

**T.C.
MARMARA ÜNİVERSİTESİ
AVRUPA BİRLİĞİ ENSTİTÜSÜ
AVRUPA BİRLİĞİ SİYASETİ VE ULUSLARARASI İLİŞKİLER ANABİLİM DALI**

**THE POLITICS OF GLOBAL SECURITY IN THE EU:
TRANSATLANTIC RELATIONS AND TERRORISM**

Yüksek Lisans Tezi

GÖZDE SALİHOĞLU

İstanbul-2009

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Tez Danışmanı: Yrd. Doç. Dr. Münevver Cebeci

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ONAY SAYFASI

Enstitümüz AB Siyaseti ve Uluslararası İlişkiler Anabilim Dalı Yüksek Lisans öğrencisi Gözde SALİHOĞLU'nun "POLITICS OF GLOBAL SECURITY IN THE EU: TRANSATLANTIC RELATIONS AND TERRORISM" konulu tez çalışması 25 Kasım 2009 tarihinde yapılan tez savunma sınavında aşağıda isimleri yazılı jüri üyeleri tarafından oybirliği/oyçokluğu ile başarılı bulunmuştur.

Onaylayan:

Yrd. Doç. Dr. E. Münevver CEBECİ

Danışman

Yrd. Doç. Dr. Catherine MACMILLAN

Jüri Üyesi

Yrd. Doç. Dr. İbrahim MAZLUM

Jüri Üyesi

Onay Tarihi:
Prof. Dr. Muzaffer DARTAN
Müdür

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ÖZET

Bu yüksek lisans çalışmasının amacı Avrupa Birliği (AB) ve Amerika Birleşik Devletleri (ABD) 'nin küresel güvenlik politikalarının gelişimini ve bunun atlantik ötesi ilişkiler üzerindeki etkilerini terörizm bağlamında incelemektir. Bu çalışma AB ve ABD arasında klişeleşmiş bir sav olan uluslararası konulardan, terör hususundaki fikir ayrılıklarının analizini ve incelenmesini amaçlamaktadır. Bu iki aktörün terör konusundaki davranışları hakkında ortak bir anlayış sağlanması tasarlanmıştır. Terör, küresel güvenlik tehditlerinden biri olarak kabul edilmektedir. 11 Eylül (9/11) olayları uluslararası arenada, AB ve ABD gibi iki temel aktörün gözünde, bu tehdit algısını daha da görünür kılmıştır. Bu çalışma 11 Eylül'ün bir katalizör görevi görerek, AB'nin stratejik düşüncelerinin gelişmesinde ve tehditlerle mücadelede daha küresel bir role adapte olabilmesindeki önemini göstermektedir. 11 Eylül olayları AB'nin dış politika yapısındaki yeni mekanizmaların gelişimine ivme kazandırmakla beraber daha önceden eksik olan AB'nin stratejik vizyona sahip uluslararası aktörlük rolünü güçlendirmek için itici bir kuvvet yaratmıştır. AB'nin durumuna ek olarak bu çalışmada, 11 Eylül'ün Amerika'nın güvenlik algısı ve terör karşıtı politikalarındaki etkileri üzerinde de durulmuştur. Akademik çevrelerde, AB ve ABD'nin uluslararası tehditler karşısındaki tutumlarının farklılıklarının temelinde yatan farklı stratejik kültürleri ve farklı yöntem kullanmalarına dair bir varsayım üzerinde kuvvetli tartışmalar vardır. Bu çalışma, aktörlerin yasal belgeleri üzerinden, küresel güvenlik politikalarını terör bağlamında incelenmeye çalışmaktadır. Bu çabayla, her iki aktörün de güvenlik stratejileri dikkatle gözden geçirilmiştir. Belgelerin ve politikaların değerlendirilmesinden sonra, AB ve ABD arasında uluslararası sorunlar bağlamında kesin çizgilerle ayrılmış bir bölünme olmadığı ele alınmıştır. AB ve ABD'nin terör karşıtı politikalarında hem uyum hem de ayrılıklar bulunmaktadır. Bu uyum ve ayrılıkların ötesinde, küresel güvenlik tehditlerinin engellenmesi için terör karşıtı politikalar konusunda aktörlerin işbirliği ve uyumlu çalışmaları kaçınılmaz bir zorunluluktur.

ABSTRACT

This study aims at analysing the evolution of the global security policies regarding terrorism in the European Union (EU) and the United States (US) and the impact of this on transatlantic relations. This study has the objective to analyse and check the stereotypical claim on the divergences of the European Union (EU) and the United States (US) towards the international issues in terms of terrorism. It is intended to provide an insight on these two actors' attitudes on the particular issue of terrorism. Terrorism is regarded as one of the global threats to security. September 11 (9/11) events made this threat perception more prominent in the eyes of the major actors like the EU and the US in the international arena. This study reveals the importance of 9/11 as a catalyst for the EU to develop strategic thinking and to adopt a more global role in dealing with the threats. 9/11 accelerated the development of new mechanisms in EU's foreign policy structure and an impulse has been created to strengthen the EU's role as an international actor with strategic vision, which was lacking before. In addition to the case of the EU, the effects of 9/11 in the US' security perception and counter-terrorism policy are underscored in this study. There is a vigorous debate in the academic world over the US and EU approaches towards international threats with a claim that they have different strategic cultures and that they use different instruments. This study tries to make an analysis of the security policies of the actors respectively with regard to terrorism through the examination of the official documents of the actors. The Security Strategies of both of the actors are also scrutinized with such endeavour. After the evaluation of the documents and the policies of the EU and the US, it is argued that there is not a clear cut division between the US and the EU approaches in dealing with the international problems. There are both convergences and divergences in the counter-terrorism policies of the EU and the US. Beyond these convergences and divergences, their cooperation and coordination on counter-terrorism policies is inevitable in order to prevent global threats to security.

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LIST OF ABBREVIATIONS

CFSP	Common Foreign and Security Policy
CSS	Critical Security Studies
CIA	Central Intelligence Agency
DOD	Department of Defense
DHS	Department of Homeland Security
EAW	European Arrest Warrant
EU	European Union
EBRD	European Bank for Reconstruction and Development
EC	European Community
ECB	European Central Bank
ECFR	European Council on Foreign Relations
ECJ	European Court of Justice
ECSC	European Coal and Steel Community
EDU	European Drugs Unit
EIB	European Investment Bank
ESS	European Security Strategy
ESDP	European Security and Defense Policy
EUROPOL	European Police Office
ETA	Euskadi Ta Askatasuna
FBI	Federal Bureau Intelligence
FISA	Foreign Intelligence Surveillance Act
GAC	General Affairs Council
IRA	Irish Republican Army
INTERPOL	International Police Organization
JHA	Justice and Home Affairs
JHAC	Justice and Home Affairs Council
MSs	Member States

NATO	North Atlantic Treaty Organization
NSS	National Security Strategy
OECD	Organization for Economic Cooperation and Development
PCA	Partnership and Cooperation Agreement
SEA	Single European Act
SIS	Schengen Information System
SU	Soviet Union
TEU	Treaty on European Union
TIDE	Terrorist Identities Datamart Environment
TREVI	Terrorism Radicalism Extreme Violence International
TSS	Traditional Security Studies
UK	United Kingdom
UN	United Nations
US	United States
USA	United States of America
WMD	Weapons of Mass Destruction
WTO	World Trade Organization

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INTRODUCTION

Security has always been a complicated issue for the European Union (EU) and the European Community (EC) before it. Coupled with the difficulty of defining security, it has been a hard task for the EU to decide how to provide global security and through what kind of common policies. The reason behind this uncertainty lies on the sensitivity of the concept itself. The nation states seek to provide national security for their citizens. In this sense, any attempt that threatens national security should be avoided immediately. While doing this, nation states prefer to act by themselves. One has to bear in mind that, providing national security and protecting the citizens from terrorist attacks is in the competence of the Member States' (MSs) of the EU. They refrain from having common security policies or sharing their sovereignty with the EU in this regard. As the EU Counter-Terrorism Coordinator Mr. Gijs de Vries stated: "The role of the Union is not to supplant Member States but to support them in working internationally and the main thrust of Europe's defense against terrorism remains firmly at the level of national governments."¹ What is at stake therefore is that, there are delicate relations between the EU and the Member States on the concept of security. The EU has developed its security policies within such a context. While the analysis of the Member States' individual positions against terrorism is a complex and multifaceted question, this study only attempts to explain the security approach of the EU with a particular focus on terrorism.

The security policies of the EU are shaped through the appearance of threats to security and the changing security environment in the world. With the end of Cold War, the security environment has been transformed and has become more complex and interdependent in character. Additionally, this transformation in the security agenda to a large extent influenced the security actors and the necessary instruments in bringing solutions to the security problems. As one of the most prominent actors of the world politics, the EU has also been influenced by the transformation of security environment, whose economic "soft power"

¹ Steve Leitner; 'Delays Thwart EU Chief's Anti-Terror Fight', *Financial Times*, 06.03.2005, available at: http://news.ft.com/cms/s/76b3f86a-8e77-11d9-8aae-00000e2511c8.ft_acl=s01=1.html, retrieved on: 23 June 2009

proved necessary but insufficient for being a global power in this emerging security environment. On the centre of the contentious debates on the security issues, terror is exposed as an extensive threat to security by all of the Member States. As a result of this, the EU shifted from the “hard” security concerns of the Cold War period to a more comprehensive understanding of security with a special emphasis on “soft” security tools such as governance, social and economic development. The question of terrorism has proved to be so controversial because it strikes directly at the heart of the security debate within the Union. As far as the issue is controversial, a consensus on the definition of terrorism could not be achieved.

The lack of consensus on common security policies became more visible with the terrorist attacks of September 11 – hereinafter 9/11. The seriousness of a global threat posed by terrorism paved the way for the transformation in the security approaches of the Member States and the Union as well. After the events took place, the EU’s security approach and threat assessment have transformed in such a way that gave priority to European perspective of fight against terrorism. Here, the focus is on the contribution of 9/11 to the transformation of the counter-terrorism issue. This unique experience has political, economic and social aspects in terms of security. This historical event has started a huge debate about the future of security politics in the world. This study aims to contribute these debates by revealing the developments in the security policies of the EU and the United States (US) with their shortcomings and deficiencies. In the post-9/11 period, various official documents have been published and lots of academic documents have evaluated. This study aims to make use of this opportunity and introduce a broader perspective on the comparative analysis of the counter-terrorism policies of the two global actors.

The politics of global security changes over time. Indeed, in today’s globalized world, when dealing with the politics of global security, one should take into consideration that the parameters of security have transformed. It is not possible to guarantee a safer world only by using military means. In a world where international terrorism has become the main threat to global society, in order to win “the war on terror”, there must be cooperation among the states. But this cooperation must start from the core of the issue, namely, the definition of the concept. The lack of consensus on the definition of terrorism makes it difficult to discuss the common counter-terrorism policies. It is certain that terrorism is not a new challenge in

the politics of global security. However, as a result of globalization, the characteristics of terrorism changed and new types of terrorism emerged. So in that sense, this study begins with various definitions of the concept of terrorism.

The Treaty on the European Union underlined the significance of security under the Article 29 as emphasizing one of the objectives of the EU is “to provide citizens with a high level of safety within an area of freedom, security and justice by preventing and combating crime in particular among others also terrorism, through closer cooperation between police forces, customs authorities and other competent authorities in the Member States.”² Therefore, in order to create a secure environment there should be cooperation among Member States. To this aim, there were various attempts to cooperate and harmonize the security policies of the nation states within the Union. However, a common security policy could not be achieved until 9/11. After that, European Council adopted a comprehensive document titled “A Secure Europe in a Better World-A European Security Strategy”. Here, terrorism heads the list of the threats and a common European approach to the fight against terrorism is underlined. The driving force behind this common approach, where the EU seeks for a security strategy adopted by all Member States, is the ultimate goal of providing security and avoiding all threats to security. In order to tackle terrorism, the EU needed to improve its legal and administrative capacity. That is why the second chapter of this study focuses on the Union’s internal efforts to develop a common security strategy as a response to terrorism. In addition to these, the EU can not maintain the global security solely. The US and the EU form an indivisible security space. In this context, the third chapter touches upon the transatlantic relationship between the EU and the US concluding a more balanced transatlantic partnership is possible and could be beneficial for all.

Purpose

The objective of this study is to analyze the politics of global security in the EU in terms of terrorism through studying transatlantic relations and the different perspectives of the

² Treaty of Maastricht on European Union, Title VI, J4, Official Journal C 191,29 July 1992, available at : <http://eur-lex.europa.eu/en/treaties/dat/11992M/htm/11992M.html>, retrieved on: 02 June 2009

EU and the US on security and terrorism. The impact of 9/11 on European foreign and security policy is given special emphasis in this regard. The major argument of this study is that the issue of terrorism is one of the priorities of the politics of global security which can only be solved through cooperation within the EU itself and also through transatlantic cooperation despite different perceptions of the EU and the US over terrorism and security. This study does not attempt to suggest ways to tackle terrorism; rather it aims to analyze the existing EU and US security perceptions and strategies regarding terrorism after 9/11 attacks.

The issue of counter-terrorism is not in itself defined area³ and its broadest and fullest sense requires coordination of different policy areas. It is a cross-pillar activity engaging many EU actors and instruments.⁴ So, national governments find it hard to coordinate. This study attempts to draw the general outline of cooperation and coordination in the institutional framework and the policy setting of the EU and to analyze the EU and US counter-terrorism efforts with a special emphasis on transatlantic cooperation in this regard. It should be noted that the term “Transatlantic Relations” in this study is taken in its narrow sense, i.e. referring only to the relations between the EU and the US. Therefore, the relations with NATO and NATO’s counter-terrorism efforts are deliberately ignored.⁵ Furthermore, while doing this analysis, the legal documents and the organizations of the EU and US are touched upon with the concerns that are related to the terrorism issue. The institutions, the conventions and the treaties are examined only in terms of their link with security in general and terrorism in particular.

The overall purpose of this study is to analyze to what extent the security agenda has transformed with the rising terrorism issue and how the issue of terrorism embodied the EU’ s and the US’ security approach. Therefore the study starts with a scrutiny of various definitions of terrorism and its conceptual evolution. The correlation between the EU as a global security

³ Lauri Lugna; ‘Institutional Framework of the European Union Counter-Terrorism Policy Setting’, *Baltic Security & Defense Review*, 8,2006, p. 101, available at: <http://www.bdcpl.ee/fileadmin/docs/bsdr/6EU%20Counterterrorism%20policy-Institutional%20Framework-Lauri%20Lugna.pdf>, retrieved on: 29 July 2009

⁴ *Ibid.*

⁵ It is also worth noting here that the Union also cooperates with other global actors such as, Mediterranean partners or Russia. While these are outside the scope of this study, with its focus on transatlantic relations, these relationships are nonetheless worth noting as they play an important role in the overall assessment of the Union’s international efforts against terrorism.

actor in world politics and the issue of global terrorism is portrayed in this study. Throughout this study, arguments for and against the US “hard power” and the EU “soft power” are discussed, taking various perspectives into account. The aim of this study is two fold: the first aim is to point to the fact that the road to the today’s counter-terrorism policies was dominated by the post-9/11 policies. The second aim is to look at the issue from both sides, the EU and the US. This study concludes that the divergences of the EU and the US, as opposed to the assertions, do not take place on the extreme ends of the spectrum. Instead, the actors act in between the end points of this spectrum.

Methodology

In this study, after a literature review through primary and secondary sources, a brief and tentative comparative analysis is made in order to better explain the main features of the transatlantic cooperation and the divergences and convergences between the EU and the US in dealing with terrorism as a global security issue. The official documents related to the subject are gathered and examined as primary sources. As secondary sources, articles, academic journals, working papers of institutes and books from the relevant literature are used. While searching on these sources, the ones that read security with a special emphasis on terrorism are underlined. In order to reflect the essence and the evolution of security policies of the EU and the US, their security strategy documents – European Security Strategy 2003 and the National Security Strategy 2002 of the US – are especially scrutinized. It should be worth underlining here that the strategy documents are like road maps for the security policies of the international actors, and in this case, it is crucial to analyze them in order to assess the EU’s and the US’s counter-terrorism policies. On the other hand, this study examines the US security policies within the time period 1980-2008. It should thus be noted that especially due to the impact of the 9/11 events, the study especially focuses on the Bush Administration’s fight against terrorism and that the Obama Administration’s policies regarding security and terrorism are deliberately ignored.

Because the issue of terrorism began to occupy significant place on the EU security policies after 9/11 events, before 9/11 there were limited attempts at analyzing its counter-terrorism efforts. Therefore, the literature on the EU’s security policies related to terrorism

before 9/11 is rather limited and also this affected the scope of this study. That is why primary sources were intensively used to understand the EU's pre-9/11 approach. To be able to examine the underlying meaning of treaties, summits and declarations various academic documents that observe different perspectives are used.

This study mainly looks at the rising terrorism threat and the responses by the US and the EU. In the Union case, this study mainly concentrates on the Justice and Home Affairs (JHA) and concentrates less on the Common Foreign and Security Policy (CFSP). This paper seeks to address the question of how the 9/11 affected the security policies of the EU and the US. Moreover, due to the limits on the length of this paper, it does not encompass a general analysis of US-EU relations. While there are other convergences and divergences in the broad range of the security policies of the two actors, this study instead focuses on their counter-terrorism policies.

The research questions of this study are:

- How have the European Union security policies reached their current form?
- How and to what extent has the 9/11 affected the security policies of the EU and the US?
- How do the US and the EU perceive terrorism, do they converge or diverge?

In order to answer the above mentioned research questions; this study first portrays its conception of global security and then moves on the definition of terrorism. This is followed by an analysis of the conceptual framework and historical evolution of the EU-level counter-terrorism policy setting. Then the US's counter-terrorism policies are scrutinized with a view to comparing the EU and the US perceptions and policies on terrorism.

The first chapter aims to make an outline for the definition of the concept of "terrorism". The politics of global security is explained through defining the concept of security. Special emphasis is given to the definitions of Ole Weaver and Barry Buzan. Furthermore, the historical evolution of terrorism is examined. The international definitions, the UN, the US and the EU definitions are explained in depth. The characteristics of terrorism are also mentioned in this chapter. Finally the types of terrorism are examined. This chapter

mainly argues that there is not a consensus on a common definition of terrorism and there are various definitions emphasizing different dimensions of the term.

The second chapter deals with the security policies of the EU with a special emphasis on its counter-terrorism efforts. This chapter takes a look at how European security has evolved from the Cold War era to the post-Cold War era. Then, the historical background of the EU's counter-terrorism policies in the post-Cold War period is analyzed. This period is divided into two periods that refers to pre- and post-9/11. The establishment of the significant institutions such as EUROPOL and EUROJUST are explained. In sum, this chapter explains the security policies and institutions of the EU regarding terrorism from the Trevi Group to the Specific Programme on Combating Terrorism that covers 2007-2013. Because of the lengthy historical background, this study endeavors to make an overall review of the development of the EU security policy regarding terrorism.

In the third chapter, first, the US perception of terrorism is explained. Within this framework, again the two periods of pre- and post-9/11 are examined. The security strategies, the counter-terrorism policy setting and the security institutions regarding terrorism that are established after 9/11 are scrutinized in a chronological order. Then, the transatlantic relations in terms of the EU-US relations are portrayed. As it is mentioned in the first chapter the rise of "new terrorism" pave the way to cooperation among global actors. The convergences and divergences between the security policies of the EU and the US are explained through their strategy documents. The EU-US cooperation in countering terrorism is analyzed thoroughly in this chapter. This study concludes by recapping the analysis of the previous chapters and making some final remarks about the EU's counter-terrorism policies and the EU-US cooperation in countering terrorism.

I. GLOBAL SECURITY POLITICS IN THE EU

The attacks of 9/11 arguably showed the globality of security in the late-modern world.⁶ Politics of global security for the EU has also gained a new meaning after these events. This section attempts to set the conceptual framework of the terms “global”, “security” and “politics” as used in this study.

1. 1. The Definitions of Global Security Politics with Special Emphasis on “Terrorism”

The concept of security is critical for the European Union studies. This is because of the sensitive nature of the concept. Even though it was never stated explicitly, the European integration was first born out to prevent the conflict atmosphere after the World War II. Indeed, in the Cold War period, Europe paid attention to security concerns through economic integration without a defined security purpose. This period paved the way for the EU to formulate security interests and the basis for the establishment of security institutions. As security is the primary concern in state policies, it is also an outstanding issue for the EU politics. In the post-Cold War era, the defined security concerns began to come to the fore. The concept of security was put on top of the primary concerns list of the EU.

However, the definition of the concept could not be easily made. This is mainly because the concept of security is a wide concept that has traditional, political and military connotations all together. As put by Buzan, the concept itself is an “essentially contested concept”⁷ in the sense that it is inherently ambiguous which gives rise to theoretical discussions and unsolvable debates on the meaning of it.⁸ Because at its core, there are “moral, ideological, and normative elements that render empirical data irrelevant and prevent reasonable people from agreeing with one another on a fixed definition.”⁹ Indeed, it is a

⁶ Mikkel Vedby Rasmussen; ‘A Paralel Globalization of Terror’:9-11, Security and Globalization’, Cooperation and Conflict: Journal of Nordic International Studies Association, Vol.37(3), 2002, p. 325

⁷ Barry Buzan; *People, States and Fear: An Agenda for International Security Studies in the Post - Cold War Period*, Harvester Wheatsheaf, Brighton, 1991, p. 7

⁸ *Ibid.*

⁹ Ronnie D. Lipschutz (ed.); *On Security*, Columbia University Press, New York, 1995, p. 7

concept that refers to different meanings free from time and space. It has changed through time due to the changing security actors, threats and environment, etc. The social and environmental connotations were added to the concept regarding a global perspective. After the collapse of the Cold War world order, the concept transformed within a broader perspective.

In order to make a comprehensive analysis of politics of global security, it would be better to start with a brief outline on the definition of the security concept. In this sense, when one attempts to make a definition of the concept, at first sight, this definition would include the terms “threat” and “survival”. Security is the name given to a situation which is free of threats¹⁰ and the ultimate aim is survival¹¹. As put by Buzan et al.; security is about the ability of states and societies to maintain their independent identity and their functional integrity.¹² According to this definition, security is much more related with the capacities of the states. What is at stake is to what extent a state is capable to maintain its national interests. Another major definition made by Arnold Wolfers is:

Security is a value, then, of which a nation can have more or less and which it can aspire to have greater or lesser measure. It has much in common, in this respect, with power or wealth [...] but [...] security, in an objective sense, measures the absence of threats to acquire[d] values, in a subjective sense, the absence of fear that such values will be attacked.¹³

According to this definition, the threat is objective whereas the values are subjective. Here, the values are put as the main concern of a state. These values could be anything, national interests as well. In this sense, it would be debatable to talk only of fixed values in terms of security interests.

The changes in the international system put the issue of security on a different basis. For instance, in the Cold War period, security was perceived as something related with

¹⁰ Barry Buzan; *People, States and Fear: An Agenda for International Security Studies in the Post-Cold War Period*, Harvester Wheatsheaf, Brighton, 1991, p. 16

¹¹ Barry Buzan, Ole Wæver and Jaap de Wilde; *Security: A New Framework for Analysis*, Lynne Rienner Publishers, Inc., Boulder and London, 1998, p. 21

¹² *Ibid.*, p. 18

¹³ Arnold Wolfers; ‘National Security as an Ambiguous Symbol’, *Political Science Quarterly*, Vol. 67, No. 4, 1951, pp. 484 - 485

military issues. From a realist perspective, a threat is the likelihood of a military attack against the territory of a state. In order to protect national interests, military capabilities should be developed. But in the post-Cold War period, the security environment has changed; new threats and new actors have appeared. Terrorism and Weapons of Mass Destruction (WMD) came to the fore as the new types of threats which require different methods of fighting rather than military ones. The politics of global security mainly built upon these threats.

Furthermore, in the Cold War period, the security environment was based on national interests and military security. The military issues were on the top of the agenda. In other words, it is certain that military power was the number one issue of high politics. The distinction between foreign and domestic policies was drawn with definite lines. However, in the post-Cold War period, political and economic dimensions have come to the fore. There has been a breakdown in the hierarchy among issues. As put by Keohane, in the post-Cold War era, the agenda of interstate relationships encompass multiple issues that are not arranged in a consistent hierarchy.¹⁴ Therefore, it signifies the converging importance of “high politics” and “low politics”. As the hierarchy between various issues is decreasing, the division between foreign and domestic policies is also getting blurred. As borders are getting more blurred with globalization, it becomes impossible for each individual state to provide security only by itself. In addition to this, the emergence of new methods to fight against the security threats has also taken place. Namely, the political agenda has been transformed through the emergence of new means. Multiple channels which focus on “soft power” started to be used by incorporating a multi-dimensional approach.¹⁵ In dealing with the emerging threats, new strategies which combine militaristic and civilian measures are increasingly used.

Having mentioned the term “globalization” and “global issues”, it would be better to touch upon briefly what people usually refer to as “globalization”. Baylis and Smith define globalization as “the process of increasing interconnectedness between societies such that events in one part of the world more and more have effect on people and societies far

¹⁴ Robert O. Keohane and Joseph S. Nye.; *Power and Interdependence*, Longman, USA, 2002, p. 21

¹⁵ *Ibid.*

away”.¹⁶ A globalized world is one in which political, economic, cultural and social events become more and more interconnected. Since global security environment and global problems are transforming, the context of security studies and the instruments used are being transformed. Military issues are not the sole factors that shape the security concerns of states, but, socio-economic dimensions also occupy significant place in the security agenda. In the globalization process, the security of the individual began to be the key point rather than national security. In addition to this, the pursuit of security and stability has superseded the pursuit of profit in the globalized world.¹⁷ Local and global concerns became interchangeable. As Beck stated: “The current scare word ‘globalization’, seemingly unavoidable in any public statement, points not to an end of politics, but to its escape from the categories of the national state.”¹⁸ The interactions between the states have reached a new dimension.

On the one hand, the globalization process fastened the spread of technological innovations and economic transactions. While the state borders are disappearing, the differences among the societies are increasing. Since, there exist no global economic mechanisms to disperse wealth equally between societies and groups, then developed nations which accomplished to introduce necessary means of production, technology, work force and equipment benefited from the revenues of the system.¹⁹ One could come to the conclusion that different social classes emerged and the gap between those classes enlarged. On the one hand, the communities which could not integrate into the globalized world became alienated. This could be a result of economic problems and the inadequacy to compete on the global market. In addition to this, social problems caused the appearance of marginalized communities. All these challenges paved the way for the appearance of state failure in which the terrorist activities found place to be born. In each case, the world seems to be shrinking and people are increasingly aware of this.²⁰ The transformation of the international environment is realized through “complex interdependence”. According to Keohane and Nye, there are multiple

¹⁶ John Baylis, Steve Smith (eds); *The Globalization of World Politics: An Introduction to International Relations*, Oxford University Press, Oxford, 2001, p. 45

¹⁷ Ulrich Beck; ‘Risk Society’, *Towards New Modernity*, Sage, London, 1992, cited in: Martin Slattery; *Key Ideas in Sociology*, Nelson Thornes Publishing, UK, 2003. p. 255

¹⁸ Ulrich Beck; *What is Globalization?*, Blackwell Publishing, USA, 2002, p. 47

¹⁹ Andrew Cottey; ‘Europe and the Politics of Global Security’, *Paper presented at the Political Studies Association Conference* April, 11-13 University of Bath, 2007, p. 9

²⁰ *Ibid.*

channels which incorporate: informal ties between governmental elites as well as formal foreign office arrangements: informal ties among nongovernmental elites (face-to-face and through telecommunications); and transnational organizations (such as multinational banks)²¹. Thus, other than inter-state relations, new channels have emerged through the rise of multiple actors which can be called as “transnational actors”. The process of globalization paved the way to interactions in social, economic and political areas between these actors.

In the globalization process, the scope of the security concept has once again been widened. As a result of globalization, mutual dependence and transparency of borders have occurred and the interaction between actors has deepened. The issue of security goes well beyond national security. The security of individuals, the security of nations and transnational organizations are all included in the global security concept. The various global dangers cause cracks to appear in the pillars that have supported traditional security calculations.²² The potential damages are no longer solely in the realm of national security. The concept of security became deepened and widened in terms of the rise of the uncertainties.

