United States was passed by the European Parliament. As of yet, the CTC has not made any comment on this.

3.5 EU-US relations

The relationship between the European Union and the United States has undergone several transformations since September 11, 2001. Initially this was in the form of cooperation between the two Unions to fight terrorism. However, it must be noted that the EU has used less aggressive language with regard to terrorism. The 'War on Terror' was announced by a joint session of the Congress on the United States Response to the Terrorist Attacks of September 11.²⁹ This led to the wars in Afghanistan and Iraq, both under the pretext of the

available online at

[http://europoljsb.consilium.europa.eu/media/111009/terrorist%20finance%20tracking%20program%20\(tftp\)%20inspection%20report%20-%20public%20version.pdf](http://europoljsb.consilium.europa.eu/media/111009/terrorist%20finance%20tracking%20program%20(tftp)%20inspection%20report%20-%20public%20version.pdf)

²⁶ European Court of Justice, *Opinion of Mr. Léger - Cases C-317/04 and C-318/04*, (November 2005), p.I-4794,

available online <http://curia.europa.eu/juris/celex.jsf?celex=62004CC0317&lang1=en&type=NOT&ancre=>

²⁷ European Parliament, *Draft Recommendation on the draft Council decision on the conclusion of the Agreement between the United States of America and the European Unions on the Use and Transfer of Passenger Name Records to the United States Department of Homeland Security*, 2011/0382(NEL) PR/890797EN.doc (February 2012), Available online <http://www.statewatch.org/news/2012/feb/ep-draft-report-eu-usa-pnr.pdf> p.13

²⁸ Council of the European Union, 17595/11, p.6

²⁹ George W. Bush, 'Address Before a Joint Session of the Congress on the United States Response to the Terrorist Attacks of September 11', September 20, 2001, available online:

<http://www.presidency.ucsb.edu/ws/index.php?pid=64731&st=&st1=##axzz1p5JQsEDX>

'War on Terror'. The EU was an ally in the War on Terror, (though not in the wars in Afghanistan and Iraq, which only a small number of EU Member States participated in) however stayed away from the war lexicon and, as mentioned above, in the case of the EU-US PNR Agreement, has acted as a balance to the War on Terror.

When George Bush left office and the Obama Administration took power in 2009, the United States foreign policy altered significantly. Under the Bush Administration, Guantanamo Bay had been used to illegally hold prisoners that had been associated with terrorism. Guantanamo prompted human rights questions.

Part of Barack Obama's election campaign was to close Guantanamo Bay detention camp. Council conclusions dated 4 June 2009 illustrate support for the closure of Guantanamo and highlight that the EU wished to '...foster closer transatlantic cooperation with the United States of America in the area of Freedom, Security and Justice based on shared values, in particular on respect for the rights of individuals and for the rule of law... Welcomed the decision of the President of the United States of America to close the Guantanamo Bay Detention Centre...'³⁰

Unfortunately, there has not been the progress hoped by the Obama Administration, and Guantanamo Bay Detention Camp remains open. This has been as a result of extreme opposition and has led to Obama signing the National Defense Authorisation Act for Fiscal Year 2012³¹, which allows the detention centre to remain open, and even for the detention of US citizens in the light of 'home grown' terrorism. However, Obama's statement also makes clear that there are '...serious reservations with certain provisions that regulate the detention, interrogation, and prosecution of suspected terrorists.'³²

It is clear that EU-US relations have undergone significant changes, firstly due to the September 2001 attacks, secondly due to the election of the Obama Administration, and thirdly due to the insistence of elements within the US that have pushed for keeping Guantanamo Bay Detention Centres.

