



The Action Plan and Declaration

Introduction

As we said in Briefing Paper 1, the EU's response to modern terrorism was accelerated as a result of the events of 11 September 2001 and the Madrid bombings on 11 March 2004. Because of each of these events, the European Council met in two extraordinary committees to discuss specific mandates and guidelines for specific EU policies. The two events also caused the Council to streamline their priorities towards internal and external security which have since been identified repeatedly as the top priority of Council policy. Each led to a declaration. But whilst the priorities and affirmations of EU commitment to combating terrorism in both declarations are similar, they are very different in other respects, which reflect not least the differences between the two events.

The first attack was not committed on EU territory while the second occurred in Spain. The effects of the Madrid bombings were experienced both by the EU and by European citizens as closer to home; it was also the first large scale terrorist attack in an EU Member State since the 1980s.

Action Plan on the Fight Against Terrorism

After the events of 11 September 2001, on the 21 September, the European Council declared the *Action Plan on the Fight Against Terrorism*. It established terrorism as a top priority of the European Union, committed all Member States to work in "concert in all circumstances," and stated that the EU does not recognize "any equation of groups of fanatical terrorists with the Arab and Muslim world."¹

It set out the EU's goals in 4 main points:

Solidarity and Cooperation with the United States

The Declaration states that:

- The attacks [11 September] "are an assault on our open, democratic, tolerant, and multicultural societies" and are "a challenge to the conscience of each human being"
- In accordance with the **UN Security Council Resolution 1368**, any response by the United States is legitimate and the EU will cooperate with the US to punish the perpetrators or anyone guilty of collaboration with them
*UN Security Council Resolution 1368 states that within the principles and purposes of the UN Charter, the UN will combat all threats to peace and security especially by "recognizing the inherent right of individual or collective self-defence in accordance with the Charter"*²
- The EU "calls for the broadest possible global coalition against terrorism, under United Nations aegis"
- The EU response will encompass all aspects of EU activities, but will at the same time preserve the "fundamental freedoms which form the basis of our civilisation."

¹European Council, "Conclusions and Plan of Action of the Extraordinary European Council Meeting," SN 140/01. 21 Sept. 2001. EU 13 Oct. 2004 <http://europa.eu.int/comm/justice_home/news/terrorism/documents/concl_council_21sep_en.pdf>.

² SC Press Release, "Security Council Condemns, 'In Strongest Terms', Terrorist Attacks on United States," SC/7143. EU 15 Oct. 2004 <<http://www.un.org/News/Press/docs/2001/SC7143.doc.htm>>.

The European Policy to Combat Terrorism

The Declaration commits the EU:

- To enhance the police and judicial cooperation especially with regard to adopting the resolutions under Tampere,³
 - implementing a common arrest warrant
 - adopting a common definition of terrorism
 - exchanging information among Member States
 - drawing up a common list of terrorist organizations
 - integrating Europol with a special anti-terrorist team in close cooperation with the US
- To develop international legal instruments by calling on all international organizations such as the UN and the OECD to implement any proposals relating to terrorism as soon as possible
- To put an end to the funding of terrorism including taking action against non-cooperative countries identified by the Financial Action Task Force
- To strengthen air security
- To coordinate the EU's global action led by the General Affairs Council who will submit a report to the European Council on these terrorism issues.

The Union's Involvement in the World

The Declaration commits the EU

- to collaborate especially with the US, the Russian Federation, and partners in the Arab and Muslim world to bring the Middle East into lasting understanding and peace under UN resolutions
- to do this by developing the Common Foreign and Security Policy (CFSP) and the European Security and Defence Policy (ESDP)
- to identify "a fair world system of security, prosperity and improved development" as the conditions necessary to develop this
- to deal with the refugee flows effectively.

World Economic Prospects

The Declaration states:

- That the EU recognizes the slowdown of the economy after September 11th, but believes that confidence in the Euro and the euro-zone will protect stability
- That the EU continues to support the European Central Bank and its policies
- That the EU praises OPEC who decided to continue the uninterrupted supply of oil.