Terrorist organizations, which are destructive and posing serious threat to world peace and sovereign nation-states, have also become transnational groups. As can be seen, terrorist organizations strengthened their networks and organizations through the transformation in economics, communication and weapons technology through globalization. Along with the globalization that is creating interdependence among the world’s free economies, there is a parallel globalization of terror, in which rogue states and terrorist organizations share information, intelligence, technology, weapons materials and know-how.²³ Terrorist organizations and their impact are so crucial that, the US, the UN, the NATO and the EU act to fight against this security threat. The European Union issued European Security Strategy (ESS), “A secure Europe in a Better World” in 2003, which refers to the emergence of new threats and new actors other than classical wars between states. It is stated in the ESS: “Europe collectively faces new threats which are more diverse, less visible and

²¹ Robert O. Keohane and Joseph S. Nye.; *Power and Interdependence*, Longman, USA, 2002, p. 21

²² Ulrich Beck; *What is Globalization?*, Blackwell Publishing, USA, 2002, p. 47

²³ Paul Wolfowitz; ‘Remarks Prepared for Delivery’, *World Affairs Council*, Monterey, 2002, cited in: Mikkel Vedby Rasmussen, ‘A Parallel Globalization of Terror’: 9 -11, *Security and Globalization*, *Cooperation and Conflict: Journal of the Nordic International Studies Association*, Vol.37(3), 2002, p. 330

less predictable in character” and “no single country is able to tackle today’s complex problems on its own”.²⁴

Within the scope of this study it is also important to explain briefly what is meant by “politics” here. As the politics of global security is the main perspective of this study, the concept of “politics” needs to be touched upon as well. As Crick stated: “Politics is the activity by which differing interests within a given unit of rule are conciliated by giving them a share in power in proportion to their importance to the welfare and the survival of the whole community.”²⁵ In this context, the politics of global security refers to the practices, discourses, institutions and documents that aimed to achieve global security. At this point, it is essential to check the analysis of Chantal Mouffe:

[...] ‘the political’ relates to the antagonistic dimension that is inherent in all human society; an antagonism can take many different forms and can be located in diverse social relations, whereas, in contrast, ‘politics’ can be taken to refer to the ensemble of practices, discourses and institutions that seek to establish a certain order and to organize social life in conditions that are always potentially subject to conflict because they are affected by the dimension of ‘the political’. In this vein; politics can be seen as the attempted pacification of the political, or the installation of order in a given society.²⁶

The politics of global security as seen in this study, thus, refers to a holistic approach including all dimensions of security and a variety of tools in dealing with them. In this context, the internal and external threats and methods of dealing with those threats are scrutinized. Today, the security concept is deepened regarding not only state security but also focusing on the security of individuals. So in that sense, the concept took a multidimensional shape. It went beyond the realm of the national interests of the nation states. It has a complex and global context which is interrelated with different concepts. In this regard, terrorism is a concept that is interrelated with global security. Having mentioned the politics of security in

²⁴ The Council of the European Union; ‘A Secure Europe in a Better World: European Security Strategy’, December 2003, p. 9. See Annex I for the whole text.

available at: <http://ue.eu.int/uedocs/cmsUpload/78367.pdf>, retrieved on: 29 July 2009

²⁵ Bernard Crick; *In Defence of Politics*, Weidenfeld and Nicolson, London, 1962, cited in: Andrew Heywood, *Politics*, Palgrave Foundation, New York, 2002, p. 45

²⁶ Chantal Mouffe; *The Democratic Paradox*, Verso Books, London and New York, 2000; cited in: David Slater; *Geopolitics and the Post-Colonial : Rethinking North - South Relations*, Blackwell Publishing, Malden and Oxford, 2004, p. 22

the globalization process, now it would be meaningful to define terrorism which is mentioned as one of the most important issues of politics of global security.

1.2. The Definition of Terrorism

Today, there is no universally accepted definition of terrorism. Nation states and international organizations are seeking for a commonly accepted definition. The nation states do not come up with an agreement not only on how to react against terrorism but also on how to define “terrorism”. Due to the political nature of terrorism, it is difficult for all nation states and international organizations to reach a universal agreement on a comprehensive definition that includes all related issues of terrorism. The concept of terrorism has been situated in various contexts such as politics, religion and security. If the concept is analyzed in only one context, the analysis would be insufficient. In order to introduce a proper definition of terrorism, it is necessary to explicate the background of the concept “terrorism” itself. This chapter focuses mainly the theoretical framework of the word terrorism in terms of the definitions and the historical background. Before any attempt at a further research and analysis, the key concept is taken into consideration. With this aim, the approaches of different scholars from different backgrounds are touched upon. The approaches of different scholars to analyze the concept of terrorism are crucial as they are giving a deeper understanding of the issue with its multidimensional structure. Secondly, the international law definitions are explained in detail. A special emphasis is given to the definitions of the United Nations (UN), the United States (US) and particularly the European Union (EU). The perspectives of these three outstanding actors are analyzed on the basis of an extensive literature study. Then, the characteristics of terrorism are explained and it is followed by a section focusing on the issue of categorization in which the types of terrorism are explained in order to understand the content and method of the concept itself. The study in this chapter is an endeavor to draw the general lines of the issue of terrorism and to concretize the concept.

1.2.1. The Historical and Theoretical Framework of the Term “Terrorism”

The roots of the word “terror” comes from the Latin origin “*terrere*”, “to frighten”, but it also has relationship with the Greek word “*trein*”, “to be afraid”.²⁷ The definition of the word terrorism has been changing over time. The concept of terrorism transformed directly related with the historical and political evolution of the act itself. As time goes by, causes of terrorism and acts of terrorism diversify.²⁸

In today’s globalized world, the definition of terrorism is preferred to be left as vague as possible by many states since terrorism has been committed in the past by many state actors. It is mainly because of the disagreement on a universally accepted definition of terrorism that there is no applicability of shared anti-terrorism laws. Thereby, nation states kept themselves away from commonly shared values and binding rules. Nevertheless, today it is clearly understood that to “act together” against terrorism would keep states away from the threats to security. The adoption of a universally accepted definition of terrorism is needed so that it can be prohibited irrespective of its motivation, and also the effective application of shared laws against terrorism. The achievement of a common terrorism definition can become possible only if the legal distinction between terrorism and other criminal activities is made and then the necessity to develop international cooperation against terrorism is understood. A framework on “what is” and “what is not” terrorism is the initial step on the way of definition. As Ganor mentioned a common definition is a useful step in overcoming the differences between countries on dealing with the states sponsoring terrorism and initiation of an international campaign designed to undermine the claims of legitimacy of terrorism.²⁹

Today, the security agenda of global community takes shape around the issue of terrorism. The events of 9/11 triggered the process of securitization as a rising trend in world politics. The current trends in the world security system rely on the increasing global demand for avoiding the threats to global and national security. The issue of security always ranks in one of the top places of the global issues. However, 9/11 revealed the urgency and the

²⁷ Philip Herbst; *Talking Terrorism: A Dictionary of the Loaded Language of Political Violence*, Greenwood Press, Westport, Connecticut, London, 2003, p. 24

²⁸ *Ibid*

²⁹ Boaz Ganor; ‘Defining Terrorism: Is One’s Man Terrorist Another Man’s Freedom Fighter?’, *Police Practice and Research* , 3:4, 2002, p. 15

seriousness of the situation. Nonetheless, the security perceptions and the reaction methods changed after 9/11. Notably, it is seen that the process of developing a global coalition against terrorism has started. The attacks of 9/11 indicated the probability of a security threat to a superpower by a terrorist organization. In fact, the concept of terrorism itself is simple and ordinary whereas, its connotations are multidimensional and sophisticated in the sense that its meaning is always debated and discussed. Having mentioned the appearance of the issue, it is necessary to observe the context in depth. First of all, the definition of terrorism should be analyzed clearly.

The very first recorded instance of terrorism was known as “*Sicarii*” – came from the Latin word *dagger sica*, means assassins and murderers – movement in 67-73 C.E. During the ancient Judean zealots’ struggle against Roman occupation of Palestine, the *sicarii* began an indiscriminate war against its enemies.³⁰ Jewish groups in Palestine revolted against Roman forces through a series of attacks using guerilla and terrorist tactics. They killed people by using short daggers in crowded places and also in broad day light. So, they aimed to cause anxiety in the society which is the very basic indicator of terrorism. The war between Jews and Romans ended in 70 C.E with devastation of Jerusalem by Roman forces.

Therefore, violence aimed at causing fear and intimidating populations is not a new phenomenon. The word terror was first used to describe the Jacobin Reign of Terror that followed the French Revolution in 1789 in which the Jacobins killed anyone suspected of opposing the revolution.³¹ The root of the word comes from the French word “*L’terreur*”. At the beginning, the word “terrorism” was used in a positive meaning as a functional instrument for the consolidation of the new revolutionary government of the period 1793-94 in France. Thus, terror was used as a state instrument to protect the new regime from the destructive elements. Maximilian Robespierre, the French Revolutionary leader (1794), defined it as such “Terror is nothing other than justice, prompt, severe, inflexible: it is therefore an emanation of virtue: it is not so much a special principle as it is a consequence of the general principle of

³⁰ Jonathan Weinberger; ‘Defining Terror’, *Seton Hall Journal of Diplomacy and International Relations*, Winter/Spring, 2003, p. 64

³¹ Ben Golder, George Williams; ‘What is Terrorism? Problems of Legal Definiton’ , *UNSW Law Journal*, 27:2, 2004, p. 270

democracy applied to our country's most urgent needs.”³² On the contrary, today the word “terror” has different connotations much more negative rather than the positive ones of the French Revolution time. The definition of terrorism has always been problematic throughout the history. At the same time the definition has been continued to be changing and taking different shapes depending on the time and the way a terrorist action occurs.

The first international attempt to reach a legal definition of terrorism was seen at the International Conferences for the Unification of Penal Law against the events in various European cities throughout the 1920s and 1930s. Since then, lots of definitions have been produced on both local and global levels. The perceptions of security and threat change in time and space on both national and international levels. After 9/11, the concept of terrorism was evaluated in different dimensions. Therefore, 9/11 should be taken as a touchstone in the security agenda of world politics, especially in the literature of terrorism. As Ben Golder mentioned, the term is imprecise, it is ambiguous, and it serves no operative legal purpose. It is necessary to develop a coherent legal description of terrorism in this “Age of Terror”. After 9/11, the US emphasized the need to act together against terrorism. The EU took concrete steps to deal with the problem by moving the issue to a more serious security level. Additionally, the United Nations codified terrorism as an international crime.

The political context of the issue causes the complexity of reaching a common global definition of terrorism. As well as the lack of having a globally accepted definition gives rise to the insufficiency of avoiding the security threats and poor results of terrorist acts. The deeply political nature of the term terrorism gives rise to the disagreement of the nation states. As a result of the fact that a common definition could not be reached, nation states by the way the global environment are in an embarrassing situation against the rising reality of terrorism with a heavy hand.

The concept takes its place in world politics as the most debated question as a result of its controversial political context. There is no generally accepted and applied definition of terrorism. The perception of terrorism changes from one person to another or one state to another depending on social, economic, political differences which are shaped through the

³² Maximilien Robespierre; ‘Justification of the Use of Terrorism’, *Modern History Sourcebook*, 1794, available at: <http://www.fordham.edu/halsall/mod/robespierre-terror.htm>, retrieved on: 23 April 2009

primary impetus of taking care of one's own advantage. The point of view of the interpreter determines "one act" as a terrorist attack, "an action" as a terror action, "a group" as a terrorist group. The understanding of terrorism depends on the legitimacy of the ruling regime. "Political violence against the state is therefore more apt to be termed "terrorism" – with all the negative connotations the term denotes – than is political violence on the part of the state. [...] As a consequence of such reasoning, what might be viewed as terrorism by the West (if it occurs in a "Westernized" or liberal democratic state) may be regarded differently when it happens in less "legitimate" states".³³

The lack of a common definition, results defining some military actions as terrorist actions and some military organizations as terrorist organizations whether it is true or not. For instance, the distinction between the freedom fighters and terrorists is not clear in this regard. To a large extent, an old saying goes, "One person's terrorist is another person's freedom fighter." If one identifies with the victim of the attack, then it is considered terrorism, but if one can identify with the perpetrator it is not.³⁴ The lack of a common definition enables nation states to rule their own laws and make their own distinction between who are terrorists and who are freedom fighters. The conception of the term terrorism has been and is being transformed throughout the history in accordance with changing perceptions. Agreement on a workable common definition is inevitably needed, because without a globally accepted definition of an action, it is impossible to come together around a powerful reaction against that action. In other words, without a definition, the coordination of an international response to terrorism is prevented. As Ganor dwelled upon "As long as there is no agreement as to "What is terrorism?", it is impossible to assign responsibility to nations that support terrorism, to formulate steps to cope on an international level with terrorism, and to fight effectively the terrorists, terror organizations and their allies."³⁵ In this regard, there must be a universal definition of terrorism to make all states obey the same international law. However, it gets difficult to have a universal definition with the rising political instability and appearance of

³³ Mark Burgess; 'The Problems of Definition', *Center For Defence Information*, August 2003, available at: <http://www.cdi.org/program/issue/document.cfm?DocumentID=1564&IssueID=138&StartRow=1&ListRows=10&appendURL=&Orderby=DateLastUpdated&ProgramID=39&issueID=138>, retrieved on: 01 May 2009

³⁴ Brian Micheal Jenkins; 'The Study of Terrorism: Definitional Problems', *The Rand Cooperation*, 1980, p. 10, available at: <http://www.rand.org/pubs/papers/2006/P6563.pdf>, retrieved on: 20 April 2009

³⁵ Boaz Ganor; 'Defining Terrorism: Is One's Man Terrorist Another Man's Freedom Fighter?' *Police Practice and Research*, 3:4, 2002, p. 287

different political perceptions in world politics. As Walter Laqueur mentions, “Even if there were an objective, value free definition of terrorism, covering all its important aspects and features, it would still be rejected by some for ideological reasons.”³⁶

Anyway, both UN and EU documents point out the need to achieve a shared international public opinion to avoid all kinds of violence in the name of terror. To this end, if a common definition could be achieved, the way of legitimizing the political, social or ideological motivations for violent acts could be blocked. Namely, a globally accepted definition is a prerequisite for the formulation of a response that covers international cooperation. To this aim, different approaches of different actors in world politics should be analyzed in three dimensions: definitions by the UN, the US and the EU.

1.2.2. International Definitions

The problem of defining terrorism has been the crucial problem of the international community for years. In a realist perspective, terrorism was regarded as just a matter of security. The multidimensional nature of the concept was under construction. The discussions on whether an action is a terrorist action has always been vague and undetermined. So, any international consensus could be achieved. Without a definition, it has been obvious that there is not an international law which comprehensively prohibits terrorism. As Brian Jenkins claimed, “a definition not only makes quantitative and qualitative analysis possible, but also definitional constructs enable the long term analysis of the phenomena by constituting annual chronologies which illustrates trends in terrorist tactics, changes in the patterns of targeting, motives, lethality and other developments in terrorism.”³⁷ In years between 1927 and 1935, international conferences were arranged for the Union of International Penal Law.³⁸ In these conferences, the actions against the crimes that were the question of common concern and the need to unite penal law were discussed. However, the issue of terrorism was not discussed

³⁶ Walter Laqueur; *The Age of Terrorism*, Little Brown and Company, Boston, 1987 cited in: Brian Micheal Jenkins; ‘The Study of Terrorism: Definitional Problems’, *The Rand Cooperation*, 1980, available at: <http://www.rand.org/pubs/papers/2006/P6563.pdf>, retrieved on: 20 April 2009

³⁷ Brian Micheal Jenkins; ‘The Study of Terrorism: Definitional Problems’, *The Rand Cooperation*, 1980, available at: <http://www.rand.org/pubs/papers/2006/P6563.pdf>, retrieved on: 20 April 2009

³⁸ Since 1926, the Association has sponsored periodic international Congresses; since 1964, they have been held at five-year intervals. These Congresses have been held in: Brussels, Belgium (1926); Bucharest, Romania (1929); Palermo, Italy (1933). For further info see: <http://www.penal.org/pdf/histoire%20de%20l'AIDP%20version%20anglaise%20Tabita.pdf>

directly. In 1937, the Convention for the Prevention and Punishment of the Terrorism was drafted by the League of Nations but it never entered into force. It defined terrorism as “All criminal acts directed against a state and intender or calculated to create a state of terror in the minds of particular persons or a group of persons or the general public.”³⁹

In 1963, The Tokyo Convention⁴⁰ of 1963 first stated that a specific crime that is interfered with aircraft, hijacking, may constitute terrorism.⁴¹ Later, the Hague Convention of 1970 officially made it an offence for any person on board an aircraft in flight who uses force or the threat of force or intimidation, or attempts to seize or gain control of the aircraft, or is an accomplice in such an act.⁴²

As a result the approach taken to define terrorism in the international arena has been to adopt a specific “inductive model”.⁴³ In this approach, international scholars have expected to define specific actions of terrorism such as hijacking. The purpose was not to find a general definition there. There were 13 international conventions on some basic terrorist actions designed for commonly known terrorist *modus operandi*, such as;

- Convention on Offences and Certain Other Acts Committed on Board Aircraft (1963)
- Convention for the Suppression of Unlawful Seizure of Aircraft (1970)
- Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1971)
- Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (1973)
- Convention against the Taking of Hostages (1979)
- Convention on the Physical Protection of Nuclear Material (1980)
- Convention against Taking the Hostages (1983),
- Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (1988)
- Convention on the Marketing of Plastic Explosives for the Purpose of Detection (1991)
- International Convention for the Suppression of Terrorist Bombings (1997)
- International Convention for the Suppression of the Financing of Terrorism (1999)
- Convention on the Suppression of Terrorist Bombings (2001)
- Convention for the Suppression of Acts of Nuclear Terrorism (2005)

³⁹ Hans Peter Gasser; ‘Acts of Terror, Terrorism and International Humanitarian Law’, *International Review of the Red Cross*, 84:847, 2002, p. 560

⁴⁰ For further info see: http://dgca.nic.in/int_conv/Chap_XVI.pdf

⁴¹ *Ibid.*

⁴² Jonathan Weinberger; ‘Defining Terror’, *Seton Hall Journal of Diplomacy and International Relations*, Winter/Spring, 2003, p. 66

⁴³ Ben Golder, George Williams; ‘What is Terrorism? Problems of Legal Definiton’, *UNSW Law Journal*, 27:2, 2004, p. 275

This method of defining specific actions has recently been criticized. In 1999, a general approach has appeared with the *Convention for Suppression of the Financing of Terrorism*. According to this convention;

Any person commits an offence within the meaning of this Convention if that person by any means, directly or indirectly, unlawfully and willfully, provides or collects funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out:(a) An act which constitutes an offence within the scope of and as defined in one of the treaties listed in the annex; or (b) any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in hostilities in a situation of armed conflict, when the purpose of such an act, by its nature or context, is to intimidate a population, or to compel a Government or an international organization to do or to abstain from doing any act.⁴⁴

However, the events of 9/11 caused a drastic change in the security environment with the emergence of new kinds of threats especially, terrorism. After 9/11 a general definition is formulated with the *Draft Comprehensive Convention on the International Terrorism* for further consideration that includes;

- (1) Any person commits an offence within the meaning of this Convention if that person, by any means, unlawfully and intentionally, causes:
 - (a) Death or serious bodily injury to any person; or
 - (b) Serious damage to public or private property, including a place of public use, a State or government facility, a public transportation system, an infrastructure facility or the environment; or
 - (c) Damage to property, places, facilities, or systems referred to in paragraph 1(b) of this article, resulting or likely to result in major economic loss, when the purpose of the conduct, by its nature or context, is to intimidate a population, or to compel a Government or an international organization to do or abstain from doing an act
- (2) Any person also commits an offence if that person makes a credible and serious threat to commit an offence as set forth in paragraph 1 of the present article.⁴⁵

The convention is still in its draft form, but it is important to show the need for a general definition to decide as to whether an action is related to terrorism or not in the world community.⁴⁶ Indeed, the UN Member States are negotiating on it. As it is stated in UN

⁴⁴ United Nations; 'International Convention for the Suppression of the Financing of Terrorism', 9 December 1999, available at: <http://www.un.org/law/cod/finterr.htm>, retrieved on: 20 April 2009

⁴⁵ United Nations; 'Draft Comprehensive Convention of International Terrorism', available at: <http://daccessdds.un.org/doc/UNDOC/GEN/N05/460/57/PDF/N0546057.pdf?OpenElement>, retrieved on: 24 April 2009

⁴⁶ Alex P. Schmid; 'United Nations Measures against Terrorism and the Work of the Terrorism

Actions Counter-Terrorism Site, this convention would complement the existing framework of international anti-terrorism instruments and would build on key guiding principles already present in recent anti-terrorist conventions: the importance of criminalization of terrorist offences, making them punishable by law and calling for prosecution or extradition of the perpetrators; the need to eliminate legislation which establishes exceptions to such criminalization on political, philosophical, ideological, racial, ethnic, religious or similar grounds; a strong call for Member States to take action to prevent terrorist acts; and emphasis on the need for Member States to cooperate, exchange information and provide each other with the greatest measure of assistance in connection with the prevention, investigation and prosecution of terrorist acts.⁴⁷

In the 56th General Assembly meeting (2001), definition of terrorism was discussed. In the absence of an explicit definition of terrorism, it was important to distinguish between terrorism and acts of national resistance against foreign occupation, Qatar's representative told the General Assembly as it continued its consideration of measures to eliminate international terrorism. The absence of a definition seriously undermined international efforts to tackle a grave threat to humanity. The comprehensive legal definition to be formulated must distinguish between terrorism and legitimate struggle or national resistance against foreign occupation.⁴⁸

In 1998, the Arab Convention for the Suppression of Terrorism⁴⁹ defined terrorism:

Any act or threat of violence, whatever its motives or purposes, that occurs in the advancement of an individual or collective criminal agenda and seeking to sow panic among people, causing fear by harming them, or placing their lives, liberty or security in danger, or seeking to cause damage to the environment or to public or private installations or property or to occupying and seizing them, or seeking to jeopardize national resources.⁵⁰

Prevention Branch: The Rule of Law, Human Rights and Terrorism', 2004, cited in Wolfgang Bedenek, Yotopolos-Marangopoulos (eds.); *Anti-Terrorist Measures and Human Rights*, Martinus Nijhoff Publishers, Boston, 2004, p. 53

⁴⁷ United Nations; 'International Instruments to Counter Terrorism,' *UN Action to Counter Terrorism*, available at: <http://www.un.org/terrorism/instruments.shtml>, retrieved on: 23 April 2009

⁴⁸ United Nations; Press Release GA/9925 Assembly Hears Call for Definition of Terrorism, (03.10.2001), available at: <http://www.un.org/News/Press/docs/2001/GA9925.doc.htm>, retrieved on: 20 April 2009

⁴⁹ The UN Refugee Agency; 'The Arab Convention for the Suppression of Terrorism', April 1998, available at: <http://www.unhcr.org/refworld/publisher/LAS...3de5e4984,0.html>, retrieved on: 20 April 2009

⁵⁰ *Ibid.*

It is of some importance to note that this definition is secluded because the members of this convention such as Saudi Arabia, Syria, and United Arab Emirates were mostly blamed for the perpetrators and protectors of terrorist groups.

1.2.2.1. The Definition of the UN

Although Member States are negotiating the Draft Comprehensive Convention, a common definition has not been achieved yet. The Security Council and the General Assembly declared some general points of definition in various declarations that are mentioned above. Rather than a comprehensive definition, issue specific aspects of terrorism are identified.

Some basic points can be listed as:

- In 1937, Convention for the Prevention and Punishment of Terrorism⁵¹ defined terrorism as “criminal acts directed against a State or intended to create a state of terror in the minds of particular persons, or a group of persons or the general public.”⁵² This definition was criticized because it did not include which acts are illegal in the context of terrorism.
- In 1994, The General Assembly Resolution 49/60⁵³ described terrorism as “Criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes are in any circumstance unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or any other nature that may be invoked to justify them.”⁵⁴
- In 1995, UN General Assembly explained “Acts, methods and practices of terrorism constitute a grave violation of the purposes and principles of the United Nations, which may pose a threat to international peace and security, jeopardize friendly

⁵¹ The United Nations ;‘International Instruments to Counter-Terrorism’; *UN Action to Counter-Terrorism*, available at: <http://www.un.org/terrorism/instruments.shtml>, retrieved on 10 May 2009

⁵² *Ibid.*

⁵³ For further info see: <http://www.un-documents.net/a49r60.htm>

⁵⁴ The United Nations ;‘The General Assembly Resolution 49/60’, available at: <http://www.un-documents.net/a49r60.htm>, retrieved on 10 May 2009

relations among states, and aim at the destruction of human rights, fundamental freedoms and the democratic bases of society.”⁵⁵

- In 1999, UN General Assembly Resolution 54/109⁵⁶ defined terrorism as “Criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes are in any circumstances unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or other nature, that may be invoked to justify them.”⁵⁷ The meaning of the term became deep and wide.
- The events of 9/11 paved the way for the essential coordination in the UN to fight against terrorism. In 2001, UN Security Council Resolution 1373 stated: “Acts of terrorism endanger innocent lives and the dignity and security of human beings everywhere, threaten the social and economic development of all States and undermine global stability and prosperity.” With this Resolution, terrorism is accepted as a threat to global security. Hence, Member States are obliged to take a wide range of actions to prevent and punish terrorist acts and to attack the support structures of terrorism. 9/11 opened up a debate on the urgency of the need to come up with a common definition.

According to former Secretary-General Kofi Annan there are several Conventions on Terrorism by non-state actors. These conventions:

a) define a particular type of terrorist violence as an offence under the convention, such as bombing, financing, etc...; b) require State Parties to penalize that activity in their domestic law; c) identify certain bases upon which the parties responsible are required to establish jurisdiction over the defined offence; d) create an obligation on the State in which a suspect is found to establish jurisdiction over the convention offence and to prosecute if the Party does not extradite pursuant to other provisions of the convention.⁵⁸

⁵⁵ For further info see: <http://www.un.org/documents/ga/docs/50/plenary/a50-643.htm> and <http://www.ilsa.org/jessup/jessup08/basicmats/ga4960.pdf>

⁵⁶ For further info see: <http://www.un.org/law/cod/finterr.htm>

⁵⁷ *Ibid.*

⁵⁸ Deen Thalif; ‘Politics: UN Member State Struggle to Define Terrorism’, *Internet Press Service*, 25 July 2005, available at: <http://ipsnews.net/news.asp?idnews=29633>, retrieved on: 01 May 2009

In 2004, UN Security Council Resolution 1566⁵⁹ pointed out that all acts of terrorism irrespective of their motivation are condemned as one of the most serious threat to security and peace. As Alex Schmid touched upon act of terrorism is peace time equivalent of war crime.⁶⁰ More recently, the UN High Level Panel Report on New Threats and Challenges⁶¹ asserted: “Any action constitutes terrorism if it 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.”⁶²

In 2006, UN General Assembly came together to achieve a Comprehensive Anti Terrorism Treaty⁶³. A draft text for further consideration stated:

Any person commits an offence within the meaning of the present Convention if that person, by any means, unlawfully and intentionally, causes:

- (a) Death or serious bodily injury to any person; or
- (b) Serious damage to public or private property, including a place of public use, a State or government facility, a public transportation system, an infrastructure facility or to the environment; or
- (c) Damage to property, places, facilities or systems⁶⁴

The lack of agreement on a workable common definition caused chaos in reviewing measures to prevent terrorism. For all that, no consensus has ever realized within the UN on defining what constitutes terrorism. What is more important is that a universal definition would facilitate the realization of common ground for international cooperation in combating terrorism. While the international legal community has been searching for a universal definition, international bodies such as US and the EU are discussing on a common definition, nation states as well.

⁵⁹ The United Nations; ‘UN Security Council Resolution 1566’, 2004, p. 2, available at: <http://daccessdds.un.org/doc/UNDOC/GEN/N04/542/82/PDF/N0454282.pdf?OpenElement>, retrieved on: 02 May 2009

⁶⁰ Alex Schmid, Ronald D. Crelinsten; *Western Responses to Terrorism*, Routledge, London, 1993, p.68

⁶¹ The United Nations; ‘A More Secure World: Our Shared Responsibility’, Report of the High Level Panel on Threats, Challenges and Change, 2004, available at: <http://www.un.org/secureworld/report2.pdf>, retrieved on: 03 May 2009

⁶² *Ibid.*

⁶³ The United Nations; ‘Comprehensive Anti- Terrorism Treaty’, 2002, available at: <http://www.un.org/News/Press/docs/2009/13144.doc.htm>, retrieved on 03 May 2009

⁶⁴ The United Nations; ‘Draft Comprehensive Convention on International Terrorism’, 2006, available at: <http://www.reformtheun.org/index.php?module=uploads&func=download&fileId=2851>, retrieved on: 10 May 2009

1.2.2.2 The Definition of the US

Terrorism is a politically loaded and emotional term, used indiscriminately as a means of morally condemning the actions of one's opponents.⁶⁵ For example, the term is used by Western democracies to describe Iran's and Libya's sponsorship of bombings and kidnappings; it is also used by Libya and Iran to describe themselves as victims of "economic and political terrorism initiated by their "imperialist" and "fascist" accusers".⁶⁶ A working definition of terrorism is needed to get over the ambiguity of the concept. As Major William Farrell stated, "terrorism" has become "a term in common use having little common meaning."⁶⁷ There are nearly 140 definitions of terrorism, none of which is commonly accepted. Even within the US government, there is not a general definition of terrorism.