In some instances, the EU has become more isolated from the US. This has, for the most part, been related to the PNR debate. The US data protection laws are the biggest hurdle for PNR, and it is not something that the European Parliament is willing to give up on. The closure of Guantanamo Bay has ceased to be mentioned in Joint Statements and Declarations after 2010, and this suggests that the European Union does not expect the detention facilities to close.³³

3.6 Funding and Research

³⁰ Council of the European Union, *Conclusions of the Council and of the representative of the Governments of the Member States on the closure of the Guantanamo Bay Detention Centre*, 4 June 2009, p. 1, available online <http://www.consilium.europa.eu/uedocs/cmsUpload/108299.pdf>

³¹ Barack Obama, '978 Statement on signing the National Defense Authorisation Act for Fiscal Year 2012', 31 December 2011, available online

³² *ibid.*

³³ Council of the European Union, *Toledo Joint Statement, as adopted in 21 January 2010*, 6261/10 (February 2010), available online <http://register.consilium.europa.eu/pdf/en/10/st06/st06261.en10.pdf>, and Council of the European Union, *EU-US and Member States 2010 Declaration on Counterterrorism*, 10597/10 (June 2010), available online <http://register.consilium.europa.eu/pdf/en/10/st10/st10591.en10.pdf>

Funding and research is a constant consideration, however within the Commission's seven year funding cycles, it rises up the CTC's priority list as the budget is being decided.

When de Kerchove took office as CTC in 2007, Framework Programme 7 (FP7) had just been agreed and therefore, the budget for security research was not greatly discussed. The discussion on the budget itself appeared in de Kerchove's December 2010 discussion paper, and merely highlighted the importance of Security funding appearing in Framework Programme 8 (now known as Horizon 2020) and the need for military and civilian research, stating that the CTC '...will table a proposal for this in the first half of 2011.'³⁴

During 2008 and 2009, the focus within funding and research was initially on a project of de Kerchove's predecessor - EU Security Labelling.³⁵ Funding received a brief note towards the end of the 2008-2010 discussion papers. This normally focused on the areas that the FP7 funding was being spent. This changed in 2011 and research funding became a priority for the CTC. In both 2011 discussion papers listed it as the third issue or challenge.

The Security theme within FP7 was the *second smallest funding line*.³⁶ However, in the June 2011 Discussion Paper, de Kerchove states that 'security has justified a greater share of FP8.' This may be due to the oversubscription to the security funding line of FP8.

Areas mentioned for funding go back to de Vries' recommendation of standardisation and certification. Bringing together the security industry seems to be the main aim. Within the security related research sections in the discussions papers of June and November 2011, the focus is exclusively on 'security'. The November paper also mentions 'military synergies', suggesting that workshops should be run to share knowledge across Member States, Justice and Home Affairs, the European Commission and the European Defence Agency on areas such as Improvised Explosive Devices.³⁷

In a briefing paper on Horizon 2020, QCEA raised issues surrounding the security theme.³⁸ This stresses our concerns over a change in language between FP7 and Horizon 2020, which seems to be directed into the protection area of counter-terrorism. The briefing paper goes on to state that there is a lack of emphasis on the prevention of terrorism.³⁹ The briefing paper goes on mention 'mission creep' in regards to cyber security, suggesting that there is room for 'making research projects into fully-fledged applications systems under the control of industry with potentially only limited democratic oversight.'⁴⁰ The potential for dual use technology (ie. technology that has the potential to be used for civilian or military purposes) is potentially breach of the EU treaties.⁴¹ As de Kerchove claims that the Prevent strand of the counter-terrorism strategy in highly important, it is disappointing to see so little being done to provide funding for this, while plenty goes towards Protect and Pursue.

³⁴ Council of the European Union, 15894/1/10, p.12

³⁵ Council of the European Union, *EU Counter-Terrorism Strategy - Discussion Paper*, 15983/08 (November 2008), p.12

³⁶ Council of the European Union, 10622/1/11 REV1, p.10

³⁷ Council of the European Union, 17595/11, p.9

³⁸ QCEA, *Horizon 2020 - Reflecting on changes proposed for the EU research agenda?*, March 2011, available online <http://www.qcea.org/wp-content/uploads/2012/03/bp-governance-research-en-mar-2012.pdf>

³⁹ *ibid*, p.13

⁴⁰ *ibid*, p.14

⁴¹ *ibid*, p.21

3.7 Cyber Security

In 2007, the CTC considered the internet as a tool that could be utilised in order to collect information on terrorism and remain aware as to what it was being used for. The 'Check the Web' initiative (CTW) aimed at collecting data across the EU and sharing it via a secure portal so that work was not being duplicated by Member States. This remained the focus of several discussion papers, between the end of 2007 and May 2009, CTW was the focus of internet-related terrorism.