This plan marked the acceleration of a long and complicated process of internal integration and cooperation among EU Member States and external cooperation to create security in the EU and throughout the world. The plan is, however, quite vague in terms of 'to what extent' and 'with what means' the EU is willing to support the United States. The UN Security Council Resolution 1368 is bound by the UN Charter which rejects the use of force except in self-defence. One can define "self-defence" very broadly, just as one can interpret "continuing solidarity with the United States" very broadly. Here again, the policy direction set out by the European Council is very broad and it is for the other EU institutions to implement this declaration.⁴

Declaration on Combating Terrorism

The **Declaration on Combating Terrorism** is similar to the **Action Plan**, but one can see subtle differences in the approach. It was declared in Brussels on 25 March 2004. (It is

³ The Council meeting in Tampere was in October of 1999 and set up Justice and Home Affairs (JHA) which will be discussed in more detail in Briefing Paper 5.

⁴ It should be pointed out that of course right after September 11th, the EU and all its Member States would declare solidarity with the United States. Therefore, at first this solidarity seemed quite strong, but as time passed and the United States began taking action against Afghanistan and Iraq, the initial meaning of "solidarity" changed especially in the Member States that did not agree with US actions.

often referred to as *the EU Plan of Action on Combating Terrorism*.) Again, the introduction pledges cooperation and coordination to combat terrorism under the fundamental principles of the Union including the Charter of the UN and the UN Security Council Resolution 1373 (UNSCR 1373).⁵ It also states that “no country in the world can consider itself immune,”⁶ which implies that the EU needs to concentrate on *its* security and the security of the international community.

The Declaration focuses on the following main points:⁷

Security Strategy	<ul style="list-style-type: none"> • Terrorism must continue to be a top priority of the EU • The EU must combat terrorism by dealing with its <i>root causes</i> • The EU must continue full implementation • The EU needs to develop a long-term strategy to “address <i>all the factors</i> which contribute to terrorism” with the continued development of the ESDP.
The EU Should Provide Assistance to Victims of Terrorism	<ul style="list-style-type: none"> • No specific action points or points of detail are specified.
Building on Existing Cooperation	<ul style="list-style-type: none"> • The EU calls upon all Member States to implement the developed legislative measures by including the establishment of Eurojust.⁸ • Once implemented, the Council must examine the following: “proposals for establishing rules on the retention of communications traffic data by service providers, exchanges of information on convictions for terrorist offences, cross-border hot pursuit, a European register on convictions and disqualifications, a data base on forensic material, and simplifying the exchange of information and intelligence between law enforcement authorities of the Member States.” • The Commission is encouraged to develop a plan for a witness protection programme in terrorist cases. • Member States should reinforce operational cooperation with particular reference to <ul style="list-style-type: none"> ○ the growing competencies of Europol and Eurojust to ○ reactivating the “Counter-Terrorist Task Force” which was created by the Action Plan but later considered unnecessary and ○ the need to create new committee structures dealing specifically with the need for cooperation in the face of terrorism • Member States should maximize the effectiveness of Information Systems including enhanced interoperability between databases such as the Schengen Information System II (SIS II), the Visa Information System (VIS), and EURODAC.⁹

⁵ The UN Security Council Resolution 1373 was agreed on 28 September 2001. It states that in accordance with Chapter VII of the UN Charter all financing of terrorists acts should be suppressed and prevented. In addition, it states that the act of doing so should be criminalized and all terrorist assets should be frozen. It also calls upon states to cooperate in combating terrorism. Please see Briefing Paper 9 for more information. <<http://www.state.gov/p/io/rls/othr/2001/5108.htm>>

⁶ *European Council*, “Declaration on Combating Terrorism,” 25 March 2004 EU 15 Oct. 2004. <<http://www.statewatch.org/news/2004/mar/eu-terr-decl.pdf>>.

⁷ Please note that the following points 1-11 and the revised EU Plan of Action points 1-7 are paraphrasing the European Council’s “Declaration on Combating Terrorism.”

⁸ Please see document for a complete list of the specific legislative measures.