In the past, the US defined terrorism as a crime against which legal means were used to. Today, this definition has shifted to a definition as an "act of war". In the US federal system, each state determines what constitutes terrorism, as well as the agencies like CIA and FBI. In 1980, the Federal Bureau of Investigation (FBI) made the definition of terrorism as "The unlawful use of force or violence against persons or property to intimidate or coerce a government, the civilian population, or any segment thereof, in the furtherance of political or social objectives."⁶⁸ Concerning international terrorism, the definition of FBI goes into much greater detail:

International terrorism involves violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or any state, or that would be a criminal violation if committed within the jurisdiction of the United States or any state. These acts appear to be intended to intimidate or coerce a civilian population, influence the policy of a government by intimidation or coercion, or affect the conduct of a government by assassination or kidnapping. International terrorist acts occur outside the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to coerce or intimidate, or the locale in which their perpetrators operate or seek asylum.⁶⁹

In 1983, the US Department of State defined terrorism as "Premeditated, politically motivated violence perpetrated against noncombatant targets by sub-national groups or

⁶⁵ Martha Jordan; 'Terrorism and US Policy: Problems in Definition and Response', *The Research Department Air Command and Staff College*, 1997, p.8

⁶⁶ *Ibid.*

⁶⁷ *Ibid.*

⁶⁸ *Ibid.*, p. 10

⁶⁹ Martin Kalis; 'A New Approach to International Terrorism', *International Affairs Review*, 10:2, 2001, p. 85

clandestine agents, usually intended to influence an audience.”⁷⁰ Regarding international terrorism, the definition further goes: “Involving citizens or the territory of more than one country. Moreover, the US Department of Defense uses a definition that the calculated use of violence or the threat of violence to inculcate fear; intended to coerce or to intimidate governments or societies in the pursuit of goals that are generally political, religious, or ideological⁷¹ as terrorist acts.

After 9/11, President George W. Bush made an Executive Order on Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit or Support Terrorism. Section 3(d) defined “Terrorism” as an activity that:

- (1) involves a violent act or an act dangerous to human life, property or infrastructure; and
- (2) appears to be intended –
 - (a) to intimidate or coerce a civilian population;
 - (b) to influence the policy of a government by intimidation or coercion; or
 - (c) to affect the conduct of a government by mass destruction, assassination, kidnapping, or hostage-taking.⁷²

According to the US Code, Section 2331 of Title 18 the term “international terrorism” means activities that:

- (a) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; (b) appear to be intended –(i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping; and (c) occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum; [...]⁷³

⁷⁰ Martha Jordan; ‘Terrorism and US Policy: Problems in Definition and Response’, *The Research Department Air Command and Staff College*, 1997, p.12

⁷¹ ‘A military Guide to Terrorism in the Twenty-First Century’, 15 August 2007, FM 100-20, *Military Operations in Low Intensity Conflict*, 5 December 1990; and Joint Pub 1-02, *Department of Defense Dictionary of Military and Associated Terms*, 12 April 2001, as amended through 13 June 2007, available at: <http://www.au.af.mil/au/awc/awcgate/army/guidterr/intro.pdf>, retrieved on: 10 May 2009

⁷² The White House; ‘Executive Order 13129’, 4 July 1999, available at: <http://www.fas.org/irp/offdocs/eo/eo-13129.htm>, retrieved on: 21 April 2009

⁷³ US House of Representatives; ‘13 USC Chapter 113B-Terrorism’ 01 August 2008, available at: <http://uscode.house.gov/download/pls/18C113B.txt>, retrieved on: 21 April 2009

On the other hand, the term “domestic terrorism” means activities that:

- (a) involve acts dangerous to human life that are a violation of the criminal laws of the United States or of any State; (b) appear to be intended – (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping; and (c) occur primarily within the territorial jurisdiction of the United States.⁷⁴

Furthermore, the Central Intelligence Agency accepts the definition of terrorism in Title 22 of the US Code as:

[...] premeditated, politically motivated violence perpetrated against noncombatant targets by sub national groups or clandestine agents. The term “international terrorism” means terrorism involving the territory or the citizens of more than one country. The term “terrorist group” means any group that practices, or has significant subgroups that practice, international terrorism.⁷⁵

As the information provided above suggests, the definition of the FBI and the US Department of State covers civilian acts of violence whereas the US Department of Defense particularly emphasizes the political, religious or ideological goals. The unlawful use of force can be taken as the common point in all definitions. What is more is that a working definition should include practical obligations.

1.2.2.3 The Definition of Europe and the EU

Before the establishment of the European Union, there were various attempts to define terrorism in Europe. For instance, in 1977, European Convention on the Suppression of Terrorism defined a list of terrorist acts under the mandate of the Council of Europe which is founded in May 5, 1949 in order to develop throughout Europe common and democratic principles. However, it did not draw out a comprehensive outline for the definition of terrorism. Nevertheless, it was the sole common denominator in the field of terrorism until 2001.⁷⁶ This convention was accepted as the most meaningful of all conventions aimed to draw the outline of the definition of terrorist acts. Nevermore, this convention was criticized

⁷⁴ *Ibid.*

⁷⁵ Central Intelligence Agency; ‘CIA and the War on Terrorism’, available at: <https://www.cia.gov/news-information/cia-the-war-on-terrorism/terrorism-faqs.html>, retrieved on: 21 April 2009

⁷⁶ Eugenia Dumitriu; ‘The EU’s Definition of Terrorism: The Council Framework Decision on Combatting Terrorism’, *German Law Journal*, 05:05, 2004, p. 587

because of the absence of the expression of “terrorist organization”. In 1992, the 6th Title of the Treaty on the European Union mentioned police cooperation for the purposes of preventing and combating terrorism, unlawful drug trafficking and other serious forms of international crime, including, if necessary, and certain aspects of customs cooperation, in connection with the organization of a Union-wide system for exchanging information within a European Police Office (EUROPOL).⁷⁷ In theory, a definition including various violent acts was achieved indirectly.

At its extraordinary meeting on 21 September 2001 the European Council reached an agreement on the necessity of a European definition of terrorism. According to the European Council, terrorism consists of violent crimes, “committed by an individual or a group against one or more countries, their institutions or people with the aim of intimidating them and seriously altering or destroying the political, economic, or social structures of a country.”⁷⁸ The Council of Ministers of Justice meeting on 6 December 2001, based the definition of terrorism on attempts to “destabilize or destroy” political and economic structures.

Furthermore, a Framework Decision was adopted by the Council on 13 June 2002; with 31 December 2002 was the agreed deadline for transposition into national law. Council Framework Decision of 2002/475/JHA⁷⁹ defined terrorist offences as those offences “committed with the aim of intimidating people and seriously altering or destroying the political, constitutional, economic or social structures of a country.”⁸⁰ It is stated that terrorism constitutes one of the most serious threats to democracy, to the free exercise of human rights and to economic and social development.⁸¹ According to this definition terrorism can never be justified, whatever the target and the place where the offence is prepared or committed.⁸² Along with this definition, the EU pointed out not just the terrorist

⁷⁷ ‘Treaty on European Union’, 29 July 1992, available at:

<http://eurlex.europa.eu/en/treaties/dat/11992M/htm/11992M.html>, retrieved on: 10 May 2009

⁷⁸ The European Commission; ‘Presidency Conclusions, European Council Meeting in Laeken 14 and 15 December 2001’, available at: http://ec.europa.eu/governance/impact/docs/key_docs/laeken_concl_en.pdf, retrieved on: 02 May 2009

⁷⁹ The Council of the EU; ‘Council Framework Decision of 2002/475/JHA’, 31 December 2002, *Official Journal of the European Communities*, available at: <http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32002F0475:EN:HTML> retrieved on: 07 May 2009

⁸⁰ *Ibid.*, p.164/2

⁸¹ *Ibid.*, p.164/3

⁸² *Ibid.*, p.164/4

acts in the Member States but also the terrorist acts in third countries. This reflects the EU's commitment to tackle terrorism at a global as well as at the European level. According to the Decision, a terrorist group is a structured organization, established over a period of time, of more than two persons acting in concert to commit terrorist acts.⁸³ This Framework Decision covers all terrorist offences prepared or committed within the borders of the European Union, whatever their target, including terrorist acts against interests of non-EU Member States located in the EU.⁸⁴ It is important to underline that there were missing parts in all of the definitions. Mainly, a global recognized classification and a coherent legal definition are achieved with this document.

There are three documents related to the definition defining terrorism: the Common Position on the application of specific measures to combat terrorism, EC Council Regulation No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combat terrorism, and, the Council Framework Decision on Combating Terrorism of 13 June 2002. All these three documents focus on the intentional acts to damage a country or a government. The Framework Decision differs from the others with its special emphasis on the offences linked to a terrorist group as mentioned above.

In the European Security Strategy (2003), terrorism is discussed under the title of key threats to European security which are “more diverse, less visible and less predictable”. It is mentioned that “terrorism put lives at risk: it imposes large costs: it seeks to undermine the openness and tolerance of our societies and it poses a growing strategic threat to the whole Europe. Increasingly, terrorist movements are well-resourced, connected by electronic networks and are willing to use unlimited violence to cause massive casualties.”⁸⁵

Moreover, terrorism is defined as “not an ideology or movement, but a tactic or a method for attaining political goals” at the EU Terrorism Situation and Trend Report which

⁸³ *Ibid.*

⁸⁴ *Ibid.*

⁸⁵ The Council of the European Union; ‘A Secure European in a Beter World, European Security Strategy’, Brussels, 12 December 2003, p. 3, available at: <http://ue.eu.int/uedocs/cmsUpload/78367.pdf>, retrieved on: 12 May 2009

was established after 9/11 as a reporting mechanism.⁸⁶ Indeed, the Framework Decision which stated that all Member States had to align their national legislation with this Decision by 31 December 2002 is also underlined in this document. At the end of November 2007, the EU Counter-Terrorism Coordinator reported to the European Council that, apart from Slovakia, all Member States had fully completed the implementation. In Slovakia, the Framework Decision was partially implemented with the exception of the provisions concerning the liability of legal persons.⁸⁷

1.3. Characteristics of Terrorism

Although there is a conceptual confusion in defining terrorism, there are certain aspects of the concept. Having mentioned the lack of consensus, now it is better to dwell upon certain aspects of terrorism. In one of the most rigorous attempts to define terrorism, Schmid and Jongman examine 109 different definitions of terrorism.⁸⁸ There, they identify 22 elements in these definitions, calculate the frequency of their occurrence, and issue a lengthy consensus definition incorporating most of these elements.⁸⁹ Ranking from high to low frequency, the elements mentioned but not limited include:

[...] Violence, force; political; fear, terror emphasized; threat; (psych.) effects and (anticipated) reactions; victim-target differentiation; purposive, planned, systematic, organized action; method of combat, strategy, tactic; extra normality, in breach of accepted rules, without humanitarian constraints; coercion, extortion, induction of compliance; publicity aspect; arbitrariness, impersonal, random character, indiscrimination; civilians, non-combatants, neutrals, outsiders as victims; intimidation; innocence of victims emphasized, group, movement, organization as perpetrator; symbolic aspect, demonstration to others, incalculability, unpredictability, unexpectedness of occurrence of violence, clandestine, covert nature, repetitiveness, serial or campaign character of violence; criminal; demands made on third parties.⁹⁰

⁸⁶ Europol; 'TE-SAT, EU Terrorism Situation and Trend Report', Netherlands, 2008, p. 9, available at: http://www.europol.europa.eu/publications/EU_Terrorism_Situation_and_Trend_Report_TE-SAT/TE-SAT2008.pdf, retrieved on: 12 May 2009

⁸⁷ *Ibid.* p.9

⁸⁸ Alex Schmid, Albert Jongman; *Political Terrorism: A New Guide to Actors, Authors, Concepts, Data Bases, Theories and Literature*, North-Holland Publishing, Amsterdam Company, 1988, p. 56

⁸⁹ Alexander Spencer; 'Questioning the Concept of New Terrorism', *Peace Conflict and Development*, 8, 2006, p. 3

⁹⁰ Transnational Terrorism, Security and the Rule of Law (A project financed by the European Commission under the Sixth Framework Programme); 'The Nature of Terrorism,: Defining Terrorism within the EU', 28 June 2007, available at: <http://www.transnationalterrorism.eu/tekst/publications/European%20Definitions.pdf>, retrieved on: 10 May 2009

There is no need to discuss all these elements in this study. However, it would be useful to mention seven most commonly used ones:

Table: 1.1. Seven Main Elements Used in the Definitions of “Terrorism”

Element	Frequency
1. Violence, force	83, 5%
2. Political	65%
3. Fear, terror emphasized	51%
4. Threat	47%
5. (Psych) effects and anticipated reactions	41, 5%
6. Victim target differentiation	37, 5%
7. Purposive, planned, systematic, organized action	32%

Source: Alex Schmid, Albert Jongman; *Political Terrorism: A New Guide to Actors, Authors, Concepts, Data Bases, Theories and Literature*, North-Holland Publishing, Amsterdam Company, 1988, p.5

In any definition of terrorism, *act of violence* is the inevitable concept that should be covered. The use of violent means is the first remarkable issue in investigation of any terrorist action. Terrorists pursue their ultimate goal through giving harm to humans and/or damaging objects. The well-known tools of violence are armament and aggression. In order to draw public attention to their cause, terrorists use violent means such as bombings, assassination, kidnapping and hijacking. It is worth to mention here that terrorist organizations use violence as an instrument of political expression. In order to undermine the power of legitimate authority, they use any tools of violence including psychological violence or physical violence or both of them. According to Muller, “By creating incidental or intentional victims among the civil population, they want to create widespread fear and ensuing popular pressure on state authorities to make compromises with the terrorists.”⁹¹

The *political context* of terrorism distinguishes it from ordinary criminal activities. Terrorist organizations use violence not to gain material interests but to achieve political aims which could be changing existing order or gaining any political rights. Terrorists justify their acts on ideological, political, ethnic or religious reasons. They depict themselves as promoting

⁹¹ Herald Muller; ‘Terrorism, Proliferation: A European Threat Assessment’, *Chaillot Papers* 58, Institute for Security Studies, March 2003, p. 22, available at: <http://www.iss-eu.org/chaillot/chai58e.pdf>, retrieved on: 12 May 2009

a greater good in accordance with their ideology. Terrorists always have a certain and definite aim to achieve. As put by Paul Pillar: “Terrorists’ concerns are macro concerns about changing a legal order: other violent criminals are focused on the micro level of pecuniary gain and personal relationship. “Political” in this regard encompasses not just traditional left-right politics but also what are frequently described as religious motivations or social issues.”⁹² That is to say, a desire for political change is the ultimate aim whereas, the underlying factors are plentiful.⁹³

The concept of “*organization*” should be taken into consideration when the issue of terrorism is defined. The organizational structure is explained as two or more people come together around the same goal. In these organizations, there is a hierarchical structure of administration. The organizations coded as terrorist ones are first of all *illegal* organizations.⁹⁴ In this regard, an act is only defined as terrorism if it is illegal. Needless to say that states also might resort to terrorist means in their policies.⁹⁵ Another important point to be mentioned here is the action oriented structure of the terrorist organizations. It could precisely be mentioned that terrorist actions are well planned, systematic, organized and purposeful.

In addition to these, *targeting the noncombatants* is a distinguishing mark of terrorist actions. Terrorists choose victims randomly. A terrorist action can occur any time in any place. Rather than victim, the *audience* is given emphasis in any terrorist action. It is vital in the sense that to create an audience behind the victim is the ultimate aim. To maximize the psychological effect on society and government, terrorists target the noncombatants. Indeed, they believe that government will change its policies in order to ward off the fear in society. The overall target is typically a government the dominant authority who has power. As Schmid states, “Terrorism is a method of combat in which the victims serve as the symbolic target.”⁹⁶ Violent actors are able to produce a chronic state of fear by using violence outside the realms of normative behavior. This produces an audience beyond the immediate victim

⁹² Paul Pillar; *Terrorism and US Foreign Policy*, Brookings Institution Press, USA, 2001, p. 56

⁹³ *Ibid.*

⁹⁴ Alex Schmid, Albert Jongman; *Political Terrorism: A New Guide to Actors ,Authors ,Concepts, Data Bases, Theories and Literature*, North-Holland Publishing, Amsterdam Company, 1988, p. 20

⁹⁵ However, it is beyond the scope of this study to discuss the legality or the legitimacy of the states’ use of violence in these terms.

⁹⁶ Alex Schmid, Albert Jongman; *Political Terrorism: A New Guide to Actors ,Authors ,Concepts, Data Bases, Theories and Literature*, North-Holland Publishing, Amsterdam Company, 1988, p. 24

and results in a change of public attitudes and actions.”⁹⁷ That is to say, targeting of innocent civilians to cause fear in society paves the way to the real target: the audience. In this sense, victims are the symbolic targets.

Another aspect in the process of defining the characteristics of terrorism is based on the fear that the act caused. *Creating fear* in the population is another conspicuous characteristic of terrorism. The motive behind a terrorist action is not to give harm or to kill people, but to cause fear and anxiety in the society. Hence, violence aimed at causing fear is defined as terrorism.

The issue of *propaganda* is another characteristic of terrorism. Terrorists are willing to get as much media exposure as possible. Through media coverage, the fear that resulted from terrorist actions could easily become widespread. Thus, the message could easily be sent to the audience who is the real target of a terrorist action. The identity of the victim is often secondary or irrelevant to the terrorists who aim their violence at the people watching. This distinction between actual victims and a target audience is the hallmark of terrorism and separates it from other modes of armed conflicts. Terrorism is theater.⁹⁸

1.4. Types of Terrorism

Terrorism has changed into a new form over time. There are different classifications of terrorism as such: international terrorism and domestic terrorism; state terrorism and non-state terrorism; old terrorism and new terrorism; Islamic terrorism, technological terrorism, biologic terrorism, etc. Although many of these different categorizations are designed as a combination of different types with specific features and that they all have some general characteristics. Dwelling upon such a categorization only helps the understanding of the concept of terrorism. Above all, to categorize a terrorist attack does not justify the concept of terrorism. Actually, behind the categorization it is important to focus on the *content* and the *method* of terrorist attacks.

Here, from this point of a general categorization as “New” and “Old” onwards; the concept of terrorism would be analyzed in two dimensions of content and method. The “old-

⁹⁷ *Ibid.*

⁹⁸ Brian Jenkins; ‘Defense Against Terrorism’, *Political Science Quarterly*, 101:5, 1986, p. 775

new” categorization is just an attempt to pave the way into a better understanding of the concept with its different content and methods in depth. “New” and “Old” dimensions should be taken as a time scale of which points out the evolution of terrorism. As a result, the point of view in an attempt to define terrorism would be widened and deepened. The real concern beyond this categorization is the need to understand the method and the content of different terrorist actions in different times.

Terrorism is classified into two main groups as old and new terrorism by Alexander Spencer. As he mentions, terrorism as a form of political violence is by no means a new phenomenon. As mentioned before, the earliest terrorist groups were the “*Sicarii*” who were fighting against the Roman rule in Palestine. Moreover, the “Assassins” who were fighting against the empire of Saladin and other regions resisted the armies of Ottoman Empire could be taken as the first terrorist groups in history. With the very first usage of the word “terror” as a policy to protect the fragile government of the French Republic from counter-revolutionaries⁹⁹, the fight against autocracy was actualized through bombings and assassinations. After the Second World War, as Wilkinson pointed out, terrorism became an important part of the anti-colonial struggles. In this regard, the political goal of the early terrorists’ was withdrawal of the colonial power. It is worth to mention here that, the categorization of terrorism as “old terrorism” attempted the struggle against colonial powers by sub-state organizations. Many scholars have argued that the period between the late 1960s and the late 1980s is marked by traditional or so called “*old terrorism*”, which can be roughly divided into different types of terrorism such as left and right-wing as well as ethno-national separatist terrorism.¹⁰⁰

First of all, the content of terrorism is mainly argued as the terrorist movement against state or the terrorist movement with the state sponsorship. For instance the terrorist organization of ETA (Euskadi Ta Askatasuna) is one of the terrorist organizations which are against the state. They work for the independence of the Basque territory in Spain. In 1979, the Basque territory been given its autonomy but the aim of ETA is the realization of full independence. On the other hand, a terrorist organization could be at the same time both state

⁹⁹ Paul Wilkinson; ‘International Terrorism: New Risks to World Order’ cited in: Alexander Spencer, ‘Questioning the Concept of New Terrorism’, *Peace Conflict & Development*, 8, January 2006, p. 6

¹⁰⁰ Walter Enders, Todd Sandler; ‘Is Transnational Terrorism Becoming More Threatening? A Time-Series Investigation’, *The Journal of Conflict Resolution*, 44, 3, 2000, p. 310

sponsored and against the state. For instance, the terrorist organization of IRA (Irish Republican Army), which is formed to protect the rights of Catholics in the Northern Ireland, is one of them. IRA fights against the state and also takes the support of the Irish in the USA and the state support from Libya.

The motives behind the early terrorist attacks were usually the secular motivations and political goals of independence. The ethno-centrist groups aimed to gain independence. Furthermore, left-wing groups aimed to raise the working class up against capitalism. Therefore the specific demands of the mentioned terrorist groups' were often seemed reasonable, namely, rationally negotiable. Even where the demands were difficult to respond to, such as the reunification of a divided country, the creation of an ethno-national homeland or the abolishment of the existing the capitalist system, in many circumstances there appeared to leave some room for dialogue or negotiation.¹⁰¹ In addition to these, the old terrorists were not willing to use excessive violence. Contrarily, they aimed to choose symbolic targets to express themselves. If they used excessive violence they believed that this would reduce their claim of legitimacy which was their ultimate purpose. To this aim, rather than using excessive violence, they selected targets carefully which attract the attention to their political purpose. In a similar vein, they aimed to come to such a position of bargaining their political purposes with the government. In old terrorism, the will of terrorist groups was mainly to take the public support. Therefore, they did not use weapons of mass destruction (WMD) which would cause innocent casualties. They used machine guns and bombs. This is the method of terrorism that the old terrorists preferred.

Moreover, the hierarchical organization structure is another important characteristic of the old terrorism. The leader on the top who decides on the attacks, the active terrorists who carry out the attacks, the active supporters who supply the equipment and finally, the passive supporters who work for spreading the ideology far beyond the terrorist actions. Terrorist organizations like ETA and IRA are contrasted with the *Al Qaeda*, their difference is be touched upon under the “new” category.

¹⁰¹ Adrian Guelke, *The Age of Terrorism and the International Political System*, London: I. B. Tauris, 1998, p. 52-70, cited in: Alexander Spencer, 'Questioning the Concept of New Terrorism', *Peace Conflict & Development*, 8 January 2006, p. 7

Furthermore, the issue of the association of terrorism with state support is another type of terrorism. However, it is debatable to cover this category only in old terrorism. It can therefore be argued that in Cold War period supporting a terrorist attack was seen as a useful and cheap method for damaging another state.

On the other hand, the 1990s can be accepted as the start of the period of the “*new terrorism*”. The very first prominence in new terrorism is the rise of religious fanaticism. The motives behind the new terrorist attacks are mostly linked with religious believes. It is important to mention here the appearance of Islamic terrorism. It is also one of the dimensions that should be analyzed as the content of terrorism. Islamic terrorism refers to the use of violence to achieve Islamic fundamentalism as the ruling power. Its main activities are suicide bombing, hijacking, kidnapping and assassinations.

Moreover, the use of excessive violence is an obvious difference between the old and new terrorism. The new terrorist groups do not pay attention to the selection of the targets carefully; rather, they pay attention to the size of the damage. They already see their victims as the evil that are against the rule of God. New and Islamist, therefore, the use of excessive violence that causes the alienation from the public does not make sense for the new terrorist groups. Additionally, they do not look for negotiation. As Morgan stated, “Today’s terrorists don’t want a seat at the table, they want to destroy the table and everyone sitting at it”. In new terrorism, the attacks by the suicide-bombers are increased. Since the ultimate aim of religious beliefs is put as to reach the promised heaven, to die for this aim is accepted as a sacred issue even martyrdom. To this aim, the use of weapons of mass destruction is seen as reasonable for the new terrorists. Having mentioned the justification of the use of WMD, it is important to mention here the possible sub-categories of the new terrorism such as: biological terrorism, technological terrorism, nuclear terrorism, chemical terrorism and so on. For instance; biological terrorism refers to the usage of toxic biological agents to harm civilians and nuclear terrorism refers to the usage of nuclear materials to cause mass destruction.

Another important characteristic of new terrorism is the financial sources of terrorist actions. It can be argued that the terrorist attacks are either sponsored by states or not. The state-sponsored terrorism is also continued to be exist by altering the form. However, as of 90s, the ways of financing terrorism has changed into a much more illegal sources such as

drug trafficking. Yet, one should not come to a conclusion that the state-sponsored terrorism disappeared; rather, it just took a different form and became less apparent.

In addition to these, the use of technology is increased in new terrorism. The sub categories of technological terrorism should be mentioned here. Reaching information and communicate with their supporters become much easier through internet. Hence, new terrorist can easily be organized for their attacks and also spread their ideologies. This is also another method of terrorism that changes over time.

Furthermore, the organizational structure of the new terrorists is less hierarchical than the old terrorists. The ultimate aim of terrorist attacks is rather determined but the actions to reach those aims are decided by small groups. Generally, small groups come together for a definite action then, after the mission is completed, they are diffused. The real concern is the motive behind the attacks and the message given. The name of the organization itself, the identity of the organization does not make sense. The members usually operate self-sufficiently. Some scholars name, these terrorists as amateur terrorists who only come together in ad hoc groupings through the network achieved by new technologies and internet. As Spencer emphasizes, this type of integrated structure is a lot more difficult to identify and penetrate than a more traditional hierarchical structure.¹⁰² It is far more resilient because each cell can still operate even if they lose the leadership of the organization.¹⁰³

It is needless to say that there are several cases of old terrorism and new terrorism which are similar to each other in contradiction to this categorization. In other words, in new terrorism there can be seen hierarchical structures and also in old terrorism there can be seen excessive use of violence. In fact, both are characterized by a mixture of hierarchical and network-like organizational structure. As Laqueur argued there has been no terrorism per se, only different terrorisms.¹⁰⁴ Therefore, it is meaningless to point out only one type of old terrorism and one type of new terrorism. That is to say, the categorization of terrorism as new, old, modern, traditional does not make sense. The generalization in such a sophisticated issue

¹⁰² Alexander Spencer; 'Questioning the Concept of New Terrorism', *Peace Conflict & Development*, 8, January 2006, p. 12

¹⁰³ *Ibid.*

¹⁰⁴ Walter Laqueur; *The New Terrorism: Fanaticism and the Arms of Mass Destruction*, London, Oxford University Press, 1999, p. 25

of terrorism is difficult and risky. However, the sub categories mentioned above which mainly explain the way of the action itself (chemical terrorism, nuclear terrorism) or the ideology behind the action (Islamic terrorism, left-wing terrorism) are meaningful and explanatory to understand motives behind terrorist attacks and the form of attacks.

1.5 Concluding Remarks

To sum up, terrorism is not only a phenomenon that is hard to define, but also a complex concept that nation states can not agree on a global definition. As a matter of fact, there are several attempts to define, to suppress and to penalize terrorist actions with different conventions and treaties. Yet, different definitions of terrorism are formulated by focusing on different perceptions of terrorism; as terrorism is intended to be a matter of perception and is thus seen differently by different observers.¹⁰⁵ An important point that should be kept in mind is that if a globally accepted definition of terrorism is achieved, this would pave the way to rigid rules about combating terrorism and averting terrorists. Therefore, this conceptual confusion and the lack of consensus on definition suit nation states in a way especially the ones that support some terrorist organizations in accordance with their benefits. Indeed, the nation states avoid binding rules and responsibilities especially in the area of security and foreign policies. It is of some importance to notice that a common definition of terrorism could not be achieved, whereas the characteristics of terrorism are studied in depth. Additionally, the categorization of terrorism is another debatable issue in research on terrorism. In this chapter this categorization is made through the two dimensions of method and the content by the “old and new” scale. It is better to draw the general lines from any point of view to consider the big picture closely. Consequently, it can be said that because of the political charge of the term and its ambiguity cause the international community to fail to reach a global legal definition of terrorism so far.