In November 2009, this ceased to be the case. CTW was not mentioned at all within the discussion paper, and there was a complete lexical change. Previously, there had been no mention to any kind of online warfare, but within one sentence, 'cybercrime' and 'cyber-warfare' enter into the CTC's vocabulary.⁴² Cyber security is not mentioned in the May 2010 discussion paper, but by November 2010, the Stuxnet incident has been pinned on Israel in cooperation with the United States of America, and cyber security rises swiftly up the CTC's priority list.⁴³ It has been rumoured that the virus may have been released in 2009, but not picked up until 2010.

Effectively, this seems to have alerted the EU to the threat of cyber attack. However, events of late 2010/early 2011 such as the death of Osama bin Laden and the Arab Spring, seem to have pushed cyber security into the background again.

3.8 Terrorist Travel

The term 'Terrorist Travel' refers to an EU national travelling to a third country and receiving training by a group such as al-Qaeda. This has implications for EU security, and also makes radicalisation on EU soil easier.⁴⁴ Therefore it is something that the CTC is keen to curtail.

The problem with this, so called 'home-grown' terrorism, is that there is little that can be done to identify it. The physical links to al-Qaeda are unlikely to be formed at an early stage, so any intervention is difficult.⁴⁵ It also makes any counter-narrative harder to direct.

Terrorist travel is not mentioned in the discussion papers until November 2009. In the May 2010 Discussion Paper it is tied into PNR, as PNR can be used to track those going abroad to training camps. It can also show up patterns in travel. The May 2010 paper also recommends closer cooperation with the US, under the proviso that EU citizens maintain their rights under EU data protection laws.

As with many other elements within these discussion papers, after 2010, other priorities take over, essentially eclipsing terrorist travel.

⁴² Council of the European Union, 15359/1/09, p.8

⁴³ The Stuxnet virus (a form of malware) was discovered in June 2010. It appears to have been used to target Iran's uranium enrichment plant at Natanz. The bug is rumoured to have been developed by a team of specialists, and, due to the complexity of the virus, funded by governments. Suspicion has fallen on Israel, backed by the US. Summarised from 'The Stuxnet outbreak: A worm in the centrifuge', *The Economist*, September 30, 2010, available online <http://www.economist.com/node/17147818>

⁴⁴ Council of the European Union, *EU Counter-Terrorism Strategy - Discussion Paper*, 15894/1/10 REV1 (November 2010), p.3

⁴⁵ Council of the European Union, 15359/1/09 REV1, p.3

3.9 External relations

External relations cover the majority of work that the CTC does. However, there are specific areas, such as PNR, terrorist travel, and EU-US relations, that are not covered within this section. The term 'external relations' is used to describe EU support and/or aid to third countries such as Pakistan. This is similar to the developments of the Arab Spring countries, but they have been treated as a separate issue earlier in the paper.

It is also worth noting that from November 2010 onwards, the CTC directs his advice and opinions to the European External Action Service (EEAS), created under the Lisbon Treaty. The EEAS replaced two former Directorate Generals and is the foreign affairs section of the EU.

The CTC's May 2009 discussion paper draws attention to third countries, specifically Pakistan/Afghanistan, the Sahel region, and in 2009, Yemen. Although many other countries are mentioned throughout the discussion papers, these are the ones given attention most consistently and cover the three main areas that cause concern for the EU.

(I) Pakistan

The CTC focused on Pakistan, as 'Al-Qaeda elements are still active in Pakistan'⁴⁶. Pakistan was first highlighted as an area of importance in the May 2008 discussion paper, and has remained a priority since.

The November 2008 discussion indicates that the Stability Instrument will be used to help and the May 2010 discussion paper states that under the Stability Instrument (now known as the Instrument for Stability, or IFS), a 15 million Euro programme is under way.⁴⁷ The IFS appears to be intended to support governments and, as later becomes apparent, security sector reform.