Strengthening Border Controls and Document Security	<ul style="list-style-type: none"> • The EU shall establish a European Borders Agency by 2005 • The EU shall oblige carriers to communicate details of passengers on board • The EU should adopt the Draft Strategy for Customs Cooperation • The EU should begin to develop and adopt a common EU approach for the use of passenger data for law enforcement purposes.
Other Proposed Developments	<ul style="list-style-type: none"> • <i>The EU Needs to Develop a Common Approach to Combating Terrorism</i> • <i>The EU Should Promote the Sharing of Intelligence</i> • <i>The EU Needs to Prevent the Financing of Terrorism</i> especially by implementing the 1999 UN Convention for the Suppression of the Financing of Terrorism and the 2001 UNSCR 1373.
Measures to Protect Transport and Population	<ul style="list-style-type: none"> • The EU needs to enhance the legal framework and already existing prevention mechanisms • The EU needs to strengthen the capacity of Member States to respond effectively to terrorist attacks against civilians • The EU needs to strengthen the protection of civilians by protecting essential services and resources such as water, energy, communications, and production systems.
International Cooperation	<ul style="list-style-type: none"> • The EU needs especially to deal with third countries to work on a regional, sub-regional, and international level to combat terrorism • The EU should continually evaluate third countries response to terrorism • The EU needs to help prevent terrorism to flourish in third countries by providing technical assistance and promoting good governance and the rule of law.
Cooperation with the United States and Other Partners	<ul style="list-style-type: none"> • Based on the 2001 Plan of Action, the EU will continue to strengthen cooperation with the US and Partner States.
Counter-Terrorism Coordinator	<ul style="list-style-type: none"> • The creation of a position in the secretariat to coordinate and monitor all aspects at the Union's disposal in response to terrorism • The first Counter-Terrorism Coordinator (Mr. Gijs de Vries) who was appointed by Secretary General Solana in March 2004.

⁹ EURODAC is a system that compares fingerprints of asylum applicants and illegal immigrants under the Dublin Convention.

Most importantly though, the Declaration revised the EU's former **Plan of Action** to have the following new strategic objectives:

<i>Deepen International Consensus and Cooperation</i>
<ul style="list-style-type: none"> a. Specific emphasis is put on the role of the United Nations and it's regulations in "sustaining the international consensus and mobilizing the international community as a whole" b. The EU should increase work and cooperation with third countries to accept and implement UN regulations c. The EU shall "include effective counter-terrorism clauses in all agreements with third countries."
<i>Reduce terrorists' access to resources especially financial/economic ones with effective action within the restraints of UN obligations and the rule of law</i>
<ul style="list-style-type: none"> a. The EU should prevent terrorist financing effectively by specifically regulating charitable organizations and alternative remittance systems b. The EU Member States shall work closely with the Financial Action Task Force (FATF) c. The EU should "pursue political and technical dialogue with third countries, in order to step up the fight against the financing of terrorism."
<i>Create efficiency within EU bodies and Member States to maximally and effectively deal with terrorist issues including prevention and prosecution</i>
<ul style="list-style-type: none"> a. The EU shall increase the effective use of Europol, Eurojust, and Police Chiefs' Task Force b. The EU shall improve mechanisms for information and intelligence exchange within and between Member States c. The EU shall have a closer link between EU policymaking and intelligence assessments d. The EU shall "work to identify, disrupt, and dismantle arrangements for supply of weapons to terrorists."
<i>Improve security of international transport and border controls</i>
<ul style="list-style-type: none"> a. In addition to what was indicated above, the EU shall encourage non-EU states to implement International Civil Aviation Organization (ICAO) and International Maritime Organization (IMO) standards b. The EU shall also "reinforce the protection of European citizens in third countries"
<i>Enhance the capability of the European Union and of Member States to deal with the consequences of terrorist attacks</i> ¹⁰
<ul style="list-style-type: none"> a. The EU shall have closer cooperation with international organizations such as NATO b. The EU shall "ensure full implementation of the EU Health Security and CBRN¹¹ programmes" c. The EU shall improve communication capacity between Member States and its citizens in the case of a terrorist attack d. The EU shall "ensure that support and assistance is provided to the victims of terrorist crimes, and protect minority communities who may be at risk of a backlash in the event of a major attack."

¹⁰ This is an obvious reaction to the Madrid bombings.

¹¹ CBRN refers to chemical, biological, radiological, or nuclear weapons.