¹⁰⁵ *Ibid.*

II. THE EUROPEAN UNION AND TERRORISM

Terrorism is not a new phenomenon in Europe. Especially after the World War II, terrorism captured the world by taking several forms and using sophisticated organizational methods. The rise of organized terrorist actions came into being in 1960s. In the Cold War period the Soviet Union (SU) worked for spreading its ideology in Europe through supporting the revolutionist socialist terrorist organizations. Europe was exposed to terrorist attacks after the end of Cold War because of the fact that the new world order of the post-Cold War period encouraged nationalist and ethnic movements, illegal migration, independence movements and organized crime.

After the end of Second World War in 1945, the security agenda of the world focused on the Cold War between the US and the SU. The end of Cold War paved the way to a new world order in which the issue of terrorism began to be perceived as one of the primary threats to national security. Thus, new security challenges came out such as the growth of ethnic nationalism, proliferation of weapons of mass destruction, drug-trafficking and especially international terrorism. The religious and ethnic groups encouraged to achieve their aims through independence movements.

From that point onwards, the European states were searching for ways to combat against terrorism. All states tried to improve their own policies and tactics to get over the security threats. Security is very important for the continuation of stability and prosperity in Europe. On this account, the historical background of the EU activities in realization of the security policy is given in this chapter as; the Trevi Group, the Single European Act, the Schengen Agreement, the Maastricht Treaty, EUROPOL, the Amsterdam Treaty, the Tampere Summit, the EUROJUST and the post-9/11 conventions and Council frameworks.¹⁰⁶ Hence, a common European approach of the fight against terrorism is explicated in detail.

¹⁰⁶ As this is a master thesis, it goes well beyond the scope of this study to analyze all of the conventions and summits. The scope of this thesis is limited with the counter-terrorism policies of the Union. To this aim, the important conventions and summits are chosen to make a brief outline of the development of counter-terrorism policies in the European Union. Indeed, these summits and frameworks are analyzed regarding their anti-terrorism measures. This is not to deny the importance of other main summits and frameworks and their outputs

One of the aims of the Rome Treaty, 1957 was the free movement of people within the community whereas; it could not achieve the arrangements on border controls and visa policies. In the following years, the desire for creating a free environment that includes all members of Europe, the increasing problems of security such as drug-trafficking, organized crime, illegal migration and terrorism came into the agenda. In order to tackle these problems, the European states were willing to create an *ad hoc* cooperation in the issues of justice and home affairs.

2.1. Terrorism in the Evolution of the EU Security Policy - The 1st Period

The evolution of the EU's counter-terrorism efforts is studied in this study in two separate parts: 1st period and 2nd period. The first period covers the historical background of the security policies until 9/11 and the second period covers the EU responses to 9/11. There are various actions that have been taken by the Member States in order to combat terrorism. It is certainly known that all the treaties, organizations and institutions mentioned below, have valuable dimensions and various attributions related with the establishment of the EC, progress of the Integration process and realization of the different dynamics of security, this study emphasizes their relations with the security policy of the EC and their importance in the fight against terrorism. In this regard, the treaties and institutions are evaluated in the dimension of security and especially terrorism in this study.

2.1.1. The Trevi Group - 1976

In 1970s the terrorist actions increased whereas European states could not achieve combating terrorism at the state level. In order to come together for fighting against terrorism, an organization called TREVI (Terrorism, Radicalism, and Extreme Violence International) established in 1976 as a result of the European Council in Rome, 1975. This was an organization similar to a forum in which information exchange was realized. The first and foremost aim was combating terrorism. However, it branched out its sphere of interest to

irrelevant with terrorism. But to achieve a better analytic study, the chosen events and their terrorism-related outputs are an issue of concern.

organized crime, illegal migration, drug- trafficking, i.e., issues about internal security. This organization, a loose intergovernmental cooperation, was aimed to increase anti-terrorism cooperation among Member States in political and operational dimensions. It included Ministers of Justice and Ministers of Interior of the EC Member States. It provided information exchange between 12 Member States' police organizations and coordination of the fight against terrorism. Indeed, TREVI was working at three levels: the Working Parties, Senior Officials and Ministers. In addition to these, two more groups were established. One of them was TREVI Troika which was comprised of senior officials from the current EC Presidency, the last Presidency and the next one in order to assist the current Presidency. The other one was the TREVI Friends which was composed of countries outside the EC: Austria, Morocco, Norway, Switzerland, Finland, Canada and the USA. They did not actually take part in the discussion; they had an observer status. TREVI Ministers were working on internal security and police coordination at high level. At the middle level, senior officials represented the chiefs of police to brief Ministers. At the last level, the Working Parties that were composed of police and security chiefs from Member States focused on operational orientation. There were five working groups which were responsible for different security related issues. The first group was responsible for measures to combat terrorism, the second group was responsible for police training, the third group was responsible for drug-trafficking and organized crime, the fourth group was responsible for security at nuclear installations and lastly, the fifth group was responsible for emergencies.

The TREVI group fostered police coordination between Member States and gave rise to increase in the level of confidence. One could read that this organization paved the way for the political stability for the issues of internal security. However, some concrete steps on coordination could not be achieved. TREVI was also criticized for the lack of coordination between the Working Groups. The differences between the legal mechanisms and criminal laws of the Member States posed an obstacle in putting the decisions into practice. Coordination could not be achieved fully as a result of the lack a general secretariat. Nevertheless, it is worth to mention here that TREVI was a successful organization which was accepted as the first organization for fighting against terrorism in the EC.

Meanwhile, the TREVI group was also important because of being the first ad hoc cooperation in the EU. The period of ad hocery under the umbrella of intergovernmental cooperation between the 12 EC states, lasted from 1976 to 1988 when the EC states began the process formalizing its work.¹⁰⁷ However, the TREVI group had weaknesses on combating terrorism. The TREVI group was out of the legal framework of the EC. It was an ad hoc voluntary structure that made the application process weak and insufficient.

2.1.2. The Single European Act - 1986

The Single European Act (SEA) signed in 1986 aimed at the removal of barriers among members and increased harmonization. It is accepted as the landmark of the completion of European Political Cooperation within the EU. The SEA had three fundamental objectives: full realization of the single market and reform of existing political institutions to improve efficiency, democratic legitimacy and formally integrate the realm of foreign policy into the treaties.¹⁰⁸ The idea of the removal of barriers among European and non-European citizens within the borders of the EC paved the way to decrease the level of controls at the borders. In other words, the SEA is defined as an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured in accordance with the provisions of this Treaty.¹⁰⁹

Moreover, the issue of free movement of persons which the SEA aimed caused security problems in the EC. Consequently, the controls at the outside borders of the EC increased and the need to regularize the migration policies came out. The removal of barriers should be substituted by other kind of control mechanism to provide internal security. To this aim, new working groups focused on migration, border controls, drug-trafficking were created out of the legal framework of the EC. In other words, the SEA became the framework for further EC Member States intergovernmental cooperation. The structure of these working

¹⁰⁷ Tony Bunyan; 'Trevi, EUROPOL and the European State', *Statewatch Reports*, 1993, p. 9, available at: <http://www.statewatch.org/news/handbook-trevi.pdf>, retrieved on: 29 May 2009

¹⁰⁸ John Pinder; 'A Short Guide to the European Union', 2001, cited in: Amie Kreppel; 'Necessary but not sufficient: Understanding the Impact of Treaty Reform on the Internal Development of the European Parliament', *Journal of European Public Policy* 10, 2003, p. 884.

¹⁰⁹ 'The Single European Act', 17 February 1986, available at: http://europa.eu/scadplus/treaties/singleact_en.htm, retrieved on: 29 May 2009

groups was criticized because of taking Commissioners into their organization only as observers.

Furthermore, in order to facilitate the establishment of the internal market, the number of issues over which the Council can take decisions by qualified majority voting instead of unanimity increased. This facilitated decision-making and avoided the frequent delays inherent to the search for unanimous agreement among the twelve Member States.¹¹⁰ Unanimity was no longer required for measures designed to establish the Single Market, with the exception of measures concerning taxation, the free movement of persons, and the rights and interests of employed persons.¹¹¹ Yet, security related issues were problematic for Member States. It was still difficult to harmonize the security policies of Member States. The SEA was a crucial document in realization of political cooperation whereas it led to an increase in security threats within borderless structure of the EC.

2.1.3. The Schengen Agreement - 1985

The Schengen Agreement was first signed in 1985 between the five European countries: France, Germany, Belgium, Luxemburg and the Netherlands to create a territory without borders. A further convention was signed in 1990. When it came into effect in 1995, it abolished the checks at the internal borders of the signatory states and created a single external border where immigration checks for the Schengen area are carried out in accordance with identical procedures. Common rules regarding visas, right of asylum and checks at external borders were adopted to allow the free movement of persons within the signatory states without disrupting law and order.¹¹² Following the five founding members, Italy joined in 1990, Portugal and Spain joined in 1991, Greece joined in 1992, Austria joined in 1995, Denmark, Finland and Sweden joined in 1996. The United Kingdom (UK) and Ireland did not fully participate; they preferred partial participation to this agreement. The UK and Ireland put up the argument that they do not have land borders with these Member States. So, they

¹¹⁰ *Ibid.*

¹¹¹ *Ibid.*

¹¹² 'The Schengen Agreement', Brussels, 14 June 1985, available at: [http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:42000A0922\(02\):EN:HTML](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:42000A0922(02):EN:HTML), retrieved on: 28 May 2009

decided to have a free movement among themselves. The reason behind this decision was mainly security concerns. In 2007, nine new countries joined the Agreement: Czech Republic, Lithuania, Latvia, Malta, Poland, Slovakia, Estonia and Slovenia.

In order to create cooperation and coordination between the police and judicial authorities of the Member States, Schengen Information System (SIS) was established. The exchange of information between the members of SIS was provided. Thereby, this System was an important tool in harmonization of police cooperation and judicial collaboration together with the fight against international crime and terrorism. According to the Agreement; the internal borders were removed and a single outline border was accepted. The main objectives of the Agreement were;

- the abolition of checks at common borders, replacing them with external border checks;
- a common definition of the conditions for crossing external borders and uniform rules and procedures for checks there;
- separation in air terminals and ports of people travelling within the Schengen area from those arriving from countries outside the area;
- harmonization of the conditions of entry and visas for short stays;
- coordination between administrations on surveillance of borders (liaison officers and harmonization of instructions and staff training);
- the definition of the role of carriers in measures to combat illegal immigration;
- requirement for all non-EU nationals moving from one country to another to lodge a declaration;
- the drawing up of rules governing responsibility for examining applications from asylum seekers (Dublin Convention, replaced in 2003 by the Dublin II Regulation);
- the introduction of cross-border rights of surveillance and hot pursuit for police forces in the Schengen States;
- the strengthening of judicial cooperation through a faster extradition system and faster distribution of information about the enforcement of criminal judgments;
- the creation of the Schengen Information System (SIS).¹¹³

One should underline the fact that the Schengen Agreement is not in the realm of the counter-terrorism policies. It only has connotations regarding terrorism. So in that sense, as the Schengen Agreement did not cover all of the Member States, it was far from democratic control mechanisms. The free movement zone created by the Schengen Agreement does not serve for the counter-terrorism policies. Because, the serious threat to national security posed by open borders complicate the prevention policies.

¹¹³ *Ibid.*

2.1.4. The Maastricht Treaty - 1992

The common reasons that paved the way to cooperation on the issues of Justice and Home Affairs in the Union were; the need for security solutions after the Schengen Agreement as well as the need for acting together against the unstable security environment that came out after the collapse of authoritarian regimes in Central Eastern Europe especially in terms of organized crime.

The Maastricht Treaty created harmonization on the issues of internal security with the collaboration of all Member States as different from the partial participation to the Schengen Agreement. The Maastricht Treaty while establishing the European Union set cooperation in justice and home affairs as the third pillar of the Union.¹¹⁴ The first pillar consisted of the three pre-existing communities (economic, coal and steel, an atomic energy); the second and third pillars consisted of two areas in which there was to be more formal intergovernmental cooperation: the Common Foreign and Security Policy (CFSP) and Home Affairs and Justice.¹¹⁵ Another important aspect of the Maastricht Treaty was that it incorporated the security aspect of the EU which articulated the “eventual framing of a common defense policy that might in time lead to a common defense.”¹¹⁶ The common cooperation areas which encouraged EU Member States to increase ad hoc cooperation in the field of justice and home affairs were stated precisely as: migration, board controls, drug-trafficking, judicial cooperation on law and crime, police cooperation on international crimes and combating terrorism. On these issues, states were required to move together, inform and consult with each other. On any matter of foreign and security policy, the Council has the authority to define a common position. The Member States have to ensure that their national policies conform to the common positions. Indeed, in international organizations the Member States uphold the common positions through coordination. This was a crucial step for Member States that they were willing to cooperate on these issues for their own interests. By the introduction of the CFSP of the EU, the Union aimed to “make its voice heard on the

¹¹⁴ The legal basis of the Union was settled. Indeed, the three pillar structure was created with this treaty.

¹¹⁵ John McCormick; *Understanding the European Union: A Concise Introduction*, Palgrave Macmillan, UK, 2003, p. 73. The Maastricht Treaty entered into force in 1993.

¹¹⁶ ‘Treaty of Maastricht on European Union’, Title VI, J4, Official Journal C 191,29 July 1992, available at: <http://eur-lex.europa.eu/en/treaties/dat/11992M/htm/11992M.html> , retrieved on: 02 June 2009

international stage, express its position on armed conflicts, human rights and any other subject linked to the fundamental principles and common values which form the basis of the European Union and which it is committed to defend.”¹¹⁷

Before the 9/11 attacks, the EU approached terrorism within the scope of the third pillar. The aim of the third pillar was to provide the environment for the Member States to combat terrorism, drug-trafficking and organized crime within a single framework while sustaining the free movement of people.

The aim of the third pillar was creating a common point of view against terrorism, organized crime and drug traffic. Article K 1 paragraph 9 was emphasized that one matter of common interest among Member States in the area of justice and home affairs was police cooperation in order to fight terrorism. As mentioned before free movement of persons in the EU was realized without creating a mechanism to provide internal security. For instance; criminals could move freely from one country to another. Terrorism, cybercrime, drug-trafficking in human beings were among the most obvious examples of cross-border crime, and to deal with them effectively the EU needed a common policy on criminal matters. It was assumed that EU citizens need to know that criminals can be prosecuted no matter where they are in the EU or where the offence was committed. The articles K1 and K9 made this clear by stating:

For the purposes of achieving the objectives of the Union, in particular the free movement of persons and without prejudice to the powers of the European Community, Member States shall regard the following areas as matters of common interest:

- asylum policy;
- rules governing the crossing by persons of the external borders of the Member States and the exercise of controls thereon;
- immigration policy and policy regarding nationals of third countries;
 - (a) conditions of entry and movement by nationals of third countries on the territory of Member States;
 - (b) conditions of residence by nationals of third countries on the territory of Member States, including family reunion and access to employment;
 - (c) combating unauthorized immigration, residence and work by nationals of third countries on the territory of Member States;

¹¹⁷ Annual Report From the Council to the European Parliament on the Main Aspects and Basic Choices of the CFSP – 2008, available at: <http://www.consilium.europa.eu/showPage.aspx?id=248&lang=en> , retrieved on: 28 May 2009

- combating drug addiction in so far as this is not covered by 7 to 9;
- combating fraud on an international scale in so far as this is not covered by 7 to 9;
- judicial cooperation in civil matters;
- judicial cooperation in criminal matters;
- customs cooperation;
- police cooperation for the purposes of preventing and combating terrorism, unlawful drug-trafficking and other serious forms of international crime, including if necessary certain aspects of customs cooperation, in connection with the organization of a Union-wide system for exchanging information within a European Police Office (EUROPOL).¹¹⁸

The third pillar as laid down especially in the Title VI of the Maastricht Treaty basically set the framework intergovernmental cooperation. As a result of the nature of the third pillar, intergovernmental approach absolutely prevails. It resembled more the classical international regime in which there is no room for a simple hierarchy or subordination, but the consent of each and every state is predominant rather than the supranational one in which the rules developed under the first pillar and adopted towards Member States.¹¹⁹ This is also proved in the institutional point of view. The European Commission, the European Parliament and the European Court of Justice were not granted with broad powers as in the first pillar. On the contrary, the Council of Ministers representing the individual MSs was given external and legislative powers.¹²⁰

The intergovernmental approach supporting the cooperation and coordination in criminal matters also referred to terrorism. The Article 29 listed three possible means of achieving the objective of preventing and combating crime including terrorism:

The closer cooperation between police forces, customs authorities and other competent authorities, a closer cooperation between judicial authorities and the approximation, where necessary, of rules on criminal matters in the Member States. Whereas judicial cooperation is centered on the repression of crimes, police cooperation mainly consists of cooperation in the prevention of criminal acts but also contains police cooperation in the repressive field.¹²¹

¹¹⁸ 'Treaty of Maastricht on European Union', Title VI, Official Journal C 191, 29 July 1992, available at : <http://eur-lex.europa.eu/en/treaties/dat/11992M/htm/11992M.html> , retrieved on: 02 June 2009

¹¹⁹ Michael Svarc; 'Communitarization of the EU Third Pillar Today and According to the Lisbon Treaty', available at: http://www.law.muni.cz/edicni/sborniky/cofola2008/files/pdf/evropa/svarc_michael.pdf, retrieved on: 08 July 2009

¹²⁰ These powers included the veto right for each and single minister through the unanimity voting introduced as a rule for decision making in this sensitive area of police and judicial cooperation in criminal matters.

¹²¹ 'Treaty of Maastricht on European Union', Title VI, Official Journal C 191, 29 July 1992, available at: <http://eur-lex.europa.eu/en/treaties/dat/11992M/htm/11992M.html>, retrieved on: 02 June 2009

On the whole, the need for cooperation in the security issues was first depicted with the Maastricht Treaty. The Maastricht Treaty had a central role in coordination against both internal and external security threats. The European Union accepted terrorism with organized crime and drug-trafficking, as an issue of common concern. The operational dimension of police coordination, information exchange and common positions was maintained with this treaty even this, by itself, can be regarded as a crucial for the European integration.

2.1.5. The EUROPOL

In the process of European political integration, it was anticipated that the universal fight against crime was less effective than the fight against crime in a holistic Europe. In Luxembourg Summit, 1991 the insufficiency of International Police Organization (Interpol) was discussed and the idea to develop an EU-wide operational police coordination was discussed. The German Chancellor Helmut Kohl proposed a similar institution like FBI for the Union named “European Criminal Police Office”. Afterwards, this unit took place as “EUROPOL” in the Maastricht Treaty. It was stated under Title VI, Article K1(9) of the Maastricht Treaty as: “police cooperation for the purposes of preventing and combating terrorism, unlawful drug-trafficking and other serious forms of international crime, including if necessary certain aspects of customs cooperation, in connection with the organization of a Union-wide system for exchanging information within a European Police Office (EUROPOL).”¹²² To this aim, an ad hoc working group was created to conduct the process of the establishment of EUROPOL. In 1993, the European Drugs Unit (EDU) was established. The EDU was the initial form of EUROPOL. It was established to provide information exchange between the Member States and also, to provide the police coordination against drug-trafficking and money laundering.

Moreover, in 1995, the Convention on the establishment of EUROPOL was signed. EUROPOL was created as an important institution in the field of crime prevention and prosecution by information exchange.¹²³ Indeed, it aimed to create joint investigations of

¹²² ‘Treaty of Maastricht on European Union’, Title VI, Official Journal C 191, 29 July 1992, available at: <http://eur-lex.europa.eu/en/treaties/dat/11992M/htm/11992M.html>, retrieved on: 02 June 2009

¹²³ Christian Walter, Silja Vöneky, Volker Röber and Frank Schorkopf; *Terrorism As a Challenge for National and International Law: Security versus Liberty?*, Springer, Berlin, 2004, p. 35

crime. The objective of EUROPOL were mentioned as: to improve the effectiveness and cooperation of the competent authorities in the Member States in preventing and combating terrorism, unlawful drug-trafficking and other serious forms of international crime where there are factual indications that an organized criminal structure is involved and two or more Member States are affected by the forms of crime in question in such a way as to require a common approach by the Member States owing to the scale, significance and consequences of the offences concerned.¹²⁴ The principal tasks were listed as: to facilitate the exchange of information between the Member States; to obtain and analyze information and intelligence; to notify the competent authorities of the Member States without delay; to aid investigations in the Member States by forwarding all relevant information to the national units and lastly to maintain a computerized system of collected information containing data. All Member States were charged to establish a unit to fulfill these tasks at the national level. In addition, all Member States had to send a representative to EUROPOL. As Bunyan mentioned, Member States preceded with the development of the national criminal intelligence units which were essential to support the central organization.¹²⁵ The exchange of information by EUROPOL is mainly realized in transboundary crimes particularly, drug-trafficking. Similarly, it is keeping track of terrorist organizations which are using drug-trafficking to finance their attacks. The EUROPOL Convention came into force in 1998 and started its activities fully in July, 1999. In 1999 EDU was abolished and in 2002, the responsibilities and tasks of EUROPOL were widened.

EUROPOL also has secondary tasks such as training of members of their competent authorities, organization and equipment of those authorities, crime prevention methods and technical police methods to investigate procedures. It is important to mention here that, EUROPOL needs a strong and authentic information network. In this light, the Schengen Information System is used for intelligence sharing. EUROPOL also made bilateral agreements with Member States, Interpol, USA and European Central Bank. This has increased the effectiveness of EUROPOL. EUROPOL stands on a crucial mechanism in combating terrorism as it provides police coordination and exchange of information.

¹²⁴ Europol; 'The EUROPOL Convention', available at: <http://www.EUROPOL.europa.eu/index.asp?page=legalconv#TITLE%20I>, retrieved on: 23 May 2009

¹²⁵ Tony Bunyan; 'Trevi, EUROPOL and the European State', *Statewatch Reports*, 1993, p. 12, available at: <http://www.statewatch.org/news/handbook-trevi.pdf>, retrieved on: 29 May 2009

2.1.6. La Gomera Declaration

In 1995 La Gomera Declaration¹²⁶ was adopted at an informal Council meeting. This was a crucial step on the way for the definition of terrorism. It addressed the change in the nature of terrorism. “Terrorism has stepped up its activity as a result of fundamentalist action; it is operating on a transnational scale, is using methods of organized crime and is trying to take advantage of the differences in legal treatment in different states to gain impunity.”¹²⁷ This declaration mainly emphasized the role of cooperation to deal with terrorism. It is vital in the sense that the La Gomera Declaration introduced the issue of internalization and differentiation of the threat definition in terrorism. As put by Monar, “Whatever means the potential victim — be it a state, a company or even a group of individuals — has at its disposal to counter any threat, the first thing it must do is actually define and identify the nature of that threat.”¹²⁸ On the road to the definition of terrorism a substantial evolution of threat definition is came into being. The first phase refers to the undifferentiated definitions regarding global threat and external threat. In La Gomera Declaration this turned out be internalized by referring the threats to social and economic development of a country.¹²⁹

Unfortunately, the La Gomera Declaration call for action remained unanswered till the Resolution on Combating Terrorism in the EU in 1997.¹³⁰ This Resolution made the first European definition of terrorism as: a threat to democracy, to the free exercise of human rights and to economic and social development from which no Member State of the EU can be regarded as an exempt. In addition, the European Parliament urged the Council to extend the mandate of EUROPOL to fight against terrorism and harmonize criminal law on serious crime with a cross-border aspect. Thus, the Council took the first step to harmonize criminal law of Member States by adopting a joint action on the basis of the Treaty on the EU.

¹²⁶ The Council of the European Union; La Gomera Declaration (1995), available at: http://www.europarl.europa.eu/summits/mad2_en.htm#annex3, retrieved on: 01 June 2009

¹²⁷ *Ibid.*

¹²⁸ Jörg Monar; ‘The EU as a Collective Actor in the Fight against Post - 9/11 Terrorism’, available at: http://epress.anu.edu.au/war_terror/mobile_devices/ch11s02.html, retrieved on: 01 June 2009

¹²⁹ In the ESS a new phase with a more ‘internalized’ and differentiated threat perception is seen. The Security Strategy not only identifies terrorism as the first of the ‘key threats’ the Union was facing in the security domain but also describes it as a threat having both an internal and an external dimension.

¹³⁰ Christian Walter, Silja Vöneky, Volker Röber and Frank Schorkopf; *Terrorism As a Challenge for National and International Law: Security versus Liberty?*, Springer, Berlin, 2004, p. 40

2.1.7. The Amsterdam Treaty - 1997

Although the Maastricht Treaty achieved the creation of the third pillar, the aim and the purpose of cooperation in JHA were not clearly defined. Therefore, the desired cooperation and coordination could not be achieved. This was mainly because the nation states did not give up their national interests. Certainly, it was not anticipated that the nation states would give up their interests all at once. But at least, strong cooperation on combating terrorism within a single holistic structure should be achieved. On the contrary, the Member States continued to follow their national interests.

In 1997, the Amsterdam Treaty that was amending the Maastricht Treaty was signed by 15 Member States and entered into force in 1999. The Amsterdam Treaty emphasized the issues of peace, security, justice and freedom, and, European identity. The objectives of the Amsterdam Treaty were listed as: to create the political and institutional conditions to enable the European Union to meet the challenges of the future such as the rapid evolution of the international situation, the globalization on the economy and its impact on jobs, the fight against terrorism, international crime and drug-trafficking, ecological problems and threats to public health.¹³¹ This treaty made changes on the three pillar structure. Namely, the judicial cooperation in civil matters came under the first pillar. The list of the subjects based on the common interests in the Maastricht Treaty was enlarged. New subjects were inserted under the first pillar such as: asylum, immigration and free movement of persons. Additionally, the controls of outer borders, and cooperation on the policies of the third country citizens were switched to the community framework. But police and judicial cooperation in criminal matters, terrorism, racism and xenophobia remained under the third pillar. The Member States came to an agreement on the Article 29 of the TEU which provided for high level of security for the EU citizens. It also aimed closer cooperation between police forces and EUROPOL. Most importantly, this Treaty emphasized the incorporation of the Schengen Agreement into the *Acqui Communautaire*. Thus, the Schengen Agreement became a part of the EU Legal

¹³¹ 'The Amsterdam Treaty', 02 October 1997, http://europa.eu/legislation_summaries/institutional_affairs/treaties/amsterdam_treaty/a09000_en.htm, retrieved on: 31 May 2009.

Framework which would pave the way to the realization of more apparent and coherent EU policies in a single framework.

On the one hand, under title IV, “Visa, asylum, migration and free movement of persons” became issues of the first pillar; i.e. they were communitized. The Amsterdam Treaty introduced important changes in the field of justice and home affairs. Whereas cooperation in civil law was communitized, police and judicial cooperation in criminal matters remained within the intergovernmental ambit of the Union.¹³² Those communitized issues would be handled within the first pillar which is more effective than the third one. This is because of the supranational nature of the first pillar. On the other hand, police coordination between the Member States began to be handled in a more effective way which included operational cooperation, the analysis, exchange and the evaluation of the collected information by police association.¹³³

The Amsterdam Treaty brought some new concepts in the areas of Justice and Home Affairs and Common Foreign and Security Policy; such as the creation of the “*area of freedom, justice and security*”. It was stated that the Union would combat against organized crime and terrorism. Indeed, the EU would provide the guarantee of public security along with the realization of free movement of people in five years. Moreover, another new concept was “*common strategies*” which aimed a more coordinated and systematic cooperation in specific areas. European Council would define common strategies in areas where the Member States have important interests in common. It was mentioned in the Treaty that the Council is responsible for implementing common strategies through joint actions and common positions adopted by qualified majority voting. It gave the Commission the first say over the majority of JHA, which had previously been in the hands of the European Council.¹³⁴ In addition to these, the idea of “*enhanced co-operation*” first appeared with this treaty in order to allow some members to co-operate more closely on areas outside the remit of the EU treaties without unanimous agreement. However, it also created the idea of “*constructive abstention*”

¹³² Christian Walter, Silja Vöneky, Volker Röber and Frank Schorkopf; *Terrorism As a Challenge for National and International Law: Security versus Liberty?*, Springer, Berlin, 2004, p. 45

¹³³ *Ibid.*

¹³⁴ Will James; ‘Treaty of Amsterdam’, 2005, available at:

<http://www.civitas.org.uk/eufacts/download/TR.4.Treaty%20of%20Amsterdam.pdf>, retrieved on: 02 June 2009

whereby up to 1/3 of Member States could opt out of security or foreign affairs without preventing other countries from going ahead.¹³⁵ In the area of defense, the inclusion of the “*Petersberg Tasks*” were included in the Treaty which made the definition of common defense policy and encouraged the inter-institutional cooperation between the Member States in the issue of common defense policy.¹³⁶ Furthermore, it changed the configuration of the “*troika*” as composed of the Presidency of the Council, the Commission and the Secretary General of the Council. Troika would act as the Union's “High Representative” for the CFSP.