One of the key reasons that stability in Pakistan is a crucial issue of the CTC is the border it shares with Afghanistan. The border provides mountainous terrain, perfect for training camps. Therefore Pakistan becomes a multi-dimensional issue, cutting across terrorist travel and PNR.

(II) The Sahel



The CTC first brought the Sahel to attention in his May 2008 discussion paper, at the same time as Pakistan. The area has remained high on his priority list since, and in 2010, gained funding from the IFS.

However, the Sahel's geographic, inter-country location means that the objectives are more complex than that of upholding a state. The Sahel is a belt of land below the Sahara. There is

Source: BBC News,

<http://www.bbc.co.uk/news/world-africa->

Council of the European Union, *Implementation of the EU Counter-Terrorism Strategy - Priorities for further action*, 9417/08 (May 2008), p.9

⁴⁷ Council of the European Union, *EU Counter-Terrorism Strategy - Discussion Paper*, 9685/10 (May 2010), p.6

a debate as to what exactly is meant by the term 'the Sahel' as it has been used to cover areas of the Sahara itself as well as the belt of comparatively fertile land below it.⁴⁸ The EU also has more than one definition of the Sahel. When relating to aid, the Sahel includes five states: Mali, Burkina Faso, Mauritania, Chad and Niger.⁴⁹ However, the Sahel Strategy focuses on only three of these: Mauritania, Mali and Niger.⁵⁰ In spite of this, there is room within the Sahel Strategy for cooperation with other countries, such as Algeria, Burkina Faso and Chad.

Peace in the Sahel cannot be a matter of upholding a state. It is a matter of promoting 'the inter-dependence of security and development' in order to prevent the spread of Al-Qaeda in the Islamic Maghreb (AQIM).⁵¹

The Islamic Maghreb is another geographic term that does not abide by country lines. It consists of five north-west African countries: Libya, Tunisia, Morocco, Algeria, and Mauritania. AQIM originated from various factions of anti-government, pro-Islamist militias. In 2006, the Salafist Group for Preaching and Combat (GSPC) received funding from al-Qaeda and has since been known as Al-Qaeda in the Islamic Maghreb.

The CTC has also been concerned about links between AQIM and Nigeria's militant Muslim Boko Haram in the November 2011 discussion paper.⁵² It has been suggested that '...if AQIM follow up their statements of support for Boko Haram with actual operational cooperation, the threat will expand further... AQIM may influence Boko Haram's target selection by pushing or even funding the Nigerian group to attack Western interests.'⁵³ Recent reports state that AQIM has been training Boko Haram in bomb making which highlights the risk of the expansion of the organisation and its geographic reach.

Coups in Mali and Guinea-Bissau over March and April 2012 have not been instigated by either AQIM or Boko Haram, however the Malian coup has led to further conflict in the North of the country with Tuareg rebels and Islamist fighters claiming independence of the northern region of Mali, Azawad. AQIM has been linked by the BBC and Aljazeera to section of the Tuareg rebels that support Sharia law being imposed across Mali.⁵⁴ AQIM has already been linked to kidnappings in northern Mali.

(III) Yemen

Yemen has been included in the CTCs discussion papers since November 2009, at which point it is stated that al-Qaeda is 'actively seeking out new bases in Sahel and Yemen.'⁵⁵ The

⁴⁸ Walther, Olivier and Retailier, Denis, 'Sahara or Sahel? The fuzzy geography of terrorism in West Africa', *CEPS/INSTEAD Working Paper*, November 2010, p.3, available online <http://www.ceps.lu/pdf/3/art1577.pdf>

⁴⁹ European Commission, *Aid in Action - Sahel*, (last updated: 04 May 2012), available online http://ec.europa.eu/echo/aid/sub_saharian/sahel_en.htm

⁵⁰ European External Action Service, *Strategy for Security and Development in the Sahel*, p.1, available online http://www.eeas.europa.eu/africa/docs/sahel_strategy_en.pdf

⁵¹ *ibid.*

⁵² Council of the European Union, 17595/11, p.2

⁵³ Le Sage, Andre, 'The Evolving Threat of al Qaeda in the Islamic Maghreb', *Institute for National Strategic Studies*, July 2011, p.8, available online <http://www.dtic.mil/cgi-bin/GetTRDoc?AD=ADA546597>