Address the factors which contribute to support for, and recruitment into, terrorism

- a. The EU shall Investigate links between religion, political beliefs, socio-economic status, and terrorism
- b. The EU shall support good governance and rule of law in assistance programmes that also target the above mentioned "links"
- c. The EU shall develop a long-term strategy within the EU specifically for "cross-cultural and inter-religious understanding between Europe and the Islamic World"

Target actions under EU external relations toward priority Third Countries where counter-terrorist capacity or commitment to combating terrorism needs to be enhanced.

- a. The EU shall evaluate and influence third countries in their fight against terrorism
- b. The EU shall try to "mainstream counter-terrorist objectives into the work of the geographical working groups and *external assistance programmes*"

* The specific objectives of the Terrorism Action Plan are continually being updated. Please see: <http://www.statewatch.org/news> *

Key Differences Between the Action Plan and the Declaration**Addressing Root Causes**

It is important to note that the **Declaration** is starting to specifically address the *root causes* of terrorism. This is in contrast to a more general response that is outlined in the **Action Plan**. The recommendations given by the European Council are much more specific and although they highlight the need to further develop coordination and development of the results of the Action Plan, they have already identified the problems, and therefore they are now promoting the use of a wide range of resources and tools such as Eurojust and Europol to achieve their goals.

Making Links between Terrorism and Religion

The only reference to religion in the Action Plan was that the EU does not recognize "any equation of groups of fanatical terrorists with the Arab and Muslim world." As much as that is generally true and is a necessary statement to prevent discrimination, it initially rejects any connection to religious purposes. Now the EU is beginning to investigate links between religion, political beliefs, socio-economic status, and terrorism. Thus, although no religious or political group should be discriminated against, there are some links between terrorism and some religious and/or political fanaticism; those links need to be studied and understood so that they can be addressed appropriately.¹²

¹² The EU references good governance and the rule of law (not specifically democracy though, although it seems implied) as a necessity to prevent terrorism. This is a not a new approach, but not one that is that old either. The current United States government under Bush is pushing for financial and technical assistance to be administered on the basis of democratic governance and rule of law. This approach is slowly being accepted by both the EU and the UN and can be seen in their approach to aid programmes. On the one hand, this approach assumes that democratic nations as opposed to other forms of effective governance will be able to use the aid more effectively. On the other hand, the United States and other countries also have a good research basis to fear the misuse of funds if given to a non-transparent non-democratic society. Thus, this issue has become a slippery slope. One must find the degree to which different forms of governance affect effective allocation and development with the use of aid in third countries, which in the end is an almost impossible task.

It is important to note that the EU is now trying to promote understanding between religious groups specifically with regard to the Islamic world. This is an important and basic step to promote a greater understanding in Europe and the entire world, and one that had not been addressed by the Council until recently.

Greater Cohesion and Cooperation

In the end, the Declaration is an attempt to “step up the fight.” The EU wants greater cohesion especially between EU policymaking and intelligence assessments.

The Declaration also spells out the realisation that counter-terrorism measures are not only a priority of the EU, but should be a priority of everyone around the world and at all levels of governance and organization. The next step is for individual communities and societies to also take responsibility within international frameworks both of the EU and other international organizations.

Although the EU state its commitment to supporting the United States in the Declaration again, it does not emphasize it nearly as much as in the Action Plan. This signifies a shift in the Member States' attitudes. The Solidarity clause of the Declaration affirms that “the Member States and the acceding States shall accordingly act jointly in a spirit of solidarity if one of them is the victim of a terrorist attack.”

Conclusion

The two documents define the approach the EU has taken towards combating terrorism. They provide the basis for the creation of many different agencies whose remit and competencies will be discussed in the following Briefing Papers in this series.

References

- **Action Plan on the Fight Against Terrorism -** http://europa.eu.int/comm/justice_home/news/terrorism/documents/concl_council_21_sep_en.pdf
- **UN Security Council Resolution and Response to 9/11 -** <http://www.un.org/News/Press/docs/2001/SC7143.doc.htm>
- **Declaration on Combating Terrorism -** <http://www.statewatch.org/news/2004/mar/eu-terr-decl.pdf>