In 1998, an Action Plan was decided in a Council meeting in Wien. According to the Wien Action Plan, the subjects defined in the Amsterdam Treaty were specified in absolute definitions and a time schedule was decided for the realization of the aims put by the Treaty. In five years, an area of the freedom, security and justice area would be achieved.

2.1.8. The Tampere European Council

After the Amsterdam Treaty, the underlined issues on JHA were defined in the Wien Action Plan. However, a tremendous step was not taken until the European Council in Tampere in 1999. First of all, the idea of “an area of the freedom, security and justice” was repeated and its priorities and objectives were set. Indeed, it is underscored that the legislations of the Member States’ should come closer initially in a limited area which included terrorism, drug-trafficking and human trafficking. The Tampere Council brought up a strong political desire in the issues of justice, freedom and security through building on the previous actions and planning the essential principles for the upcoming objectives.¹³⁷ The timetable and the directions of the post Amsterdam and Wien process were maintained substantially. The progress of an integrated European policy in the coming five years was drawn in details by the representatives of the Member States.

¹³⁵ *Ibid.*

¹³⁶ Christian Walter, Silja Vöneky, Volker Röber and Frank Schorkopf; *Terrorism As a Challenge for National and International Law: Security versus Liberty?*, Springer, Berlin, 2004, p. 90

¹³⁷ The Council of the European Union; ‘Tampere European Council’, October 15-16, 1999, available at: http://www.europarl.europa.eu/summits/tam_en.htm, retrieved on: 02 June 2009

Nevertheless, the fundamental outcomes of this summit could be listed as: the recognition of judicial decisions, in other words, the creation of a judicial area; the development of a common refugee and immigrant policy and a common policy against organized crime. First of all, it was stated in this summit that which judicial decisions and judgments should be recognized and also implemented at the Union level. Criminals should not be judged according to the different law systems of the Member States, on the contrary they should be judged according to the same rules. To this aim, it was expected to create a common position for the definition of crimes and the determination of punishments.

The Tampere Summit was also important because of the fact that it set the timetable for the realization of the mentioned objectives. A progress report would be presented in every 6 months by the Commission. As a result of these reports, the Laeken Summit was shaped. Among the objectives of the European Council were creating an area of freedom, justice and security and maintaining common policies for combating terrorism in Europe. Even all the action plans for combating terrorism were prepared in parallel to the results of this summit.

The creation of an area of justice was crucial for cooperation in criminal law. To this aim, the ratification of the two contracts; the Brussels Contract of 1995¹³⁸ and the Dublin Contract of 1996¹³⁹ by the Member States was expected. The Brussels Contract was formulated on the basis of the contract for the drawback of the criminals in 1957 and the Dublin Contract was formulated on the basis of the suppressing terrorism in 1979. The procedures in the extradition of the criminals were aimed to be precipitated.

It was especially underlined that the citizens of the EU should believe in the Union's priority to provide security for all citizens against any crime or criminal organization. An area of freedom, justice and security would be based on democracy and transparency. The Tampere Summit resulted with those outcomes. Most importantly, it recognized a permanent judicial cooperation unit called "*EUROJUST*" in order to improve cooperation between the competent national authorities in the investigation and prosecution of serious crime,

¹³⁸ For further info see: http://ec.europa.eu/dgs/competition/proposals2/2008f1009_invitation.pdf

¹³⁹ For further info see: http://www.europarl.europa.eu/enlargement/positionep/resolutions/pdf/160197_en.pdf

particularly when it is organized, involving two or more Member States.¹⁴⁰ Indeed, it is a unit composed of national prosecutors, magistrates or police officers that aims to facilitate the coordination of prosecuting authorities and supporting criminal investigations in terrorism and organized crime.

On the whole, the four most important measures of the Tampere Summit could be stated as: to implement the principle of mutual recognition of judicial decisions with respect to criminal matters, to create the joint investigative teams, to create EUROJUST and to harmonize national criminal laws. These conclusions could be regarded as an important milestone in the formulation of the common European approach of the fight against crime and terrorism.

2.1.9. The EUROJUST

EUROJUST was established by the Presidency Conclusions of the Tampere European Council in 1999. A provisional Judicial Cooperation Unit was established in 2000 with the Council Decision of February 28, 2002 /187/ JHA.¹⁴¹ It would enhance the cooperation between the judicial authorities of the Member States till the establishment of EUROJUST. This was a process of transition for the better establishment of EUROJUST on a well-built basis. The EUROJUST became operational with the Council Decision of 28 February 2002 that had a view to reinforcing the fight against serious crime. The objective of establishing EUROJUST was to stimulate and improve the coordination of investigations and prosecutions in the Member States, taking into account any request emanating from a competent national authority and any information provided by any body competent by virtue of provisions adopted within the framework of the treaties (OLAF, EUROPOL, the European judicial network and liaison magistrates); and provide expertise to the Member States and to the Council, where necessary, with a view to the negotiation and the adoption by the Council.¹⁴²

¹⁴⁰ Eurojust; 'Annual Report', 2001(2) J.O: No L 324, p.2, available at: <http://www.EUROJUST.eu.int/2001.htm>, retrieved on: 30 June 2009

¹⁴¹ For further info see:

<http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:063:0001:0001:EN:PDF>

¹⁴² *Ibid.*

Indeed, it is an indispensable unit to provide internal security all around Europe. Therefore, it is still in force.

The EUROJUST is intergovernmental in character and composed of a national member of each Member State who is a prosecutor, judge or police officer. National members are bounded by the national law of each Member State. In the area of investigations and prosecutions, the EUROJUST has the competence for: promoting coordination between the competent authorities of the various Member States, and facilitating the implementation of the international mutual legal assistance and of extradition requests.¹⁴³ The EUROJUST plays a critical role in making the extradition process more functional. The rules of procedure of EUROJUST were published in the official journal of the European communities in 2002 (187/JHA). According to these rules, cooperation between EUROPOL and EUROJUST was determined. In 2004, an agreement was signed between EUROPOL and EUROJUST. A ground for close cooperation in the operational activities of the two units was provided. The EUROJUST can additionally benefit from the judicial records in all of the Member States.

Another important point to be mentioned is that instead of launching investigations by itself, EUROJUST reinforces coordination and cooperation between competent authorities in the Member States which occupy important place on the EU's fight against terrorism. In order to provide internal security and combat terrorism EUROJUST is an extremely beneficial and worthwhile unit. The application of common rules against terrorists pave the way to the removal of the possibility of the terrorists' benefiting from avoid in the criminal law of a Member State. Thus, if the EU can initiate coordinated action and mutual legal assistance in the fight against terrorism, then terrorists can not benefit from the differences between the national laws of the Member States. As Bensahel stated "Just as EUROPOL may limit the ability of terrorists to hide in the gaps between European law enforcement agencies, EUROJUST may also limit their ability to hide in the gaps between different legal jurisdictions by moving Europe one step closer to a single judicial area."¹⁴⁴

¹⁴³ *Ibid.*

¹⁴⁴ Nora Bensahel; *The Counter Terror Coalitions, Cooperation with Europe, NATO and the European Union*, Rand, Pittsburgh, 2003, p. 42

As a matter of fact, it is not possible to create a strong and well rounded freedom, justice and security area without providing the protection of the people from organized crime and terrorism. In this regard, the establishment of EUROPOL and EUROJUST as well as their cooperation has been an outstanding development in the evolution of the EU security policy.

After having briefly outlined terrorism in the evolution of EU security policy, it should be mentioned here that the EU endeavored to take some steps against terrorism. However, the EU efforts on combating terrorism remained inadequate because of the fact that there were various limitations on creating a common security policy. The establishment of an area of freedom, justice and security was the priority of the EU security agenda. However, latest developments in security policies indicated that the EU Member States still attached more importance to national interests. For example, in some Member States, the terrorist crimes were evaluated as the other organized crimes. That paved the way to a chaotic environment in which terrorist organizations could find a place to develop and attack easily. Unfortunately, the measures against terrorism were ineffective.

It is worth to mention here that, there were various attempts to create an effective security policy, such as some Council recommendations and joint actions on combating terrorism. However, the exchange of information in security issues was restricted to the boundaries drawn by national authorities. Yet, such security concerns were not given the importance that they deserved. This was seen in the participation of Member States in some significant measures. For instance, the participation of the Member States was left nonobligatory in “Combating the Financing of Terrorist Groups.” As a result of the sensitivity of security issues, Member States were not enthusiastic to share their authority. They were even reluctant to share information. The motive behind this abstention was the fear of the possibility of extension of the EC’s supranational approach to those sensitive fields. The lack of consensus on the issue of terrorism at the EU level was the result of the conceptual confusion of terrorism. As can be seen here, security concerns were underlined as primary concerns of each member state. Therefore, in opposition to the spillover effect as it was the case in other EU pillars, the EU could not apply concrete measures as part of the integration

process, but rather it was the particular event of the September 11 which made Europe to reevaluate its policies on the issue of terrorism.¹⁴⁵

2.2. The EU Security Policy after the September 11 - The 2nd Period

The emergence of global terrorism was a revolutionary phase within the security agenda of the world. In spite of the above mentioned concerns, European states came closer around a crucial concept of security. The terrorist attacks against the World Trade Center and the Pentagon in September 11, 2001, were marked a turning point in the perception of terrorism all over the world. These terrorist attacks and the following developments displayed the global dimension of terrorism. This event paved the way to a change in the dynamics of the global world order, because it was a serious threat to security of a superpower. Additionally, it was more than just a terrorist attack, but not an interstate war, yet one in which the world's only superpower revealed a colossal vulnerability.¹⁴⁶ As a result of 9/11 events, the words "terror" and "terrorism" became indispensable words on which long lasting discussions were made in the international relations literature.

In September 11, 2001, the world witnessed the most horrifying terrorist attack against the USA. The terrorist organization *Al Qaeda* used hijacking method through suicide bombing as a massive destruction tool. There were three attacks of each planned to hit a symbolic target. The first two attacks were against the World Trade Center which was perceived as the symbol of imperialism and capitalism. Since the USA was the prominent leader of the World economy, the target of these terrorist attacks was the superpower. The third attack was against the Pentagon which was the home base of defense of the USA. Therefore, the defense base of the USA was perceived as the symbol of the military power of the USA. There would be a forth attack against the White House which was the symbol of the political center of the USA. However, this attack was blocked by the US forces. In all these attacks, more than two thousand people were killed. After these events, the weakness of the World's super power became clear on security. 9/11 depicted the security threat to a

¹⁴⁵ Christian Walter, Silja Vöneky, Volker Röber and Frank Schorkopf; *Terrorism As a Challenge for National and International Law: Security versus Liberty?*, Springer, Berlin, 2004, p. 109

¹⁴⁶ Michael Emerson, Daniel Gros; 'Issues for Europe Post - 11 September', *CEPS Policy Brief*, 8, September 2001, p. 3

superpower which was expected to be isolated against all of the threats and dangers of the outer world of the USA.

The results of these attacks caused anxiety, panic and fear all over the world. In this sense, the fear of the possibility of similar terrorist attacks in Europe disturbed the EU Member States. After 9/11, European perspective on terrorism changed definitely. The issue of terrorism became a global threat to security rather than an internal security issue. The states were forced to cooperate with other states in order to go beyond the country borders and national interests. As a result of the rising trend of insecurity, the nation states realized that it is impossible to provide security without cooperation. In this regard these terrorist attacks have radically changed perceptions of security in the EU. Undoubtedly; these attacks have provided a new impetus for the development of a common security policy in the Union.

The EU Member States decided to take action against terrorism through cooperation among themselves and also with the other states in the world, especially the USA. After 9/11, especially from the European perspective, it is more obviously acknowledged that, no single country is able to tackle today's complex problems on its own.¹⁴⁷ Indeed, terrorism poses a growing strategic threat to the whole of Europe. And the more recent wave of terrorism is global in its scope.¹⁴⁸ Therefore, the EU needed to step up its efforts on a wider spectrum. It was clear that the EU had to take concrete and common measures. In terms of foreign policy, the EU began to draw up new lines through the overview of the security dynamics in this changing world order.

As the information provided above suggests, the EU did not have a functional policy on terrorism until 9/11 terrorist attacks. These events urged the EU to create new policies in order to combat international terrorism. Therefore, the Member States came together to agree on the legal arrangements on terror policies without any problems. This was vital in the sense that the Member State governments, security agencies and public opinion had become dramatically aware of the extent to which international forms of crime threaten traditional internal security. Consequently, the problem of balance between security and freedom has

¹⁴⁷ *Ibid.*

¹⁴⁸ The Council of the European Union; 'A Secure Europe in a Beter World: European Security Strategy' 12 December 2003, available at: <http://www.consilium.europa.eu/uedocs/cmsUpload/78367.pdf> retrieved on: 12 June 2009

become more acute and needed to be carefully studied, along with the policy developments and concrete legislative instruments adopted so far by the Council of Ministers of the European Union.¹⁴⁹ Having mentioned the new perceptions in the EU regarding terrorism, now it is better to explain the new security agenda of the EU which includes the legal arrangements, the efforts on creating a common security policy and the attitude against the 3rd countries.

2.3. The EU Perspective on Terrorism

It would not be wrong to state that the issue of terrorism was securitized at the EU basis. Especially after 9/11, the EU accepted the growing threat of global terrorism. Thus, the EU began to search for concrete measures against terrorism. For instance, “fight against terrorism” part in the CFSP is devoted to the issue and a Counter-Terrorism Coordinator was appointed. Therefore, the issue transformed from being considered as a criminal police issue to be dealt by EUROPOL without sufficient mechanisms, to higher ranks of security issues.¹⁵⁰ Today, it is identified as one of the fundamental key threats to the European security by the European Security Strategy.

After 9/11, the General Affairs Council (GAC) made a special meeting on September 12, 2001, to express its solidarity with the government of the USA and the American people. According to the Council Conclusions, the attacks were regarded as not just against the USA but against humanity itself. It was declared in the Council that there would be no safe heaven for terrorists and their sponsors. The Union would work closely with the USA to combat international terrorism. In addition to these, September 14, 2001 was declared as a day of mourning. The Union condemned terrorism and also recalled the strong ties between the EU and the USA.¹⁵¹

On September 14, 2001, the Union condemned the perpetrators and the supporters of these terrorist attacks by declaring:

¹⁴⁹ Joanna Apap, Sergio Carrera; ‘Progress and Obstacles in the Area of Justice And Home Affairs in an Enlarging Europe: An Overview’, *CEPS Working Document*, 194, June 2003, p. 8

¹⁵⁰ Peter Shearman, Mathew Sussex; *European Security After 9/11*, Ashgate Publishing, UK, 2004, p. 15

¹⁵¹ European Commission; ‘General Affairs Special Council Meeting, Declaration By The European Union, 11795/01 (Presse 318)’, 12 September 2001, available at: http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/gena/11795.en1.html, retrieved on: 10 June 2009

The European Union announced that it would make every possible effort to ensure that those responsible for these acts of savagery are brought to justice and punished. The US Administration and the American people can count on our complete solidarity and full cooperation to ensure that justice is done. We will not, under any circumstances, allow those responsible to find refuge, wherever they may be. Those responsible for hiding, supporting or harboring the perpetrators, organizers and sponsors of these acts will be held accountable.¹⁵²

Furthermore, the EU decided to take urgent steps such as committing itself to defend justice and democracy at a global level. It was clearly mentioned that the EU would continue to develop the CFSP with a view to ensuring that the EU is capable of speaking clearly and with one voice and to make the ESDP operational as soon as possible. The EU would also accelerate the implementation of a genuine European judicial area, which would entail, among other things, the creation of a European arrest warrant that replaces extradition between EU MSs, in accordance with the Tampere conclusions, and the mutual recognition of legal decisions and verdicts.¹⁵³ Not only the issue of terrorism was transformed, but also the context of the security issues was transformed. Hence, after these specific events, the EU emphasized the significance of a comprehensive approach to security issues, especially on the issue of terrorism, which would incorporate multi-faceted instruments and solutions in dealing with the problem.

2.3.1. The EU Action Plan - September 21, 2001

The Union made the General Affairs Council Meeting on September 21, 2001, after the joint session of the US Congress on September 20, 2001 at which President Bush stated “Either you are with us or you are with the terrorists.” In this context, after the meeting, the EU issued its Action Plan Against Terrorism addressing the Union’s counter-terrorism methods. It was underlined that the fight against terrorism would more than ever be a priority objective of the EU and also on the basis of the Security Council Resolution 1368 a riposte by the US was legitimate. The Action Plan shaped the EU policies on fight against terrorism. Accordingly, the EU would step up its action against terrorism in a coordinated and

¹⁵² European Commission; ‘Joint Declaration by the Heads of State and Government of the European Union, the President of the European Parliament, the President of the European Commission, and the High Representative for the Common Foreign and Security Policy’, 14 September 2001, available at: http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressdata/en/er/Declaration.en1.pdf, retrieved on: 20 June 2009

¹⁵³ *Ibid.*

interdisciplinary approach embracing all Union policies. The document called for the enhancing cooperation on five areas;

- Enhancing police and judicial cooperation
- Developing international legal instruments
- Putting an end to the funding of terrorism
- Strengthening air security
- Coordinating the EU's global action

With the aim of enhancing police and judicial cooperation, the EU introduced a European Arrest Warrant (EAW) which would allow wanted persons to be handed over directly from one judicial authority to another. In order to draw up a common list of terrorist organizations, the GAC called upon the Justice and Home Affairs Council (JHAC) to undertake the identification process of the presumed terrorists and their organizations in Europe. The General Affairs and External Relations Council adopted EU list of terrorist organizations and persons linked to terrorist activities on December 2001, which is updated on 17 May 2004.¹⁵⁴

On the issue of developing international legal instruments, the EU called for implementation of the existing international agreements on the fight against terrorism, such as those agreed by the UN and OECD. It is also stated that the EU supports the Indian proposal for framing, within the United Nations, a general convention against international terrorism, which should enhance the impact of the measures taken over the last twenty-five years under the aegis of the UN.

The plan also designed ways for putting an end to the funding of terrorism. In order to contribute to the international action, the European Council entitled the ECOFIN and JHAC to take necessary measures relevant to the issue. On 22 July 2003 the Council Framework Decision 2003/577/JHA on the execution in the EU of orders freezing property or evidence has been adopted with the objective of establishing rules which would provide each Member State to execute in its borders a “freezing order” issued by a judicial authority of another

¹⁵⁴ The list is available at: http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/gena/80497.pdf

Member State.¹⁵⁵ The document also called for Member States to sign and ratify United Nations Convention for the Suppression of the Financing of Terrorism. It should be stated at this point actually, the actions to put an end to the funding of terrorism was successful. As Stevenson mentioned; “The European governments have frozen about \$35 million in suspected *Al Qaeda* assets since 9/11 compared to about \$34 million in the US and \$124, 5 million worldwide.”¹⁵⁶

On the other hand, strengthening air security was mentioned as one of the vital issues in combating terrorism. The European Council, meeting in extra-ordinary session on September 21, 2001, called upon the Transport Council to take necessary measures to strengthen air transport security especially in the issues of; classification of weapons, technical training for crew, checking and monitoring of hold luggage, protection of cockpit access and quality control of security measures applied by the Member States.¹⁵⁷ These measures would be applied in all Member States.

The last area that the EU called for the cooperation in the Action Plan was coordination of the EU’s global action. As it is mentioned in the plan, the GAC would ensure greater consistency and coordination between all the Union's policies. The CFSP would have to integrate further the fight against terrorism. The European Council asked the GAC systematically to evaluate the European Union's relations with third countries in the light of the support which those countries might give to terrorism.¹⁵⁸ This depicted that the EU aimed to create unity in the realm of security. In addition to this, the EU gave importance to assistance programs on the emergency aid issues such as refugee flows. Therefore, assistance programs occupied important place in the fight against terrorism which is a reflection of the Union’s security understanding. “The integration of all countries into a fair world system of

¹⁵⁵ The Council of the European Union; ‘Council Framework Decision’, 2003/577/JHA, Brussels, 22 July 2003, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2003F0577:20030802:EN:PDF> retrieved on: 24 June 2009

¹⁵⁶ Jonathan Stevenson; ‘How Europe and America Defend Themselves’, *Foreign Affairs*, March/April 2003, available at: <http://www.foreignaffairs.com/articles/58816/jonathan-stevenson/how-europe-and-america-defend-themselves>, retrieved on: 20 June 2009

¹⁵⁷ Conclusions and Plan Action of the Extraordinary Council Meeting on 21 September 2001, available at: <http://www.coedat.nato.int/publications/regulations/Conclusions%20And%20Plan%20Of%20Action%20Of%20The%20Extraordinary%20European%20Council%20Meeting%20%2021.09.2001.pdf>, retrieved on: 23 June 2009

¹⁵⁸ *Ibid.*

security, prosperity and improved development is the condition for a strong and sustainable community for combating terrorism.”¹⁵⁹

The Action Plan explains the framework of the EU’s role in global terms of its counter-terrorism efforts. Fight against terrorism requires a comprehensive approach so in that sense the EU’s role in preventing regional conflicts is vital. For instance, in order to fight against terrorism, the EU declared that it would play a part in international efforts together with other partners such as the Russian Federation and the United States in bringing solution to the Middle East conflict on the basis of the UN Resolutions.

Consequently, the Action Plan was considered to be one of the most determined steps on the EU’s fight against terrorism. There were crucial attempts to prevent the development of terrorist organizations, specifically preventing the funding of terrorism and the issuing of the European Arrest Warrant. Thus, the EU took preventing steps against terrorism. Moreover, one has to bear in mind that this document reflected the EU’s liberal worldview especially by making emphasis on the concepts of multilateralism and international law. The Action Plan not only aimed at creating unified policies inside the EU, but also presented a framework on its role in global politics and its relations with the third countries regarding terrorism.¹⁶⁰ In addition to launching concrete and unified EU measures, political dialogue with third countries, application of international law and the necessity of bringing solutions on a multilateral basis occupied significant places in the document.

2.3.2. The Ghent Summit - 2001

The issue of terrorism was discussed at the Ghent Informal Council on October 19, 2001. The official agenda of the summit included, preparing for the introduction of Euro, the future of Europe, enlargement and the fight against terrorism in the aftermath of the attacks of 9/11. At the end of this summit, a declaration was published.¹⁶¹

¹⁵⁹ *Ibid.*

¹⁶⁰ Guiseppe Nesi; *International Cooperation in Counter-Terrorism*, Ashgate Publishing, UK, 2006, p.219

¹⁶¹ Declaration by the Heads of State or Government of the European Union and the President of the Commission Follow-up to the September 11 Attacks and the Fight Against Terrorism, SN 4296/2/01Brussels, 19

In this declaration, the Member States announced that they were more determined than ever on the issue of combating terrorism and full support for the action being taken against terrorism in all its aspects within the framework defined by the UN.¹⁶² The legitimacy of US action against Afghanistan was repeated as well as the desire of the realization of the democratization process.¹⁶³ It was clearly stated in the declaration that, the EU would continue its efforts to strengthen the coalition of the international community to combat terrorism in every shape and form. The four points of the Action Plan was underlined again:

- approval at the Council meeting on Justice and Home Affairs on 6 and 7 December 2001, on the basis of the progress already made, of the practical details of the European arrest warrant, the common definition of terrorist offences and the freezing of assets. The European Council reaffirms its determination to abolish the principle of double criminality for a wide range of actions, in particular terrorist offences that give rise to a request for direct surrender;
- increased cooperation between the operational services responsible for combating terrorism: EUROPOL, EUROJUST, the intelligence services, police forces and judicial authorities. Such cooperation should in particular enable a list of terrorist organizations to be drawn up by the end of the year.
- effective measures to combat the funding of terrorism by formal adoption of the Directive on money laundering and the speedy ratification by all Member States of the United Nations Convention for the Suppression of the Financing of Terrorism. Moreover, the commitments made in the FATF, the mandate of which must be broadened, must be turned into legislative instruments by the end of the year;
- approval without delay of the Commission's proposals on air transport security.¹⁶⁴

Moreover, the Council emphasized the threats of the use of biological and chemical means in terrorist attacks. In order to prevent such threats, export controls regarding both arms and chemical nuclear substances capable of being used for terrorist purposes should be realized.¹⁶⁵ The crucial need to pursue the Middle East peace process without any pre-conditions was underlined through the quest for the establishment of a Palestinian State and the right of Israel to live in peace and security.¹⁶⁶

October 2001, available at: http://ec.europa.eu/justice_home/news/terrorism/documents/conseil_gand_en.pdf,
retrieved on: 07 July 2009

¹⁶² *Ibid.*

¹⁶³ *Ibid.*

¹⁶⁴ *Ibid.*

¹⁶⁵ *Ibid.*

¹⁶⁶ *Ibid.*

After the Ghent Summit, various meetings were made on security issues and terrorism. However, the Member States could not achieve a consensus on combating terrorism. This was mainly because of the states' individual points of view. For instance, Belgium insisted on the prevention of the violation of human rights in the fight against terrorism. On the other hand, France, Italy and Spain were focused on the terrorist organizations that they were faced with. As a matter of fact, the desire of cooperation and coordination in the fight against terrorism was realized only in the procedural means, but not in the minds of the Member States.

2.3.3. The Council Meeting JHA and Civil Protection and the Laeken Summit - 2001

On 6 and 7 December 2001, there was a Council meeting in Brussels. This was a crucial meeting at which the definition of terrorism and the penalties were determined. This declaration paved the way to a detailed definition of terrorism take place in the EU legislation.

Terrorism include[s] intentional acts, by their nature and context, which may be seriously damaging to a country or to an international organization, as defined under national law, where committed with the aim of: seriously intimidating a population, or unduly compelling a Government or international organization to perform or to abstain from performing any act, or destabilizing or destroying the fundamental political, constitutional, economic or social structures of a country or international organization.

Regarding penalties for terrorist offences, the Council, in accordance with the common guidelines established at its meeting on 16 November, agreed on a provision requiring custodial sentences of a maximum length of at least 15 years to be imposed for directing a terrorist group and at least 8 years for the other offences relating to terrorist groups specified in the Framework Decision. Other terrorist offences would be punished by heavier sentences than those attracted by ordinary law offences under the Member States' national law.¹⁶⁷

The next meeting, the Laeken Summit on 14 and 15 December 2001 had various agenda items such as the future of Europe, EURO, the fight against terrorism and the foreign policy at large. Regarding terrorism, it was decided that the common definition of terrorist

¹⁶⁷ Justice, Home Affairs and Civil Protection, Brussels, 14581/01 (Presse 444), 6-7 December 2001, available at: <http://eurlex.europa.eu/Notice.do?mode=dbl&lang=en&ihmlang=en&lng1=en.de&lng2=de.en.fr.&val=266832:cs&page=>, retrieved on: 25 June 2009

crimes, the drawing up of lists of terrorists and terrorist organizations, groups and bodies, the cooperation between specialist services and the provisions concerning the freezing of assets which have been adopted following Resolution 1373 of the United Nations Security Council all constituted practical responses in the campaign against terrorism.¹⁶⁸ In addition to these, outer border controls were emphasized for the cooperation and coordination in the fight against terrorism.

2.3.4. The Council Framework Decision on Combating Terrorism

The European Council decided to establish minimum level of penal sanctions for terrorist type of offence for the aim of approximation of the laws of the Member States in 2002. It put forward a uniform definition to terrorist offences by declaring: “terrorism offences must be committed with the aim of intimidating people and seriously altering or destroying the political, economic, or social structures of a country (murder, bodily injuries, hostage taking, extortion, the fabrication of weapons, threatening to commit any of the above, etc.)”.¹⁶⁹ As “before that time only 6 of the 15 Member States had legislation on their book that criminalized terrorism”¹⁷⁰, the document proves to be an important step toward constructing concrete policies and coordination of legislation on the issue of terrorism throughout the EU.¹⁷¹

It is vital in the sense that this framework inserted the issue of terrorism into the EU legislation through transformation of the issue on the EU basis. Until this framework, the issue of terrorism was mentioned as an internal security problem like all the other criminal matters. Certainly, the perception of terrorism has changed, however the insertion of the definition of terrorism into the EU legislation was first realized with this framework. The framework identified some standards to be placed in national legislation of each Member

¹⁶⁸ Presidency Conclusions European Council Meeting in Laeken, SN 300/1/01 REV 1, 14-15 December 2001, p. 5, available at: http://ec.europa.eu/governance/impact/background/docs/laeken_concl_en.pdf retrieved on: 27 June 2009

¹⁶⁹ The Council of the European Union; ‘Council Framework Decision on Combating Terrorism’, 2002/475/JHA, 13 June 2002, p. 2, available at: http://europa.eu/legislation_summaries/justice_freedom_security/fight_against_terrorism/l33168_en.htm retrieved on: 29 June 2009

¹⁷⁰ *Ibid.*

¹⁷¹ Kristin Archick; ‘Europe and Counter Terrorism: Strengthening Police and Judicial Cooperation’, *Congressional Research Service Report to Congress*, USA, 2002, available at: <http://www.au.af.mil/au/awc/awcgate/crs/r131509.pdf>, retrieved on: 29 June 2009

State in punishing terrorist offences such as: effective, proportionate and dissuasive criminal penalties, which may entail extradition and mitigating circumstances (collaboration with the police and judicial authorities, etc.)¹⁷²

As of 13 June 2002, a common ground to evaluate the terrorist attacks and their penalties was provided. Before, the EU did not have a common stance regarding the evaluation of such acts. The lack of consensus on a uniform definition of the concept slowed down the process of fight against terrorism. In this regard, the introduction of a uniform definition of terrorist offences would provide an example for the Member States which would lead to further approximation of their legal procedures together with preventing terrorists benefiting from the differences between national laws and the confusion over identification of the act.