⁵⁴ 'Mali Tuareg rebels seize key garrison town of Gao', *BBC News Africa* (01/04/2012), available online <http://www.bbc.co.uk/news/world-africa-17576263>, 'Mali coup leaders and ECOWAS reach deal', *Aljazeera* (06/04/2012), available online <http://www.aljazeera.com/news/africa/2012/04/201246202152997295.html>

⁵⁵ Council of the European Union, 15359/1/09 REV1, p.3

Yemen receives consistent attention from the CTC, and in May 2010 discussion paper, de Kerchove shares the news that there is a 15 million euro project about to begin in the country (at the same time as Pakistan and the Sahel).⁵⁶

The situation in Yemen changed dramatically between 2010 and mid 2011. Initially, the EU was criticised for not focusing aid as well as the United States after the reaction to the Cargo Bomb Plot (see above) that originated in Yemen. The US sent aid and John Pistole, Head of the US Transport Security Administration, while the EU placed restrictive measures on the country.⁵⁷

With the Arab Spring, and uprisings in Yemen between January 23rd and November 23rd, the CTC has less to say about the situation, however the June 2011 discussion paper highlights the need to '...increase our support for de-radicalisation activities on Yemen' as soon as the situation allows.⁵⁸ It is notable that the November 2011 discussion paper contains no mention of the situation in Yemen at all. Arab Spring countries that had not previously been part of the CTC's focus are included.

The European External Action Service is the most vocal European institution regarding the developments in Yemen, condemning the violence and loss of life in a statement on the 17th February 2011.⁵⁹ Yemen was not mentioned in the most recent discussion paper, although the High Representative for Foreign Affairs/Vice President of the European Commission, Catherine Ashton, recently issued a statement in which she reminded the newly elected Yemeni President Abd Rabbuh Mansur al-Hadi that '...the EU understands the urgency if the economic challenges and is ready to offer its assistance and support to help Yemen...'⁶⁰

4. Summary

Giles de Kerchove's discussion papers provide a fascinating insight into the prioritisation of issues within the Office of the Counter Terrorism Coordinator. The impacts of attacks and events across the last five years are clear. The discussion papers seem to be used to illustrate his awareness and sensitivity to the issues.

What is disappointing about the discussion papers is that they indicate that counter-terrorism policy in the European Union promoted by the Counter-Terrorism Coordinator has maintained its close ties to the United States. The sustained focus on PNR, in spite of its failure to support the EU's privacy laws is a vital component, along with a resounding silence regarding the failure to close Guantanamo Bay detention centre. This threatens EU citizens' rights and freedoms, as previous work by QCEA has highlighted.⁶¹

⁵⁶ Council of the European Union, 9685/10, p.6

⁵⁷ Council of the European Union, *EU Counter-Terrorism Strategy - Discussion Paper*, 15894/1/10 REV1 (November 2010), p.9

⁵⁸ Council of the European Union, 17595/11, p.8

⁵⁹ European External Action Service, *Statement by the spokesperson of EU High Representative Catherine Ashton on Yemen*, (17/01/2011), available online

http://eeas.europa.eu/delegations/yemen/press_corner/all_news/news/2011/20110217_01_en.htm

⁶⁰ European External Action Service, *Statement by High Representative and Vice President Catherine Ashton after her phone conversation with President Abd Rabbuh Mansur al-Hadi of Yemen*, (05/03/2012), available online http://eeas.europa.eu/delegations/yemen/press_corner/all_news/news/2012/20120305_en.htm

⁶¹ QCEA, *Counter-Terrorism Policy Initiatives*, December 2011, p.27, and QCEA, *Effective Counter-Terrorism: A Critical Assessment of European Union Responses*, February 2007, p. 25, available online <http://www.qcea.org/2007/02/report-efficient-counter-terrorism/>

The focus of the discussion papers is commonly on the 'protect' and 'pursue' strands of the counter-terrorism narrative. As each discussion paper begins with a brief analysis of the situation in Europe at the time, the paper tends to maintain some of this focus throughout. For example, the November 2010 discussion paper devotes a large section to aviation security, and more generally, transport security as well. While it can be agreed that this was an area that had recently been in the press, it does not follow that protection of aviation transport remains the biggest problem for counter-terrorism. It is, in fact a case of bolting the stable door after the horse has bolted.