2.3.5. European Arrest Warrant

On June 13, 2002, the EU adopted the framework decision on European Arrest Warrant (EAW) and it came into force in 2004. According to the Article 1 of this decision:

The European arrest warrant is a *judicial decision* issued by a Member state with a view to the arrest and surrender by another Member State of a requested person, for the purposes of conducting a criminal prosecution or executing a custodial sentence or detention order. Member States shall execute any European arrest warrant on the basis of the *principle of mutual recognition* in accordance with the provisions of this framework decision.¹⁷³

Rather than the extradition process, the trails of suspected criminals and terrorists were provided through European Arrest Warrant. The aim of European Arrest Warrant is to provide handing over the wanted person from one judicial authority to another inside the EU while observing respect for rights and freedoms. And from January 1, 2004, the “European Arrest Warrant” replaced the existing extradition procedures. The European arrest warrant provided for in this Framework Decision is the first concrete measure in the field of criminal law implementing the principle of mutual recognition which the European Council referred to

¹⁷² Commission of the European Communities, Council Framework Decision, 19 September 2001, p. 14, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2001:0516:FIN:EN:PDF>, retrieved on: 30 June 2009

¹⁷³ The Council of the European Union; ‘Framework Decision of 13 June 2002 on European Arrest Warrant and Surrender Procedures between Member States’, O.J. 2002, L 190/1, available at: http://europa.eu.int/eurlex/pri/en/oj/dat/2002/l_190/l_19020020718en00010018.pdf, retrieved on: 05 June 2009

as the “cornerstone” of judicial cooperation.¹⁷⁴ Member States shall execute any European arrest warrant on the basis of the principle of mutual recognition and in accordance with the provisions of this Framework Decision. Due to the principle of mutual recognition, a decision by the judicial authority of a Member State to require the arrest and return of a person should be recognized and executed as quickly and as easily as possible in the other Member States.

The EAW provides faster and simpler procedures. To surrender the arrested person is no more a political decision. The execution of the warrants is subject to a judicial process. The dual criminality principle is also important in the sense that both the country requesting extradition and the country that should arrest and return the alleged criminal, recognize and accept that what he or she is alleged to have done, is a crime – is abolished for 32 serious categories of offences. These include participation in a criminal organization, terrorism, trafficking in human beings, sexual exploitation of children and child pornography, illicit trafficking in arms, ammunition and explosives, corruption, fraud including fraud pertaining to the financial interest of the European Union, money laundering and counterfeiting of money including the euro.¹⁷⁵ It is important to mention here that, respect for fundamental rights is underlined in this framework. While the EAW rules are implemented, the Member States should respect the provisions of the European Convention on Human Rights and to ensure that it is respected. After having briefly outlined the process of the EAW, the point that should be underlined is that this system requires the Member States to trust each other’s legal systems and recognize the decisions of each other’s courts.¹⁷⁶ The agreed objective of this system is to ensure that criminals cannot escape justice anywhere in the EU.

2.3.6. The European Security Strategy - 2003

On December 2003, the Union presented the European Security Strategy (ESS) also in titled as “A secure Europe in a Better World” which was an official document on constructing a common security strategy. It is a document that explains the fundamental changes and constraints after the events of 9/11 and the subsequent US response altered the

¹⁷⁴ *Ibid.*

¹⁷⁵ The Council of the European Union; ‘Framework Decision on European Arrest Warrant’, 13 June 2002, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32002F0584:EN:NOT>, retrieved on: 07 June 2009

¹⁷⁶ *Ibid.*

security environment in different ways. The ESS was divided into three parts as; global challenges and key threats, strategic objectives and policy implications for Europe. Thus, it synthesizes EU strategic thinking about global challenges, threats and threat management.

The first part was about the global challenges and key threats facing Europe in post-Cold War era. According to the document, terrorism was presented as one of the key global threat to Europe which is more diverse, less visible and less predictable in character.¹⁷⁷ Thereby, terrorism was put as the major threat to security through unlimited use of violence in order to cause mass casualty. This was regarded as an attempt to destroy democratic structure of the Member States. The proliferation of weapons of mass destruction was set as another threat to security. The third threat to security was mentioned as regional conflicts. These three mentioned threats were interrelated to the effect that regional conflicts can trigger extremism and terrorism which could pave the way to a fourth threat to security: state failure. In fact, state failure led to a suitable environment for the development of terrorism. The ESS indicated that the bad governance – corruption, weak institutions, and civil conflicts are the reasons of state failure and lead to obvious threats, such as organized crime and terrorism and adds to regional instability.

The post-Cold War environment is presented to be interdependent in a way that it “is one of increasingly open borders in which the internal and external aspects of security are indissolubly linked while the issues are getting more complex in a sense that state failure, poverty, disease and civil wars giving rise to pressing security concerns.” Some causes of security challenges are mentioned which include “the pressures of modernization, cultural, social and political crisis and the alienation of young people living in foreign societies.” This phenomenon is also part of our own society.¹⁷⁸

The second part of the ESS was the strategic objectives which can be listed as to extend the zone of security around Europe, to strengthen the international order by supporting an effective multilateralism with well functioning international institutions and the last objective was to be prepared against potential threats. As it was mentioned in the document, since terrorist networks operate globally and become more serious in this atmosphere of complex interdependence, the EU mentioned the necessity of being ready to act before a crisis

¹⁷⁷ The Council of the European Union; ‘A Secure Europe in a Better World: European Security Strategy’ 12 December 2003, available at: <http://www.consilium.europa.eu/uedocs/cmsUpload/78367.pdf>, retrieved on: 12 June 2009

¹⁷⁸ *Ibid.*

occurs.¹⁷⁹ Therefore, the EU pointed out the value of the preventive engagement against key threats to security.

The third part of the ESS included the policy implications to establish a security strategy. It was underlined that the Union must be more active, more coherent and more capable in foreign policy and crisis management. Additionally, the ESS encouraged cooperation with international partners. In order to engage in cooperation with international partners, the existing relations should be developed.

On the whole, the ESS was the first official EU document on security which emphasized the importance of transformed the nature of global security. This document pointed out the new security environment of complexity and interdependence. In order to tackle the growing threats to security, a coherent approach was needed at the EU level. Terrorism was declared as one of the key global threats to the security that required multifaceted approach and instruments to be dealt with. The EU's security understanding became more active with the adaptation of the notion of "preventive engagement". It is worth to mention here that this document was very important because for the first time in the EU's history, the certain lines of the security perception of the EU and the means to deal with the perceived threats and challenges were drawn. The arguments on the characteristics of the security perception and the approach of the Union took root from this document. This meant that the EU now had a pre-determined strategy to tackle issues of global security.

2.3.7. The Declaration on Combating Terrorism - 2004

On March 11, 2004, Madrid train station was hit by *Al Qaeda* terrorist attacks. Just three days before the Spanish national elections, 200 people killed. This event depicted that the EU's mechanisms for cooperation and coordination in the fight against terrorism were insufficient. On March 24-25, 2004, the European Council released the Declaration on Combating Terrorism which announced that 11 March would be considered as official European day of commemorating the victims of terrorism. In this declaration the strategic objectives of the EU Action Plan were reviewed.

¹⁷⁹ *Ibid.*

First of all, deepening international consensus and enhancing international efforts to combat terrorism were reemphasized.¹⁸⁰ In order to achieve international cooperation, the importance of the UN and the UN Conventions on Terrorism were stressed. Moreover, terrorism was also put on the list of common issues that should be discussed in trade and economic cooperation agreements with third countries. In a sense, the issue of terrorism went beyond the Union's classical security policies. Thus, it took place in the external relations realm. Another important point that the declaration reemphasized was impeding terrorists' access to financial and economic resources. Dialogue with third countries in order to prevent financial support for terrorist organizations was aimed with this declaration. Additionally, this declaration underlined the need to increase the capacity of EU institutions. EUROPOL was already responsible from the information exchange. From that point onwards, intelligence exchange was also encouraged. The need to increase the security cautions in international transports and border controls was mentioned again. The EU gave importance to evaluate the root causes of terrorism through identifying factors that contribute to the terrorist activities. Another important point to be mentioned is that the Union set the fight against terrorism as one of the priority areas in its external relations. In addition to the efforts on identifying root causes of terrorism and to replace them with development policies, the EU aimed to enhance counter-terrorism capacity of the third countries. Due to this declaration, the EU planned to develop capacities which would evaluate third countries counter-terrorism activities. Furthermore, the EU also designed ways to strengthen the capacity of Member States to deal with the consequences of a terrorist attack were examined. Thus, the Union developed strategies not only to eliminate the root causes of terrorism but also to take the necessary measures in case the event takes place ,i.e., in post attack situations.

There were two impressive achievements of this declaration: the creation of the post of a Counter-Terrorism Coordinator and the early activation of solidarity clause that is laid down in the draft Treaty establishing a Constitution for Europe. The Union established the post of a Counter-Terrorism Coordinator under the CFSP pillar. The first EU Counter-Terrorism Coordinator was Mr. Gijs de Vries. The Coordinator's main tasks are to coordinate the work of the Council of the EU in combating terrorism, to maintain an overview of all the

¹⁸⁰ The Council of the European Union; 'Declaration on Combating Terrorism', Brussels, 25 March 2004, available at: <http://consilium.europa.eu/uedocs/cmsUpload/DECL-25.3.pdf> , retrieved on: 01 July 2009

instruments at the EU's disposal, to closely monitor the implementation of the EU Action Plan on Combating Terrorism, and to secure the visibility of the Union's policies in the fight against terrorism.¹⁸¹

The other important achievement of this declaration was the draft declaration on solidarity against terrorism through which the Union explicitly declared its solidarity against terrorism in compliance with the solidarity clause contained in the Article 42 of the draft Treaty establishing a Constitution for Europe. This was important in the sense that the EU Member States', the political will to establish a common security approach became clear. According to the declaration, if one of the Member States becomes victim of the terrorist attack, then the Member States shall act jointly and mobilize all the instruments at their disposal, including military resources in order;

- to prevent the terrorist threat in the territory of one of them,
- to protect democratic institutions and the civilian population from any terrorist attack
- to assist a Member State or an acceding State in its territory at the request of its political authorities in the event of a terrorist attack¹⁸²

On the whole, the issue of terrorism began to take place not only in the security agenda but in the realm of the EU's external relations. After the Madrid attack, the Union reemphasized the need that the terrorism should be evaluated in a multilateral and multifaceted approach. Because of the fact that the event took place in the borders of the Union, the EU took more serious steps such as establishing the Counter-Terrorism Coordinator.

2.3.8. The Conceptual Framework of the ESDP to Fight Against Terrorism

On November 22, 2004, the European Council endorsed the Conceptual Framework of the ESDP to Fight Against Terrorism. The EU would respond to crisis situations by mobilizing civilian and military means, which encompass conflict prevention and crisis management capacities in compliance with the CFSP objectives. It was clearly seen after the Madrid attacks that the combination of both soft power and hard power was needed. To this aim, four main areas of action were determined to enhance the combination.

¹⁸¹ *Ibid.*

¹⁸² *Ibid.*

- prevention: Prevention of an asymmetric threat is to ensure that the Member States will support an operation by providing effective intelligence and information gathering.
- protection: As part of a crisis-management task, the aim of protection entails minimizing the vulnerabilities of the EU personnel, material and civilian targets.
- response/consequence management: In addressing the effect, it is mentioned that the EU-led ground forces will be available in cooperation with the local authorities.
- support to third countries in the fight against terrorism: ESDP tasks can be evaluated in order to incorporate support to third countries in the fight against terrorism. In addressing the fight against terrorism, issues of protecting EU citizens on the third countries especially on the event of hostage taking will be considered.¹⁸³

The basic principle of the ESDP dimension of the fight against terrorism is its voluntary nature. Each Member State is free to choose the most appropriate means to comply with this solidarity commitment. Ways of pooling, sharing or coordinating often scarce resources in this field are to be sought in accordance with this principle. Due to this voluntary nature of the security coordination, to implement uniform measures and achieve concrete results for developing the EU military capability is difficult to be realized. Despite taking some steps toward introducing common polices and developing military capabilities, the EU still strongly preserves its intergovernmental structure on a security issue which is even evaluated as one of the main global threats which also directly targets European territory.¹⁸⁴ The framework document states that, security issues transform in character by encompassing more areas for action which necessitate “effective and cross pillar co-ordination and multilateral cooperation, therefore the concept of complex interdependence becomes more explanatory”.¹⁸⁵

2.3.9. The Hague Programme - 2004

The European Commission launched its 5 year Action Plan for Freedom, Justice and Security in May 10, 2005– with detailed proposals for EU action on terrorism, migration management, visa policies, asylum, privacy and security, the fight against organized crime and criminal justice. This is a major policy initiative and a cornerstone of the Commission’s Strategic Objectives for 2010 – built around prosperity, solidarity and security. In order to

¹⁸³ Conceptual Framework for the European Security and Defence Policy Dimension of Fight Against Terrorism, available at: <http://register.consilium.eu.int/pdf/en/04/st14/st14797.en04.pdf> retrieved on: 08 July 2009

¹⁸⁴ *Ibid.*

¹⁸⁵ Conceptual Framework for the European Security and Defence Policy Dimension of Fight Against Terrorism, available at: <http://register.consilium.eu.int/pdf/en/04/st14/st14797.en04.pdf>, retrieved on: 08 July 2009

strengthen the area of freedom, security and justice in the next five years, the European Council set ten priorities within the framework of the Hague Programme. The Hague Programme was adopted by the European Council on November 4-5, 2004. The European Council called for Commission to the implementation of the Programme. According to the Programme, the Commission would focus on these ten priorities:

- Strengthening fundamental rights and citizenship
- Anti terrorist measures
- Defining a balanced approach to migration
- Developing integrated management of the Union's external borders
- Setting up a common asylum procedure
- Maximizing the positive impact of immigration
- Striking the right balance between privacy and security while sharing information
- Developing a strategic concept on tackling organized crime
- A genuine European area of justice
- Sharing responsibility and solidarity¹⁸⁶

The anti terrorist measures should be integrated and coherent in order to be effective. According to the Hague Programme Document, the desire of combating terrorism required the prevention of terrorist recruitment and financing first. It was again underlined in the programme that, it is not possible to combat terrorism without eliminating the support of the third countries. To achieve this, the cooperation and a systematic plan should be developed. With this aim, the Hague Programme emphasized that a comprehensive response to terrorism is the only way for the effective counter-terrorism policies. There must be a coherent and integrated approach including information exchange. The anti terrorist measures adopted by the Commission in order to achieve those objectives include: proposals aimed at strengthening cooperation between the law-enforcement services of Member States, particularly by improved exchanges of information and also proposal on preventing the misuse of charitable organizations for the financing of terrorism; and monitoring the pilot project in place for the victims of terrorism. In addition to these, a European framework for the protection of related data is a crucial issue in this case. In order to prevent and fight

¹⁸⁶ European Commission; 'The Hague Programme', available at: http://eurlex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&lg=en&type_doc=COMfinal&an_doc=2005&nu_doc=184, retrieved on: 05 July 2009

against terrorism financing, a communication network should be developed which also protects the critical infrastructure.¹⁸⁷

The police information should be available between all Member States. Thus, any threat to security of a Member State would be announced immediately. Additionally, the EU aimed to make greater use of EUROPOL and EUROJUST. Furthermore, the Hague Programme provided that the civil and criminal justice cooperation should be realized. It was emphasized that the JHA ministers within the Council should have the leading role in the fight against terrorism.

2.3.10. The Council Decision on the Exchange of Information and Cooperation Regarding Terrorist Offences

On September 20, 2005, the Council issues a decision¹⁸⁸ on the exchange of information and cooperation regarding terrorist offences. With the aim to reinforce police and judicial cooperation in preventing and combating terrorism. In order to widen the scope of information exchange, the EU required each Member State to develop a special department within its police services which would have access to information concerning criminal investigations. According to the decision, a EUROJUST national correspondent for terrorism matters should also be appointed.

The Decision also provided that the possible connection between the organized crime and terrorism should be considered. Accordingly, the EU should be prepared with high performance military equipment against all types of organized crime and terrorism. Access to information concerning criminal investigations with respect to terrorism issues should be simple and effective. It is vital in the sense that the financing of terrorism should be prevented by a systematic information network in cooperation with the banking systems of the Member States. A list of Europe crime record should be formed.

¹⁸⁷ *Ibid.*

¹⁸⁸ Information Exchange and Cooperation Regarding Terrorist Offences, available at: http://europa.eu/legislation_summaries/justice_freedom_security/fight_against_terrorism/133252_en.htm, retrieved on: 10 July 2009

2.3.11. Specific Programme: Preventing and Combating Crime

On February 12, 2007, the Council issued a decision to establish a specific programme “Prevention of and Fight Against Crime” for the period 2007-2013. It aims to provide cooperation in crime prevention and criminology, law enforcement, protection and support for witnesses, protection of victims.¹⁸⁹

The main objectives of this new programme were to develop coordination and cooperation among law enforcement agencies, to promote best practices for the protection of victims and witnesses. In order to encourage the methods necessary for strategically preventing crime and maintaining security, the critical infrastructure against terrorist attacks should be developed. According to the programme, national and transnational projects would be financed through grants or public contracts. These projects would be on developing innovative technologies in order to encourage cooperation between judicial authorities. The motive behind these projects is to strengthen and supplement the activities of EUROPOL.

Furthermore, this specific programme to prevent and combat crime is mainly based on coordination and cooperation. In fact, the recent attempts on combating terrorism emphasize coordination and cooperation. At first, police cooperation was mentioned, and then judicial cooperation was also considered important. To this aim, the roles of EUROPOL and EUROJUST were strengthened. However, the issue of coordination and cooperation is not adequate to solve the security problems in the Union. Terrorism continues to evolve all over the world.

2.3.12. Implementation of the European Security Strategy - 2008

Three years after the ESS was adopted at the December 2003 European Council; in 2006 the European Parliament has called for a revision of the ESS in the year 2008.¹⁹⁰ The

¹⁸⁹ Specific Programme 2007- 2013: Prevention, Preparedness and Consequence Management of Terrorism, available at: http://europa.eu/legislation_summaries/justice_freedom_security/fight_against_terrorism/l33262_en.htm, retrieved on: 10 July 2009

¹⁹⁰ European Parliament; ‘European Parliament Resolution on the Implementation of the ESS in the context of the ESDP’ 16 November 2006, available at: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2006-0495+0+DOC+XML+V0//EN>, retrieved on: 11 July 2009

December 2007 Presidency Conclusions¹⁹¹ focused on the implementation of the ESS as a result of the various internal and external developments that had taken place since 2003. Hereupon, Javier Solana has been asked by the EU leaders to revisit the issue. However, this does not mean an update or rewriting of the strategy. As Missiroli states: “Rather, they invited the Secretary General/High Representative (for CFSP), in full association with the Commission and in close cooperation with the MSs, to examine the implementation of the ESS.”¹⁹² On December 2008 European Council adopted “The Report on the Implementation of the European Security Strategy”¹⁹³ also entitled as “Providing Security in a Changing World”. This new document reaffirmed the tone of the ESS of 2003. This report does not replace the ESS but it reinforces it and also it gives an opportunity to examine how the EU fared in practice and what can be done to improve the implementation.¹⁹⁴

The key threats and global challenges identified in 2003 have not gone away: some have become more significant, and all the more complex.¹⁹⁵ In this context, the document points out global challenges as: proliferation of WMD, terrorism and organized crime, energy security and climate change. In case of terrorism, the ESS of 2003 stated that Europe represented both “a target and a base”. As Missiroli touches upon, after the Madrid and London bombings, it has become increasingly apparent that home-grown terrorism is a peculiarly European phenomenon which requires specific responses – including finding an acceptable balance between security and liberty, both personal and collective.¹⁹⁶ Regarding terrorism, the 2008 document focused on the coordination of the arrangements for handling a major terrorist incident, in particular using chemical, radiological, nuclear, and bioterrorism materials. Additionally, the blocking of terrorist financing is once again mentioned in

¹⁹¹ The Council of Ministers; ‘Presidency Conclusions’, Brussels European Council, 14 December 2007, available at: http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/97669.pdf, retrieved on: 10 September 2009

¹⁹² Antonio Missiroli; ‘Revisiting the European Security Strategy – Beyond 2008’, *European Policy Centre*, April 2008, p. 2

¹⁹³ The Council of the European Union; ‘Report on the Implementation of the European Security Strategy - Providing Security in a Changing World’, S407/08, 11 December 2008, Brussels, available at: http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressdata/EN/reports/104630.pdf, retrieved on: 10 September 2009

¹⁹⁴ *Ibid.*, p.3

¹⁹⁵ *Ibid.*

¹⁹⁶ Antonio Missiroli; ‘Revisiting the European Security Strategy – Beyond 2008’, *European Policy Centre*, April 2008, p.3

accordance with the need of information-sharing by the protection of personal data.¹⁹⁷ It is underlined that, inter-cultural dialogue has an important role in tackling radicalization, discrimination and extremist ideology.¹⁹⁸ The effective and comprehensive coordination and cooperation on organized crime and counter-terrorism with the US and the UN is touched upon. It adds to the ESS, the concept of cyber security which is mentioned in the EU Strategy for a Secure Information Society, 2006¹⁹⁹. It is stated that more work is required in order to explore a comprehensive EU approach by raising awareness and enhancing international cooperation.²⁰⁰ “The ESS should be a prescription, not just a description.”²⁰¹ The document mainly argues that in order to respond to the changing security environment, the EU needs to be more effective – among Member States, within its neighborhood and around the world. In this sense, a more effective and capable Europe is desired, greater engagement with its neighborhood is aimed and partnerships for effective multilateralism is underlined.²⁰² These can not be achieved by the EU institutions solely, Member States, national governments and parliaments have a crucial role to play.²⁰³

The biggest systematic change compared to 2003, consisted of the shift of economic and political power from the West to emerging countries. As Grevi stated: “A new international order is defined as multi-polar and the biggest challenge for the EU is to manage emerging multi-polarity through multilateral structures and initiatives.”²⁰⁴ In this context it was stressed that the EU needs to get better at shaping strategic partnerships with major global

¹⁹⁷ The Council of the European Union; ‘Report on the Implementation of the European Security Strategy - Providing Security in a Changing World’, S407/08, 11 December 2008, Brussels, available at: http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressdata/EN/reports/104630.pdf, retrieved on: 10 September 2009

¹⁹⁸ *Ibid.*

¹⁹⁹ See ‘A Strategy for a Secure Information Society, Dialogue, Partnership and Empowerment’ available at: http://ec.europa.eu/information_society/doc/com2006251.pdf

²⁰⁰ Antonio Missiroli; ‘Revisiting the European Security Strategy – Beyond 2008’, *European Policy Centre*, April 2008, p. 4

²⁰¹ Damien Helly; ‘Which Strategy for the European Union’s Security Interests?’ cited in: Alvaro de Vasconcelos (ed.); ‘The European Security Strategy 2003 - 2008 Building on Common Interests’, *EU-ISS REPORT*, February 2009, No:5, p. 53

²⁰² The Council of the European Union; ‘Report on the Implementation of the European Security Strategy - Providing Security in a Changing World’, S407/08, 11 December 2008, Brussels, available at: http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressdata/EN/reports/104630.pdf, retrieved on: 10 September 2009

²⁰³ Helga Schmid; ‘The European Security Strategy’, cited in: Alvaro de Vasconcelos (ed.); ‘The European Security Strategy 2003 - 2008 Building on Common Interests’, *EU-ISS REPORT*, February 2009, No:5, p. 5

²⁰⁴ Giovanni Grevi; ‘The EU and Global Governance’, cited in: Alvaro de Vasconcelos (ed.); ‘The European Security Strategy 2003 - 2008 Building on Common Interests’, *EU-ISS REPORT*, February 2009, No:5, p.26

players. The list of threats and challenges is still relevant and the shift in the underlying geopolitical paradigm needs to be better reflected in the EU's policies.²⁰⁵ All in all, it can be concluded that the Report on the Implementation of the ESS reflects a new scope on the part of the EU which has evolved through the lessons taken from the developments and changes in the global security environment. It remains to be seen how this report will affect the relations between the EU and the US especially in terms of their approaches towards fighting terrorism.

2.4. Concluding Remarks

The security agenda of the Union transformed through the emerging complex issues of terrorism and organized crime at the global level. In order to cope with the emerging threats to global security, the EU developed new policies within the framework of the CFSP and JHA pillars. The aim of the Union was to present a coherent EU security policy which would prove its political potential to be an influential actor in dealing with global security threats. As a result of the changing trends in the global security environment, the EU began to develop new security policies. However, the 9/11 terrorist attacks proved that the attempts to provide security in the EU were insufficient. It is clear that the security threats became more visible and the need for a common European approach of the fight against terrorism came out.

Within the scope of this study, the historical process of the Union's counter-terrorism efforts is explained above. The conventions, declarations and the summits on combating terrorism are mentioned as terrorism has long been on the agenda of the Union. However, a common European approach of the fight against terrorism is a new born issue. A common European approach of the fight against terrorism is realized through implementing various frameworks and declarations. On the whole, it is decided that the cooperation and coordination among police and judicial authorities of the Member States is an inevitable part of the security policies of the Union. However, one should argue that there is a paradox in the counter-terrorism policies of the Union. On the one hand, the governments agree in principle that cooperation at the EU level is good because of the cross-border nature of the terrorist threat, but on the other, they are slow to give the Union the powers such as investigation and prosecution and resources such as intelligence and money it would need to be truly effective.

²⁰⁵ *Ibid.*

As Keohane mentioning this is because security policy goes to the core of national sovereignty and governments are reluctant to give the EU powers that could interfere with their existing laws and national security practices.²⁰⁶ The EU is working hard to coordinate national anti-terrorism policies, but it is only just starting to pursue its own counter-terrorism policies.²⁰⁷ What is more important is that the cooperation of the Member States is insufficient on its own in combating terrorism. Indeed, beyond attempts at the EU level, transatlantic cooperation is a must for combating terrorism. The relations with United States regarding counter-terrorism policies are crucial in this regard. Therefore, in the next chapter, the transatlantic cooperation is analyzed in order to understand to what extent the relations between the EU and the US shaped the counter-terrorism policies of the Union. Indeed, the US perspective on terrorism is touched upon to have a better understanding of the counter-terrorism policies in a wider scope.

²⁰⁶ David Keohane; 'The EU and Counter-Terrorism', *Centre for European Reform*, London, May, 2005, p. 2, available at: http://www.cer.org.uk/pdf/wp629_terrorism_counter_keohane.pdf, retrieved on: 07 July 2009

²⁰⁷ *Ibid.*

III. TRANSATLANTIC RELATIONS AND TERRORISM

The end of the Cold War and the demise of the Soviet Union resulted in the disappearance of the common threat which was the spread of communism. However, the end of the Cold War brought some drastic changes with the emergence of new kinds of security threats such as terrorism. In order to tackle terrorism, the Union decided to expand and deepen its relations with other countries and regions, especially the US. The terrorism perceptions in the US is some different than the EU as it was the target of 9/11 attacks. Apart from that, the US has a different point of view in security issues. For this reason, the counter-terrorism methods of each party differ. To some extent, there is cooperation between the security institutions of the two parties. There are common interests that hold the transatlantic relationship together and also there are divergent approaches to security which can undermine the transatlantic relationship. In this chapter, the US perception of terrorism is analyzed such a way to show how its security strategies shaped in pre-9/11 and post-9/11 periods. In fact, the security priorities and approaches of both the EU and the US have been transformed and reshaped the EU and the US. In this light, the Union's efforts for transatlantic cooperation in counter- terrorism are also evaluated by emphasizing the divergences and convergences of the EU and the US.