Although prevention of terrorism is mentioned frequently throughout the discussion papers, it is always with the caveat that this is the '...most challenging and difficult aspect of the EU CT strategy.'⁶² It is clear that a lot of effort does go into this area, with work on initiatives set up by individual countries, such as the research into the role of local leaders in the Netherlands, or the training of religious leaders in Spain.⁶³ This focuses on the Islamic community, in spite of the Europol statistics that state that there is a far greater threat of terrorism (indeed, there are more attacks) from the far left and separatist groups. This is not in keeping with the EUROPOL data, which illustrates that in 2011 there were 110 Separatist plots and 37 left-wing plots compared to no religiously-inspired plots.⁶⁴ The other key area that falls under the prevent strategy is the aid to third countries (Pakistan, Yemen and the Sahel). However, no reference is made to the results of the projects in the Member States.

Human rights are often a prevalent issue within counter-terrorism policy - often the rights of individuals, whether those of 'terror suspects' or citizens, are lost within policy work. Human rights are frequently mentioned within the discussion papers; however, this is always in relation to the EU's leading position on human rights, the EU-US relationship, or the Arab Spring and external aid. There is little in the discussion papers in regard to the loss of data protection over PNR records. The November 2011 discussion paper suggests that the EU should attempt a conversation with the United States Congress '...to explain how Europe has been able to implement effective counter terrorism supported by effective guarantees of human rights and fundamental freedoms.'⁶⁵

Although the EU does a lot towards promoting human rights and the rule of law, its Member States are not blameless. Accusations of aiding the US in extraordinary rendition by groups such as the European Centre for Constitutional and Human Rights and Amnesty International stress that the European Union itself fails to practice what it preaches.⁶⁶ The 2010 Amnesty International report *Open Secret: Mounting evidence of Europe's complicity in rendition and secret detention* indicates that there are two Member States that house detention centres within Europe and at least six Member States that are complicit in CIA rendition.⁶⁷ There are no mentions of human rights abuses within the EU in relation to counter-terrorism within the discussion papers.

⁶² Council of the European Union, 10622/1/11 REV1, p.6

⁶³ Council of the European Union, 9417/08, p.6, and Council of the European Union, 15983/08, p.7

⁶⁴ EUROPOL, *TE-STAT 2012: EU Terrorism Situation and Trend Report*, (April 2012), p.36, available online <https://www.europol.europa.eu/sites/default/files/publications/europoltsat.pdf>

⁶⁵ Council of the European Union, 17595/11, p.6

⁶⁶ European Centre for Constitutional and Human Rights, *CIA - Extraordinary Rendition- Flights, Torture and Accountability - A European Approach*, ECCHR, Second Edition (January 2009)

⁶⁷ Amnesty International, *Open Secret: Mounting evidence of Europe's complicity in rendition and secret detention*, Amnesty International (2010)

It is clear that the CTC's position on issues has not changed, so much as his focus has. In part, this is due to the advancement of technology (in the case of the Check the Web initiative being overshadowed by the Stuxnet incident), or due to revolutions (such as the Arab Spring and the need for EU involvement).

The discussion papers never illustrate the whole picture of terrorism in the European Union. They show what the CTC views as the most important threats or challenges to the EU at any given time. For full reports, the Counter Terrorism Coordinator reports on the implementation of the Action Plan, which contain detailed analysis of specific projects instead of an overarching view of challenges in light of events. However, there are issue areas that appear to be neglected. As mentioned above, these areas include human rights abuses in the European Union and the prevention strand of EU counter terrorism policy, while the focus remains the EU-US relationship, transport security and the most recent events in international terrorism.

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Written and researched by Isabel Skrine,
QCEA Programme Assistant, 2012.
Published May 2012