3.1. The US Perception of Terrorism

At first sight, it would not be wrong to claim that the US has a realist²⁰⁸ perception while formulating its foreign and security policies. On the other hand, the arrival of George W. Bush Administration to Whitehouse in 2001 also played an important role in the construction of the US security policies. It was the 9/11 attacks that put the issue of terrorism to the center of the security agenda in the US foreign policy. In addition to this, changing

²⁰⁸ The basic tenets of realist thinking are based on the principles of survival, state centrism and self- help. First, states are the principal actors in the international system, operating in an anarchical environment; second, the lack of authoritative and global government forces states to focus on the primary national interest of survival; third, in order to ensure survival, states do not rely on international institutions but actively engage in self-help arrangements which are manifested in the development and use of force, and especially offensive military force. Therefore, states prefer to act unilaterally in order to protect their national interests through military hard power. Tim Dunne, Schmidt BC; 'Realism', Cited in John Baylis, Steve Smith (eds); *The Globalization of World Politics: An Introduction to International Relations*, Oxford University Press, Oxford, 2001, p. 150

national policies of the US for counter-terrorism have been based on the reforms on intelligence, legal regulations and formulation of policies, internal or international. 9/11 attacks aggravated the realist perspective of the Bush administration and it resorted intensively to realist foreign policy instruments to confront the threat of terrorism. Thus, it should be underlined that the US perception of terrorism took its today's shape with the effects of 9/11 and the realist approach of the Bush administration.

3.1.1. Pre - 9/11 Period

The Acts that came into force in the pre-9/11 period paved the way for the legal basis of the counter-terror policies of the US. In 1980s, there were two common laws on punishment of terrorist actions which took place out of the country borders. First, the Comprehensive Crime Control Act²⁰⁹ entered into force in 1984. In line with this act, federal crime control efforts traditionally have been directed at problems transcending state boundaries, with maintaining law and order in areas subject exclusively to federal jurisdiction or of national concern.²¹⁰ This act provided federal authority to judge the crimes of pawn taking in the regions that the US citizens live.²¹¹ Second, the Omnibus Diplomatic Security and Anti-Terrorism Act²¹² came into force in 1986. Due to this act, the scope of the Comprehensive Crime Control Act has widened by giving the authority to judge all of the terror crimes which occurred at the out of country borders. This act announced that the US authority would not be deterred from carrying out its own obligations all over the world for those who would move on the acts of terrorism against US citizens or property. Namely, this act provided the organization and authority necessary to implement the recommendations of the US law on overseas security. Indeed, this Act was directed at comprehensive coordination in crime control. As Reagan mentioned in his statement on signing the Omnibus Diplomatic Security and Anti-Terrorism Act of 1986²¹³: “Seeking international cooperation is vital in the

²⁰⁹ Davidson Smith; *Combating Terrorism*, Routledge, London, 1990, p. 211

²¹⁰ Crime Control Acts, available at: <http://law.jrank.org/pages/5853/Crime-Control-Acts.html>, retrieved on: 6 July 2009

²¹¹ *Ibid.*

²¹² ‘The Omnibus Diplomatic Security and Anti-terrorism Act of 1986’, available at: <http://www.state.gov/documents/organization/21837.pdf>, retrieved on: 20 July 2009

²¹³ ‘Statement on Signing the Omnibus Diplomatic Security and Antiterrorism Act of 1986’, 26 August 1986, available at: <http://www.reagan.utexas.edu/archives/speeches/1986/082786a.htm>, retrieved on: 20 July 2009

struggle against terrorism, and that effort remains a top foreign policy priority for me. Within the Government, cooperation and coordination between all departments and agencies is also essential in protecting our vital national security interests from the terrorist threat.”²¹⁴

In 1996, the Anti-Terrorism and Effective Death Penalty Act²¹⁵ came into force. This act pursued a goal to deter terrorism, provide justice for victims and also provide for an effective death penalty.²¹⁶ The Illegal Immigration Reform and Immigrant Responsibility Act²¹⁷ came into force in 1996. In line with this act, the use “confidential proof” was endorsed in order to exile the immigrants from the country and the “crime connection” was brought back. It can therefore be argued that, the Muslim population in the US is the main target of all above mentioned acts. As it is demonstrated below, there were various acts infringing human rights adopted in the post-9/11 period. In this regard, it would not be wrong to mention that at both periods the attempts to suppress terrorism have different contents, but similar results.

3.1.2. Post - 9/11 Period

As Wolfowitz stated: “The recent attacks demonstrate [that] we are witnessing a dramatic expansion of the deadly zone of conflict to our population centers. War used to be something that took place on foreign soil. No longer.”²¹⁸ In the post-9/11 period, there were two common elements that shaped the security agenda of the US: Neo-conservatives and the National Security Strategy (NSS)²¹⁹ which is also called as the Bush Doctrine. It is needless to mention here that neo-conservatives affect foreign policies of the US in the periods both before and after 9/11. So, a brief outline of the neo-conservative effect in the US foreign policy is explained below through making an analysis of the position of neo-conservatism in the US perception of terrorism.

²¹⁴ *Ibid.*

²¹⁵ ‘Antiterrorism and Effective Death Penalty Act of 1996’, 24 April 1996, available at: <http://www.lib.umich.edu/govdocs/pdf/pl104132.pdf>, retrieved on: 20 July 2009

²¹⁶ *Ibid.*

²¹⁷ ‘The Illegal Immigration Reform and Immigrant Responsibility Act’, available at: [http://www.usdoj.gov/eoir/OcahoMain/Efoiadections/U\(N-Z\)/7b00079a.pdf](http://www.usdoj.gov/eoir/OcahoMain/Efoiadections/U(N-Z)/7b00079a.pdf), retrieved on: 20 July 2009

²¹⁸ Paul Wolfowitz, ‘Remarks Prepared for Delivery’, *World Affairs Council*, Monterey, 2002; cited in Mikkel Vedby Rasmussen, ‘A Parallel Globalization of Terror’s: 9 -11, Security and Globalization’, *Cooperation and Conflict: Journal of the Nordic International Studies Association*, Vol.37(3), 2002, p. 325

²¹⁹ ‘The National Security Strategy of The United States of America’, September 2002, available at: www.whitehouse.gov/nsc/nss/2002/nss.pdf, retrieved on: 26 July 2009

3.1.2.1. The Neo-Conservative Approach

Neo-conservatism became the fundamental dynamic of American politics especially after the end of the 2nd World War. Their ultimate aim is to promote the American values all around the world and also to destroy the potential obstacles against its state of being as a super power. Neo-conservatives who are also called Neo-cons support economic liberalism and commitment to traditional values and moral norms. Neo-conservatives is a group mainly composed of Jews who are especially interested in foreign policy issues. They believe modern threats facing the US can no longer be reliably contained and therefore must be prevented, sometimes through preemptive military action.²²⁰ In order to strengthen US policies as a super power, they adopt an everlasting enemy perception in the US. The enemy which was communism before the break up of Soviet Union (SU) is now the global Islamist terror.

In George Bush government, neo-conservatism played an important role on US security and foreign policies. It also had a determining effect on politics in previous governments. In 1992, the Defense Planning Guidance²²¹ was formulated by Paul Wolfowitz, Lewis Libby and Zalmay Khalilzad who were known as neo-conservatives. It was a document that the security agenda of post-Cold War period including US military strategies. The US security policy objectives in the post-Cold War era which paved the way for the key points of today's security policies were set in this document. For instance, the number one objective of US political and military strategy of the post Cold War period was defined as preventing the emergence of a rival super power.

There are three additional aspects to this objective: First the U.S must show the leadership necessary to establish and protect a new order that holds the promise of convincing potential competitors that they need not aspire to a greater role or pursue a more aggressive posture to protect their legitimate interests. Second, in the non-defense areas, we must account sufficiently for the interests of the advanced industrial nations to discourage them from challenging our leadership or seeking to overturn the established political and economic order.

²²⁰ 'Neocon 101' *The Christian Science Monitor*, available at:

<http://www.csmonitor.com/specials/neocon/neocon101.html>, retrieved on: 20 July 2009

²²¹ 'The Defense Planning Guidance', 29 February 1992, available at: <http://www.scribd.com/doc/2260538/US-Defense-Planning-Guidance-19921999>, retrieved on: 21 July 2009

Finally, we must maintain the mechanisms for deterring potential competitors from even aspiring to a larger regional or global role.²²²

Another major US objective should be to safeguard US interests and promote American values. The most important objective mentioned in this document was that “if necessary, the US must be prepared to take unilateral action”.²²³ This attribution to unilateralism debased the value of international coalitions in US foreign policies.²²⁴ Moreover, this document did not include any attribution to taking collective action through the United Nations. It included the statement on coalitions that “hold considerable promise for promoting collective action,” but it also stated the US “should expect future coalitions to be ad hoc assemblies” formed to deal with a particular crisis and which may not outlive the resolution of the crisis.²²⁵ One should bear in mind that the US has a vision of taking unilateral action in order to tackle security threats rather than multilateral action.

In 1997, the Project for the New American Century²²⁶ was formulated by neo-conservatives: namely, William Kristol and Robert Kagan. Due to this project, the main objective was to promote American global leadership by emphasizing that it is good both for the US and for the world. This project supported a Reaganite policy of military strength and moral clarity and even affected the Bush Administration’s development of military and foreign policies, especially involving national security.²²⁷ Indeed, it had an intention to bring back the essential elements of the Reagan Administration’s success which included a military that is strong and ready to meet both present and future challenges; a foreign policy that boldly and purposefully promotes American principles abroad; and national leadership that accepts the US’ global responsibilities.²²⁸ This project put the military power next to the unilateral action into the security policies of the US. At the same time, it underlined the need to increase defense spending significantly and modernize armed forces.

²²² ‘Excerpt from 1992 Draft Defense Planning Guidance’, available at: <http://www.pbs.org/wgbh/pages/frontline/shows/iraq/etc/wolf.html>, retrieved on: 21 July 2009

²²³ *Ibid.*

²²⁴ *Ibid.*

²²⁵ *Ibid.*

²²⁶ ‘Statement of Principles’, available at: <http://www.newamericancentury.org/statementofprinciples.htm>, retrieved on: 21 July 2009

²²⁷ *Ibid.*

²²⁸ *Ibid.*

Neo-conservatives presented a letter²²⁹ to the President Clinton on 26 January 1998 in order to mention that coalition based multilateral policies in the Middle East are inadequate. In other words, Neo-conservatives explained their dissatisfaction on current American policy toward Iraq. In the letter, it was stated that the only acceptable strategy against the threats in the Middle East and especially Iraq was to eliminate the possibility that Iraq would be able to use or threaten to use WMD. According to this letter; “In the near term, this means a willingness to undertake military action as diplomacy is clearly failing. In the long term, it means removing Saddam Hussein and his regime from power. That now needs to become the aim of American foreign policy.”²³⁰ Then, it would not be wrong to argue that the Neo-conservative approach paved the way to a harsher, unilateral, preemptive and military based perception of security policies in the US, especially with the presidency of Bush. Thus, the political approach of security known as the “Bush Doctrine” had evolved with the leading impacts of Neo-conservatives. After 9/11, the Bush government issued a National Security Strategy (NSS)²³¹ in September 2002 as a response to the terrorist attacks. This is a document that includes the arguments of President Bush on security strategies of the post-9/11 period. For this reason, this document forms the basis of foregoing “Bush Doctrine”.

3.1.2.2. The National Security Strategy - 2002

According to the NSS, in the post-9/11 period, the issue that threat to the security of the US and the world at large is not a state within defined borders. Rather, the terrorist organizations that have supranational power and even the use of WMD by taking the support of rogue states are the primary threats to global security. On the one hand, the reason behind today’s complex security environment is considered as the use of weapons of mass destruction by the rogue states. In order to tackle these threats, the US stressed the importance of diplomacy and international cooperation. However, in cases that coalitions can no longer be established, the US makes it clear that it can act alone when necessary. This is one of the indicators of the unilateral approach in the new security strategy of the country. In line with

²²⁹ ‘Letter to President Clinton’, 26 January 1998, available at: <http://www.newamericancentury.org/iraqclintonletter.htm>, retrieved on: 21 July 2009

²³⁰ *Ibid.*

²³¹ ‘The National Security Strategy of The United States of America’, September 2002, available at: <http://www.globalsecurity.org/military/library/policy/national/nss-020920.pdf>, retrieved on: 26 July 2009. See Annex II for the whole text.

the understanding of survival states must selfishly pursue their national interests, the most vital being national security.²³² In other words, the national security of the US is above all issues. One could make sense of it as a realist perspective which favors national interests. The document emphasized that the security perceptions in the post-Cold War period and in the post-9/11 period are totally different as well as the threatening elements of security. In line with this fact, the document is based on the idea that the strategies for fighting against the new threats to security, particularly international terrorism, should be transformed and revised.

On the other hand, it is worth to underline the document's reference to NATO. Namely, NATO must act wherever American interests are threatened, creating coalitions under NATO's own mandate, as well as contributing to mission based coalitions.²³³ Meanwhile, the US emphasized multilateral institutions are indispensable to avoid the threats to security. To this aim, the US committed to lasting institutions like the United Nations, the World Trade Organization, the Organization of American States, and NATO as well as other long-standing alliances.²³⁴ It was stated on the NSS as such, but in practice, the US withdrew from the Anti Ballistic Missile Treaty and it is also stated in the NSS that "the jurisdiction of the International Criminal Court does not extend to Americans".²³⁵

It is clear that the NSS focused on the use of military power against terrorist attacks. It was stated in the document that the military force was an appropriate tool to destroy terrorist organizations, prevent rogue states before they use WMD, protect the US national interests, and strengthen America's homeland security to protect against and deter attack.²³⁶ Additionally, the NSS put the emphasis on pre-emption. According to the NSS, deterrence no longer works against people willing to sacrifice their lives and concludes that the US will strike before their enemies to do so.²³⁷ Pre-emptive attitude against terrorism in the NSS is closely related with unilateralism to the effect that, "while the US will constantly strive to

²³² Louis Klarevas; 'Political Realism: A Culprit For the 9/11 Attacks', *Harvard International Review*, 26:3, 2004, p.19

²³³ 'The National Security Strategy of The United States of America', September 2002, p. 25, available at: <http://www.globalsecurity.org/military/library/policy/national/nss-020920.pdf>, retrieved on: 26 July 2009

²³⁴ *Ibid.*, p. 28

²³⁵ *Ibid.* In the following parts of this chapter, a special emphasis is given to this issue.

²³⁶ *Ibid.*, p. 6

²³⁷ *Ibid.*

enlist the support of international community, we will not hesitate to act alone, if necessary to exercise our right of self-defense by acting pre-emptively against such terrorists.”²³⁸ In other words, the US will act pro-actively; using all the elements of national and international power, including military, missile defense, law enforcement, financial control and intelligence. Diplomacy is also an important tool as it is seen necessary to interact with others. Another important point that should be stressed is self-regarding interests which form the basis of US foreign policy objectives. According to the NSS, it is not wrong to come to the conclusion that there is a war on terror; “We are broadening our already extensive cooperation in the global war on terrorism.”²³⁹

Neo-conservatives appreciated this strategy greatly and wrote a letter²⁴⁰ to President Bush in order to support his strategies; “We write to endorse your admirable commitment to “lead the world to victory” in the war against terrorism. We fully support your call for “a broad and sustained campaign” against the “terrorist organizations and those who harbor and support them.”²⁴¹ In this letter, a comprehensive strategic proposal which includes the need to arrange a military action against Afghanistan in order to destroy Osama Bin Laden, a military action against Iraq in order to destroy Saddam Hussein and also the need to eradicate the previous threats by *Hizbollah*, is mentioned. In addition to these, the document involved that the US should support Israel which has been America’s staunchest ally in its fight against terrorism. Once again, Neo-conservatives emphasized the need to increase defense spending. As it is mentioned in the letter, “Fighting this war may well require the United States to engage a well-armed foe, and will also require that we remain capable of defending our interests elsewhere in the world.”²⁴²

In sum, the Bush Doctrine is mainly based on pre-emptive strike against international terrorism. The Neo-conservative effects can be seen obviously in the security strategies of Bush government in the post-9/11 period as such; the attempts of the UN are accepted as inadequate and ineffective. The logic is that even if other states or organizations such as the

²³⁸ *Ibid.*, p. 7

²³⁹ *Ibid.*

²⁴⁰ ‘Letter to President Bush’, 20 September 2001, available at: <http://www.newamericancentury.org/Bushletter.htm>, retrieved on: 25 July 2009

²⁴¹ *Ibid.*

²⁴² *Ibid.*

UN attempt to combat against terrorism, those attempts are ineffective if the US do not lead. Thus, Neo-conservative approach and the Bush Doctrine are the two significant factors that paved the way for the following security strategies of the US. After 9/11 attacks, the US put new security strategies and reorganized its security institutions in order to create an effective security policy.

In 2006, the latest National Security Strategy²⁴³ was issued. It has a more multilateral approach than the 2002 NSS. As Susan Rice mentions, it was notable for its belated recognition of the important opportunities and challenges posed by globalization and its appropriate insistence on the need for multi-faceted, sustained US leadership of the world.²⁴⁴ Actually, the Bush doctrine was revisited with the 2006 document through repeating the US's commitment to supporting democracies and defeating terrorism. Stephen Hadley, the US National Security Advisor, points out the important themes in the 2006 Strategy as:

First, America must be strong and secure. We are at war, and defeating the terrorists is America's most immediate challenge. Second, our strategy is to defeat -- our strategy to defeat the terrorists must include a strategy to defeat their hateful ideology. We do this by promoting a positive vision -- the promise of freedom and democracy. Third, freedom and democracy are more than just a means to an end. Our nation has long promoted freedom as the birthright of every human being. We champion effective democracy as the best way for nations to secure the freedom of their citizens, as well as their prosperity and security. Fourth, security and effective democracy can enable the pursuit of a smart development strategy that can improve the lives of people everywhere. Fifth, a community of effective democracies can best address the regional and global challenges of our time.²⁴⁵

On the whole, the controversial doctrine of pre-emptive self defense was, once again, underlined as crucial for "the war on terror". However, the questions that arose after the 2002 document were still unanswered. As different from the 2002 NSS, the 2006 document explained the changes after 2002 and the effects of globalization. In addition to these, whereas the focus in the 2002 Strategy was on the threat posed by Iraq and North Korea; in the 2006

²⁴³ The White House, 'The National Security Strategy', March 2006, available at: <http://georgewbush-whitehouse.archives.gov/nsc/nss/2006/>, retrieved on 10 December 2009

²⁴⁴ Susan Rice, 'Statement on the 2006 National Security Strategy', available at: http://www.brookings.edu/opinions/2006/0316terrorism_rice.aspx, retrieved on 10 December 2009

²⁴⁵ Stephen Hadley, 'What are the 2002 and the 2006 National Security Strategies?' March 2006, available at: <http://usiraq.procon.org/viewanswers.asp?questionID=000925>, retrieved on 10 December 2009

NSS, attention shifted to Iran and Syria, which were accused of being State sponsors of terror by *Hizbollah* and *Al-Qaida*.

3.1.3. The New Security Policies and Institutions of Post - 9/11

As one of the most prominent actors of the world politics, the US was influenced by the transformation of the security environment with the 9/11 attacks. Within this context, the creation of new security strategies, policies and instruments have come to the fore in the post-9/11 period. This section looks into the change observed in the US' security policy and analyses the instruments employed for realizing this new policy.

3.1.3.1. The Department of Homeland Security

The establishment of the Department of Homeland Security (DHS)²⁴⁶ is one of the important steps taken in order to protect US national security after 9/11 events. Before, there was not a single body that was responsible from homeland security. In 2002, the establishment of this department was realized however, it came into the force in 2003. As it is mentioned in the NSS, "Centered on a new Department of Homeland Security and including a new unified military command and a fundamental reordering of the FBI, our comprehensive plan to secure the homeland encompasses every level of government and the cooperation of the public and the private sector."²⁴⁷

In 2004, the DHS issued a strategic plan²⁴⁸ which includes three main objectives of the DHS that can be listed as; to prevent terrorist attacks, to avoid the conditions that paved the way to terrorist attacks against the US and to minimize the damages of the terrorist attacks. In the following years, strengthening the structure of the department is added to the aims.²⁴⁹ It

²⁴⁶ President George W. Bush, 'The Department of Homeland Security', June 2002, p 1, available at: <http://www.dhs.gov/xlibrary/assets/book.pdf>, retrieved on: 29 July 2009

²⁴⁷ 'The National Security Strategy of The United States of America', September 2002, available at: <http://www.globalsecurity.org/military/library/policy/national/nss-020920.pdf>, retrieved on: 26 July 2009

²⁴⁸ 'US Department of Homeland Security Strategic Plan,-Securing Our Homeland', 2002, p.3, available at: http://www.dhs.gov/xlibrary/assets/DHS_StratPlan_FINAL_spread.pdf, retrieved on: 29 July 2009

²⁴⁹ 'National Strategy for Homeland Security', Homeland Security Council, October 2007, p. 1, available at: <http://www.whitehouse.gov/infocus/homeland/nshs/NSHS.pdf>, retrieved on: 29 July 2009

has an efficient organizational structure with four divisions: Border and Transportation Security, Emergency, Preparedness and Response, Chemical, Biological, Radiological and Nuclear Counter-measures, Information Analysis and Infrastructure Protection.

The scope of the responsibilities and the duties of the DHS are broad.²⁵⁰ First of all, it is tasked to make a comprehensive threat analysis regarding the determination of the threats and the effects of these threats. In order to tackle these threats on time, the US public and the US government institutions should be informed about the effects of these threats. To what extent the US is open to these threats should be analyzed. Secondly, all threats to security should be prevented. Indeed, border controls and efficient border security should be provided. Thirdly, the Department aimed to make the US safer by protecting the nation's critical infrastructure. Fourthly, the legal procedures on migration would be rearranged. The program of Terrorist Identities Datamart Environment (TIDE)²⁵¹ involves all information that the US government possess related to the identities of individuals known or appropriately suspected to be or have been involved in activities constituting, in preparation for, in aid of or related to terrorism.²⁵² And the last area of responsibility of DHS is the risk calculation of potential threats to security. The Department is also charged with the determination of risky areas and the abolition of all risks that threaten security.

3.1.3.2. The USA Patriot Act

After 9/11 attacks, the reasons behind/the elements that create the convenient atmosphere for the attacks and the security weaknesses of the US began to be questioned in detail. The deficiency of coordination and communication among intelligence agencies, inadequacy of analysis, translation and qualified personnel were all introduced as the overriding reasons that paved the way to security vulnerability.²⁵³ Another major factor that created the unsafe environment in which threats can easily be developed and spread, was

²⁵⁰ The information provided in this paragraph is a brief summary of the DHS Strategic Plan Fiscal years 2008 - 2013, One Team One Mission, Securing our Homeland, available at: http://www.dhs.gov/xlibrary/assets/DHS_StratPlan_FINAL_spread.pdf

²⁵¹ To check the details on TIDE; see: http://www.nctc.gov/docs/Tide_Fact_Sheet.pdf

²⁵² Fact Sheet: Terrorist Identities Datamart Environment, National Counter-terrorism Center, 2004, available at: http://www.nctc.gov/docs/Tide_Fact_Sheet.pdf, retrieved on: 29 July 2009

²⁵³ *Ibid.*

spotted as the atmosphere of freedom in the country. In light of these conclusions, to recreate a secure environment in the country, a list of measures was taken.

The “Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act” (USA PATRIOT ACT)²⁵⁴ of 2001 was signed in 21 October 2001 and came into the force in 26 October 2001. It was the legal US document prepared in response to the hijackings and attacks of 9/11. With this Act, various measures were put on the agenda:

[...] [E]nhanced surveillance powers were introduced, as well as measures on combating money laundering and terrorism financing, border control mechanisms and systems, detention powers against suspected terrorists, requirements for international biometric identity documents, the collection of DNA from terrorists and violent offenders, disclosure of educational records, aid to victims of terrorism, increased data-sharing for critical infrastructure protection, changes to intelligence collection on foreigners, and a new definition of terrorism and new associated crimes.²⁵⁵

The main objectives of this Act were explained under four major points; enhancing the federal government’s capacity to share intelligence, strengthening the criminal laws against terrorism, removing obstacles to investigating terrorism, updating the law to reflect new technology. Prior to the Act, the access to telephone, e-mail, medical and financial records and all the other electronic information is provided. As a result of this Act, telephone calls and personal e-mails could be checked by the legal authorities. This Act is criticized to the extent that it is against human rights and democracy. Namely, personal rights and freedoms are overridden within this Act. The state pressure on the public is also increased through enlarging the competences of the FBI and CIA. The Muslim population in the US and the immigrants who came from Islamic states are the main targets of this Act. The suspected individuals from those populations are arrested immediately without interrogation.

²⁵⁴ ‘The USA PATRIOT ACT 2001’, 26 October 2001, available at: <http://fl1.findlaw.com/news.findlaw.com/wp/docs/terrorism/hr3162.pdf>, retrieved on: 29 July 2009

²⁵⁵ *Ibid.*, p. 272

3.1.3.3. The Intelligence Reform and Terrorism Prevention Act

On December, 2004, the Intelligence Reform and Terrorism Prevention Act²⁵⁶ was signed with the aim of providing better intelligence services by the abolition of the communication problems among the US intelligence agencies. In this reform package, the post of the Director of National Intelligence²⁵⁷ was also established. It is responsible from the budget of National Intelligence Program, funding and personnel transfer, determining the working subjects of the intelligence community and also cooperation with foreign intelligence agencies. Additionally, the National Counter-Terrorism Center²⁵⁸ was also established with this reform. It gives reports on the issues of budget and intelligence at large, to the Director of National Intelligence.

Border security is the ultimate aim of this Act. It is aimed to prevent terrorism before reaching to the country borders. The DHS is charged with new authorities regarding transportation, migration and visa program. With the implementation of this Act, the number of personnel at the border controls is increased and new visa applications such as; one to one interview are introduced.

3.1.3.4. The Terrorist Financing Executive Order - 2001

In 2001, the US government issued an act named Terrorist Financing Executive Order²⁵⁹ in order to stop the financial support of terrorist organizations. Bush stated; “We will starve terrorists of funding, turn them against each other, rout them out of their safe hiding places, and bring them to justice.”²⁶⁰ The order expanded the powers of the Treasury Department to prevent financial support to terrorist organizations. It would freeze the relations with the organizations, states and individuals who give support to terrorist organizations.

²⁵⁶ ‘Intelligence Reform and Terrorism Prevention Act of 2004’ available at: http://www.nctc.gov/docs/pl108_458.pdf, retrieved on: 29 July 2009

²⁵⁷ ‘Summary of Intelligence Reform and Terrorism Prevention Act Of 2004’, 6 December 6 2004, p. 8, available at: http://www.nctc.gov/docs/pl108_458.pdf, retrieved on: 29 July 2009

²⁵⁸ *Ibid.*

²⁵⁹ ‘Terrorist Financing Executive Order’, 24 September 2001, available at: <http://georgewbushwhitehouse.archives.gov/news/releases/2001/09/20010924-2.html>, retrieved on: 29 July 2009

²⁶⁰ *Ibid.*

Additionally, donors' information about charitable groups which fund terrorist organizations would be pursued. The foreign banks which are refusing to freeze terrorist assets would be blocked by the US finance markets. In this Order, eleven terrorist organizations²⁶¹ are listed and the government prohibited any kind of relations with those organizations.

3.1.3.5. The Authorization for Use of Military Force - 2001

In 2001, President Bush signed the Order on Authorization for the Use of Military Force²⁶² in order to facilitate the use of military force to protect the national security of the country. With this order, the President is authorized to use all necessary military force against “those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons, in order to prevent any future acts of international terrorism against the United States by such nations, organizations or persons.”²⁶³ This is an outstanding act for the upcoming phases of US security policy through the use of hard military power.

3.1.3.6. The Protect America Act of 2007

In 2007, the Protect America Act²⁶⁴ was issued and it rearranged the Foreign Intelligence Surveillance Act (FISA)²⁶⁵ which removed the warrant requirement for government surveillance of foreign intelligence targets “reasonably believed” to be outside of the United States.²⁶⁶ This Act pursued to accommodate with the terrorist usage of technology and provide intelligence in advance. With this act, the Intelligence Agencies were given

²⁶¹ Executive Order 12947. The terrorist organizations identified in the Annex as originally published are: 1-Al Qaida/Islamic Army 2-Abu Sayyaf Group 3-Armed Islamic Group (GIA) 4- Harakat ul-Mujahidin (HUM) 5- Al-Jihad (Egyptian Islamic Jihad) 6- Islamic Movement of Uzbekistan (IMU) 7-Asbat al-Ansar 8- Salafist Group for Call and Combat (GSPC) 9- Libyan Islamic Fighting Group 10- Al-Itihaad al-Islamiya (AIAI) 11- Islamic Army of Aden. For further info see see: <http://merln.ndu.edu/archivepdf/terrorism/state/103392.pdf>

²⁶² ‘Authorization for Use of Military Force’, 18 September 2001, available at: <http://news.findlaw.com/wp/docs/terrorism/sjres23.es.html>, retrieved on: 29 July 2009

²⁶³ *Ibid.*

²⁶⁴ ‘Protect America Act’ 5 August 2007, available at: <http://intelligence.senate.gov/laws/pl11055.pdf>, retrieved on: 29 July 2009

²⁶⁵ ‘Amendments to the Foreign Intelligence Surveillance Act’, 2007, available at: <http://www.fas.org/sgp/crs/intel/m071906.pdf>, retrieved on: 29 July 2009

²⁶⁶ *Ibid.*

authority to collect information in foreign countries without the legal warrant. The private telecommunication companies were obliged to help the agencies collecting necessary information. In addition to these, the Act also provided the protection of the third parties like the telecommunication companies against suit in order to dissolve the related concerns. All the above mentioned measures were taken in order to protect the national security of the US. They all involved methods of blocking the rise new of security threats and the terrorist organizations as well to crush the existent threats. However, they were criticized with the violation of human rights, abolition of private life and restriction on individual freedoms.

3.1.3.7. The National Defense Strategy - 2008

In 2008, the Department of Defense (DOD) issued the National Defense Strategy (NDS)²⁶⁷ that outlines the current national approach to defense in the US for implementing the NSS of 2006. In this document, the objectives of DOD are listed as; “defend the homeland, win the long war, promote security, deter conflict and win Nation’s Wars.”²⁶⁸ In order to achieve these objectives, the Department should shape the choices of key states, prevent the usage of WMD, strengthen alliances and secure US strategies.

An important point that should be kept in mind regarding National Defense Strategy is its descriptive principle of “balance”²⁶⁹. Balance is at the heart of New Defense Strategy, Defense Secretary Robert M. Gates said.²⁷⁰ What is meant by balance is multidimensional: such as the balance between the sensitive relation and, the priorities and costs; the balance between the traditional way of doing things and shedding the barriers to do. In brief, the Department of Defense should maintain the priorities and consider the opportunity costs while planning its defense strategies. It could not be expected to throw off threats to national security through only high defense spending. A balance between different issues such as; to be effective in the current conflicts and to be prepared for the unexpected conflicts, to protect

²⁶⁷ ‘National Defense Strategy’, 30 July 2008, available at: <http://www.defenselink.mil/news/2008%20national%20defense%20strategy.pdf>, retrieved on: 29 July 2009

²⁶⁸ *Ibid.*, p.6

²⁶⁹ Jim Garamone; ‘2008 National Defence Strategy’, *American Forces Press Service*, Washington July 31, 2008, available at: <http://www.defenselink.mil/News/newsarticle.aspx?id=51331>

²⁷⁰ *Ibid.*

the current strategic military power and to institutionalize counter-insurgency, should also be considered. The Defense Secretary Robert M. Gates stated:

The principal challenge, therefore, is how to ensure that the capabilities gained and counter-insurgency lessons learned from Iraq and Afghanistan, as well as the lessons we learned from other places where we have engaged in irregular warfare over the last two decades, are institutionalized within the defense establishment.²⁷¹

Furthermore, this new strategy is a significant departure from earlier ones in a sense that it emphasizes a shift toward irregular warfare — the violent struggle among state and non-state actors for legitimacy and influence over relevant populations, employing the full range of military and other capabilities to erode an adversary's power, prestige and will.²⁷² The irregular challenges as well as close monitoring of the rising military power of other states are given emphasis in the document. As it is stated in the document; “We must monitor the capabilities required to defeat state adversaries including those armed with nuclear weapons.”²⁷³ This is vital in the sense that it refers to the US' role on preventing the usage of WMD which paved the way for the intervention in Iraq.

The NDS support the NSS with a much more significant emphasis on cooperation, which can be read as an attempt to multilateralism: in order to win war on terrorism there must be a multinational effort including not only US military and civilian actors, but also other friendly nations, allies and international organizations. In order to achieve the objectives, the US must strengthen and expand alliances and partnership. The importance of comprehensive cooperation in security concerns is once again underlined. The US should be ready to support other countries to improve their capabilities for counter-terrorism. The strategy involves that the partnerships should be capable of applying both military and non-military power when and where needed. The NDS is mainly built upon the lessons learned from the previous operations and strategic reviews. One of the main conclusions of the NDS is that in the current international environment, the Long War and other irregular challenges

²⁷¹ ‘Department of Defense Releases the National Defense Strategy’, available at:

<http://www.defenselink.mil/news/newsarticle.aspx?id=50657> , retrieved on: 29 July 2009

²⁷² ‘Issue paper: Implications for the United States Army’, *Association of the US Army*, September 2008, available at: http://www.ausa.org/programs/torchbearer/issuepapers/Issue%20Papers/TB-IP_08-4.pdf, retrieved on: 29 July 2009

²⁷³ ‘Defense Strategy’, 30 July 2008, p.14, available at:

<http://www.defenselink.mil/news/2008%20national%20defense%20strategy.pdf>, retrieved on: 29 July 2009

are the greatest threats to American security; the US military must improve its capabilities against these irregular threats. Nonetheless, the US must closely monitor rogue states and the “rising military power of other states”.²⁷⁴

3.2. Transatlantic Relations

In Cold War period, the European states let NATO to take the initiative on defense and security issues whereas, with the end of Cold War, the European Union wanted to have a voice on the European security on its own. In the post-Cold War era, Europe gained a maneuvering capacity as a result of the removal of the Soviet threat as its dependency on the US and NATO in security matters.

In the following part of this study, the Union’s efforts with its transatlantic partner – the US – on counter-terrorism cooperation is analyzed. The Member States have different points of view about transatlantic relations. In a Union of 27 members, there are differences in the Member States’ attitudes towards certain issues due to differences in their strategic positions and national interests. For instance, France would like to have more autonomy against the US in European defense whereas the UK would like NATO to stay as the dominant power. But when it comes to the terrorism issue, still, it is certain that the EU shares the threat perception of the US regarding terrorism although it does not sometimes agree on the methods used by the super power. In support of the US countering terrorism, the EU froze the assets of those believed to be linked to the 9/11 attacks. Consequently, the point of views on terrorism is different both in the Member States and between the US and the EU. In this context, although there are divergences between the US and the EU attitude on terrorism and there are also convergences on cooperation against terrorism. It is clear that, the US and the EU use different counter-terrorism methods which pave the way to divergences that stem from different perceptions and strategies. They have different strategic cultures and as a result of this, they use different instruments in dealing with global threats. Despite their divergent perceptions of terrorism and methods for counter-terrorism, it would be wrong to exclude that the US and the EU have a considerable convergence in terms of cooperation.

²⁷⁴ *Ibid.*, p. 15

3.2.1. The Cooperation between the US and the EU

The attacks of 9/11 caused states to come closer to each other against a common threat. Until 9/11, the EU did not take the issue of terrorism seriously. Before, the EU had an indifferent attitude to the calls made by the UN in order to reach a common consensus on the definition of terrorism. After 9/11, the EU, for the first time, searched for a definition of terrorism and even created a list of terrorist organizations. Indeed, terrorist assets may be frozen throughout the EU even if there is a decision by the UN or not. Despite their growing divergences on the ways for tackling terrorism and the other threats, as Valsamis Mitsilegas argues, “the September 11 terrorist attacks acted as a catalyst for the intensification of law enforcement cooperation between the EU and the US”.²⁷⁵ In other words, the 9/11 attacks urged the two sides of the Atlantic to find collective solutions to some extent. In this context, it is certain that there have been shared strategies between the two parties on counter-terrorism issues. Since 9/11, the Union made efforts to fight against terrorism through improving law enforcement in cooperation with the US. On that point, it is important to mention that the Bush administration and Members of Congress have welcomed these initiatives of the EU to prevent other terrorist attacks against the US and root out terrorist cells in Europe.²⁷⁶

First of all, police and judicial cooperation was provided in the post-9/11 period. In this regard, the US-EUROPOL Agreement²⁷⁷ was signed on 6 December 2001. As it is stated in the document; “The purpose of this Agreement is to enhance the cooperation of the Member States of the European Union, acting through EUROPOL, and the United States of America in preventing, detecting, suppressing, and investigating serious forms of international crime by the exchange of strategic and technical information.”²⁷⁸ As a result of this agreement, the EUROPOL set up a liaison office in Washington in order to facilitate the exchange of information as well as improve coordination with the US officials. Then, the US

²⁷⁵ Valsamis Mitsilegas; ‘The New EU-USA Cooperation on Extradition, Mutual Legal Assistance and the Exchange of Police Data’, *European Foreign Affairs Review*, 8: 4, Winter 2003, p. 515

²⁷⁶ Kristin Archick; “U.S- EU Cooperation Against Terrorism”, *CRS Report for Congress*, RL31509, April 13, 2005, p. 1, available at: <http://www.usembassy.it/pdf/other/RS22030.pdf>, retrieved on: 28 July 2009

²⁷⁷ ‘Agreement Between the US and the EUROPOL’, 6 December 2001, available at: <http://www.europol.europa.eu/legal/agreements/Agreements/16268-2.pdf>, retrieved on: 29 July 2009

²⁷⁸ *Ibid.*

posted an FBI liaison officer in the Hague, Netherlands, to work with EUROPOL officials on counter-terrorism. Senior officials from the EU and the US meet every six months to discuss their police and judicial cooperation. It is worth to mention here that mutual assistance between the two sides has been provided to some extent. In addition, the US and the EU established a high-level policy dialogue on border and transport security including passenger data-sharing, cargo security, biometrics, visa policy, and sky marshals.²⁷⁹

In December 2002, Supplemental Agreement between the EUROPOL Office and the US on the Exchange of Personal Data and Related Information²⁸⁰ was signed. This agreement was delayed because of the discussions on the issue of personal data exchange. According to the EU laws, the Union can only transmit personal data to another state with the same legal framework to protect the privacy of such data. In this context, the US structure differed from the EU, because the US does not have a central authority that is responsible for the supervision and control of the use of personal data and also there is no structured data protection legislation.²⁸¹ After the discussions on the issue, rather than setting up a specific institution to protect data, the two sides agreed on respective principles. Thus, the exchange of personal data became possible for purposes including “the prevention, detection, suppression, investigation and prosecution of any specific criminal offences and for any specific analytical purposes.”²⁸² The exchange of sensitive personal data is also provided in cases it is particularly relevant to a purpose.

Furthermore, the EU and the US signed agreements on mutual legal assistance and extradition in addition to bilateral agreements with the Member States. These agreements, with their broad scope, precisely strengthened the cooperation between the EU and the US.

²⁷⁹ *Ibid.*, p.3

²⁸⁰ ‘Supplemental Agreement Between Europol Police Office and the United States of America on the Exchange of Personal Data and Related Information’, December 2002, available at: <http://www.europol.eu.int/legal//agreements/Agreements/16268-1.pdf>, retrieved on: 29 July 2009

²⁸¹ Valsamis Mitsilegas; “The New EU-USA Cooperation on Extradition, Mutual Legal Assistance and the Exchange of Police Data”, *European Foreign Affairs Review*, 8:4, Winter 2003,p.516

²⁸² ‘Supplemental Agreement Between Europol Police Office and the United States of America on the Exchange of Personal Data and Related Information’, December 2002, available at: <http://www.europol.eu.int/legal//agreements/Agreements/16268-1.pdf>, retrieved on: 29 July 2009,

The Extradition Agreement²⁸³ in which it is stated that an offence shall be an extraditable offence if it is punishable under the laws of the requesting and requested States by deprivation of liberty for a maximum period of more than one year or by a more severe penalty²⁸⁴, was signed in 2001. On the issue of death penalty, the parties could not come up with a conclusion. For the reason that, the US officials were reluctant to agree to such a blanket guarantee that suspects extradited to the US would not face death penalty, with the EU as a whole in the negotiations of the agreement. In contrast, the main objective of the EU in the negotiations was to obtain a guarantee that death penalty would not be imposed or carried out on extradited individuals from a Member State to the US.²⁸⁵ An article which addressed this issue specifically was put to the agreement in order to provide consensus on the issue. Namely, article 13 states that;

[...] in cases where extradition is sought for offences punishable by death, the requested State may grant extradition on the condition that the death penalty shall not be imposed on the person sought, or if for procedural reasons such condition cannot be complied with by the requesting State, on condition that the death penalty if imposed shall not be carried out.²⁸⁶

Thus, the lack of consensus on death penalty is solved. On the other hand, the Mutual Assistance Agreement between the US and the EU²⁸⁷ is signed in 2003 in order to facilitate the exchange of requests by the usage of modern communication techniques. This Agreement provided identification of bank information, video conferencing for taking testimony and establishment of Joint Investigative Teams²⁸⁸ to facilitate criminal investigations.

²⁸³ 'Agreement on Extradition Between the European Union and the United States of America', 2001 available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:181:0027:0033:EN:PDF>, retrieved on: 29 July 2009

²⁸⁴ *Ibid.*

²⁸⁵ Kristin Archick; 'Europe and Counterterrorism: Strengthening Police and Judicial Cooperation', *CRS Report for Congress*, RL315009, 23 July 2002, p.14, available at: <http://www.usembassy.it/pdf/other/RL31509.pdf>, retrieved on: 29 July 2009

²⁸⁶ 'Agreement on Extradition Between the European Union and the United States of America', 2001, available at: http://europa.eu.int/eur-lex/pri/en/oj/dat/2003/l_181/l_18120030719en00270033.pdf, retrieved on: 29 July 2009

²⁸⁷ 'Agreement on Mutual Legal Assistance Between the European Union and the United States of America', 2003, available at: http://europa.eu.int/eur-lex/pri/en/oj/dat/2003/l_181, retrieved on: 29 July 2009

²⁸⁸ For further info see: http://europa.eu/legislation_summaries/other/133172_en.htm

Another major cooperation between the US and the EU is provided in the area of border control and transport security. There are various agreements signed by the two parties in order to provide border security. The Customs Cooperation Agreement²⁸⁹ signed in 2004, broadened the scope of the US Container Security Initiative²⁹⁰ that included the pre-screen process for containers to ensure that containers do not contain dangerous materials such as WMD. Additionally, an Agreement on the transfer of the Passenger Name Record Data²⁹¹ is signed in 2004. In this agreement, a Visa Waiver Program²⁹² was decided in order to provide transport security through using biometric identifiers.

3.2.2. Divergences between the Security Policies of the US and the EU

After 9/11 terrorist attacks, the US gave start to “the war on terror” all over the world through the operations in Iraq and Afghanistan. As McNamara stated; “Despite differences within the Atlantic community on the war in Iraq and other issues, the United States and its European partners agree on the grave threat that international terrorism poses to the global community.”²⁹³ The Afghanistan operation is supported by the EU whereas, in the Iraq case, the US did not take into consideration the stance of the UN, the NATO and the EU. Therefore, contradiction with international law is occurred and the division between the US and the EU regarding the way of combating terrorism became clearer.

There is a lack of consensus on the issue of counter-terrorism efforts between the US and the EU. The discussions on terrorism led to a dilemma of freedom and security. In order to provide a secure environment, the US believed in the necessity of interference with freedoms. While fighting terrorism, at some point, human rights and personal freedoms are overlooked. In the post-Cold War period, the Union’s attitude in the dilemma between

²⁸⁹ ‘Agreement Between the European Community and the United States of America on Intensifying and Broadening the Agreement on Customs Cooperation and Mutual Assistance in Customs Matter to Include Cooperation on Container Security and Related Matters’, 2004, available at: http://europa.eu.int/eurllex/lex/LexUriServ/site/en/oj/2004/l_304/l_30420040930en00340037.pdf, retrieved on: 29 July 2009

²⁹⁰ *Ibid.*

²⁹¹ ‘PNR Agreement’, 2007, available at: <http://www.dhs.gov/xlibrary/assets/pnr-2007agreement-usversion.pdf>, retrieved on: 29 July 2009

²⁹² For further info see: <http://www.dhs.gov/xlibrary/assets/pnr-2007agreement-usversion.pdf>

²⁹³ Thomas E. McNamara; ‘Despite Divisions, Europe and the US are fighting Terrorism Together’, *European Affairs*, 4:2, Spring 2003, p. 2

freedom and security has favored the freedom's side. The reason behind this is not only that the EU had not been the target of a major terrorist attack until 9/11, but also that the EU preferred soft security measures and a broader perspective of security. Nevertheless, the US administration held the view that all of these facts created a convenient environment that facilitated terrorist attacks.

The US followed a unilateral attitude in the fight against terrorism. Indeed, the US withdrew from some international agreements such as the Treaty for the Prohibition of Nuclear Weapons²⁹⁴ and Anti Ballistic Missile Treaty²⁹⁵, refused to approve the Biological Weapons Convention²⁹⁶ and the Comprehensive Test Ban Treaty²⁹⁷ regardless of the opposition of the European countries, China, and Russia. Besides, the US opposition to the International Criminal Court²⁹⁸ which was established in 2002 as a permanent criminal court to investigate and prosecute genocide, crimes against humanity, and war crimes is another breaking point in transatlantic relations. The Bush administration explained the reasons of their opposition as depending on the fact that the court could hold US military and political leaders to a uniform global standard of justice. What is more, these oppositions to unilateral policies of the Bush administration came into most significant degree, at least from Europeans' point of view, when the US rejected the "Kyoto Protocol" on global warming.²⁹⁹

The difference in the strategies for counter-terrorism stems from the European understanding that the root causes of terrorism could not be disposed by using military force only, on the contrary, the economic and social alienation of communities should be analyzed. With this aim, the Union's priorities have usually bunched around the political and economic measures rather than military ones. However, the post-9/11 atmosphere caused changes in the European perspective of security issues with the appearance of a common threat. It became inevitable to formulate a counter-terrorism strategy besides the Union's newly developed

²⁹⁴ For further info see: <http://www.un.org/en/globalissues/atomicenergy/agreements.shtml>

²⁹⁵ For further info see: <http://georgewbush-whitehouse.archives.gov/news/releases/2001/12/20011213-2.html>

²⁹⁶ For further info see: <http://www.opbw.org/>

²⁹⁷ For further info see:

<http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&id=488&chapter=26&lang=en>

²⁹⁸ For further info see: <http://www.amnesty.org/en/international-justice/issues/international-criminal-court/usa-icc>

²⁹⁹ Philip H. Gordon; 'Bridging the Atlantic Divide', *Foreign Affairs*, 82:1, January/February 2003, p.70. This is not a difference regarding counter terrorism but it is an important example for US unilateralism.

ESDP. On the other hand, 9/11 terrorist attacks were so massive for the US that they regarded these attacks as an act of war against the US and inclined to use unilateral military force combined with greater American power and resources.³⁰⁰

The divisions between the US and the EU on international matters became more pronounced with the Bush administration. The gap between the EU and the US approaches became more obvious with the US invasion of Iraq in March 2003. The EU and the US disagreement on the invasion of Iraq led to the serious deterioration of transatlantic relations. Robert Kagan's claim on the "*EU from Venus and USA from Mars*" is worth to mention here as it is in line with this assumption³⁰¹. For Kagan, the transatlantic power gap is the main reason of this rift and the difference in their strategic perspectives.³⁰² It is the weakness of Europe that makes it connected to international institutions and law; while opposingly, it is the military strength of the US that makes it exercise that power in an anarchical world. Furthermore, the ideological gap is the other reason behind that. The persuasion, negotiation and diplomacy of the EU take the form of coercion and force when it comes to the US.³⁰³

Having mentioned both the divisions and coalitions in the EU and the US security policies through the establishment of new instruments documents, acts, institutions and strategies, now it is better to look at the issue from a wider angle. The conceptual framework and the reasons behind the divergences should be touched upon in a "compare and contrast" perspective. Here, it would be useful to show these differences on a graph to make it more concrete.

³⁰⁰ *Ibid.*

³⁰¹ Robert Kagan; 'Power and Weakness', *Policy Review*, No. 113, 2002, available at: <http://www.policyreview.org/JUN02/kagan.html> , retrieved on: 30 July 2009

³⁰² *Ibid.*

³⁰³ *Ibid.*

Table: 3.1. EU-US Differences in Security Perceptions

EU	→	US
Soft-civilian power	→	Hard-military power
Multilateralism	→	Unilateralism
Preventive engagement	→	Pre-emptive strike
Support for international law	→	Not abiding by international law
Other-regarding interests	→	Self-regarding interests
State failure	→	Rogue states
Milieu goals	→	Possession goals

Source: This table is made by the author.

The division between the security policies of the EU and the US can be obviously studied on an analysis of the security strategy³⁰⁴ documents of both sides. The divergences between the EU Member States concerning the security issues paved the way to the creation of a common strategic approach for all members of the Union. To this aim, the European Security Strategy document was published. To some extent it provided the coalition between the Member States as well it revealed the strategic divergences between the EU and the US. The National Security Strategy (2002) and the European Security Strategy (2003) are the fundamental documents³⁰⁵ that reflect the security approaches and the terror perceptions of the US and the EU to a large extent. In the previous chapters, both documents were studied through making an analysis of their key points. Having analyzed each document within itself, here a comparison is made for a better understanding of convergence-divergence analysis. To start with, it is of some importance to stress that the EU and the US have the same threat perceptions which are namely, terrorism; proliferation of WMD, and, especially terrorists' getting access to these weapons, and the failed states. In other words, the EU shares the US concerns on the threats posed by terrorism and WMD with the renewed focus on defense.

³⁰⁴ As defined by Biscop and Coolsaet, a security strategy is a policy-making tool that outlines the long-term overall objectives that are to be achieved and the basic categories of instruments that are to be applied to that end; it serves as a reference framework for day-to-day policy making in a rapidly evolving and increasingly complex international environment. For further info see: BISCOP, Sven; 'The European Security Strategy Implementing a Distinctive Approach to Security', The Royal Institute for International Relations, 2004

³⁰⁵ Although the US issued a National Security Strategy (NSS) in March 2006 this study focuses on a comparison between the NSS of September 2002 and the European Security Strategy (ESS) of 2003. This is because the ESS, in a sense,- was published as a response to the NSS 2002. Therefore, it would be more meaningful to compare the security policies of both actors through an analysis of NSS 2002 and ESS 2003. It would be more reliable to compare these two as they were both the initial responses to 9/11 events. However, it should be important to note here that, the 2006 NSS is also important, as mentioned above, since it reflects the continuities and changes in the US security policy against terrorism after NSS 2002.

Moreover, the US underlines international cooperation and diplomacy to fight against these threats. However, it should be borne in mind that, although the US acknowledges the importance of international cooperation, it also underlines that it will act alone when necessary. In the EU Strategy Against the Proliferation of WMD³⁰⁶ that is adopted in December 2003, the EU states that it will use force as a last resort; after exhausting all other means. This is an outstanding statement when it is compared with the previous documents. This statement paved the way to the perception that the EU comes closer to the US stance in that regard although use of force is still seen as the last resort. When the political and diplomatic preventative measures have failed, “coercive measures under Chapter VII of the UN Charter and international law could be envisioned”.³⁰⁷ The EU wants to make sure that when it is necessary, it will take military action. Therefore, it would not be completely relevant to make the classification of hard-military power US and soft-civilian power EU in which hard refers to military power while soft refers to just purely diplomatic and value oriented. As put by Lindstrom, the US has long been also a “soft” power, while Europe has “hard” edges especially is seen as also encompassing countries with significant military assets and expeditionary forces.³⁰⁸

While implementing these strategies, the differences between the two sides come to the scene. The ESS stresses an effective multilateralism by extending the zone of security in the EU’s neighborhood. In this regard, it is stated that “our task is to promote a ring of well governed countries to the East of the European Union and on the borders of the Mediterranean with whom we can enjoy close and cooperative relations.”³⁰⁹ What is more important is that the EU has a multilateral perspective for fighting against terrorism. One could make sense of it as a liberal approach in terms of cooperation with international institutions to solve global problems regarding both the root causes and the international cooperation. On the other hand; the NSS, unlike the European strategy, favors unilateral perspective in terms of realist

³⁰⁶ For further info see: ‘EU Strategy Against Proliferation of Weapons of Mass Destruction’ December 2003, available at: http://ue.eu.int/ueDocs/cms_Data/docs/pressdata/en/misc/78340.pdf

³⁰⁷ ‘EU Strategy Against Proliferation of Weapons of Mass Destruction’ December 2003, available at: http://ue.eu.int/ueDocs/cms_Data/docs/pressdata/en/misc/78340.pdf, retrieved on: 30 July 2009

³⁰⁸ Gustav Lindstrom; (ed.) ‘Mind the Gaps- across the Atlantic and the Union’, cited in: ‘Shift or Rift: Assessing US-EU Relations After Iraq, *Institute for Security Studies*, 2003, Paris, p. 85,

³⁰⁹ The Council of the European Union; ‘A Secure Europe in a Better World: European Security Strategy’, December 2003, p. 12, available at: <http://ue.eu.int/uedocs/cmsUpload/78367.pdf>, retrieved on 29 July 2009

paradigm which is argued above. At the same time, the US also believes in coalitions in order to tackle global threats. But, such cooperation could not be relied on as the sole remedy. The NSS puts that the US will work with others to defuse regional conflicts, it would not inhibit its freedom of action by fixed pattern of cooperation.³¹⁰ This is because the US follows its national interest in any case. Namely, cooperation must be based on the US interests.

The EU prefers to use “preventive engagement” as the tool for dealing with the threats. On the other hand, the US prefers to use “pre-emptive strike” in order to fight against global threats. In pre-emption, there should be an imminent attack for the use of force. The US pre-emption indeed is used for preventive actions also. As speculation about unknown future intentions and capabilities of potential enemies become a *casus belli*—thus the claim that Saddam “could provide one of his hidden weapons to terrorists,” rather than compelling proof that he would take such action, is sufficient.³¹¹ Even though the preventive engagement of the EU and pre-emptive strikes of the US are seen as totally different things, the US pre-emption involves prevention and the preventive engagement of the EU. Additionally, the NSS stresses the importance of the US military power as an instrument to carry out the US hegemony in line with realist perceptions which argue that the military capabilities are significant to protect national interests. Nevertheless, the EU seeks to create a balance between military and civilian instruments in order to reach more coherent policies. Indeed, the ESS draws the role of military power to a minor degree a last resort, and, as a post conflict tool by stating that in the failed states “military instruments may be needed to restore order”, and in regional conflicts “military assets and effective policing may be needed in the post conflict phase”.³¹² What is at stake is therefore the combination of hard power and soft power policies. In this way, it is important to underline that dealing with terrorism requires a mixture of intelligence, police, judicial, military and other means.³¹³

³¹⁰ The National Security Strategy of The United States of America’, September 2002, available at: <http://www.globalsecurity.org/military/library/policy/national/nss-020920.pdf>, retrieved on: 26 July 2009

³¹¹ Charles V. Pena; ‘Bush’s National Security Strategy is a Misnomer’, *Policy Analysis*, October 2003, 496, available at: <http://www.cato.org/pubs/pas/pa-496es.html>, retrieved on: 30 July 2009

³¹² The Council of the European Union; ‘A Secure Europe in a Better World: European Security Strategy’, December 2003, p. 12, available at: <http://ue.eu.int/uedocs/cmsUpload/78367.pdf>, retrieved on: 29 July 2009

³¹³ *Ibid.*, p. 15

What is more, it is argued that self-regarding interests³¹⁴ where the own state is the first and foremost interested party are more relevant in the US foreign policy objectives; while for the EU, collective and other-regarding interests are relevant in which the own state can derive indirect advantage but the interests of the other states are in the first place. Furthermore, the US and the EU seem to have possession and milieu goals³¹⁵ respectively. The former means that the realization of the objective directly benefits the state concerned and the latter means that the objectives relate to the shaping of external environment. The claim that the EU and the US give importance to other-regarding and self-regarding interests respectively loses its sense when we look at the Iranian case. It illustrates that the latter may gain prominence for the EU also with its emphasis on its energy dependence on Iran and its trade relations. The interests of the EU necessitate having good relations with Iran. The EU is the main trading partner of Iran and is dependent on energy supplies from her. There is no such dependency for the US on Iranian oil; instead, the US imports oil from the Gulf States.

In the NSS it is announced that there is a “war on terror”, as can be seen from the following statement; “We are broadening our already extensive cooperation in the global war on terrorism.” In the ESS, Europe is seen in peace and there is a “fight” against terrorism not a “war” as can be seen from the following remark: “[...] crucial in the fight against terrorism [...]”.³¹⁶ Another difference lies on the issue of states that support the threats to security. In the NSS, “rogue states” are seen as a threat to global security. In the ESS, state failure is stated as a threat because in states which suffer from such failure, social and political institutions have weakened or collapsed”.³¹⁷

³¹⁴ George and Keohane made a distinction between self-regarding and collective interests. For further info see: Alexander L. George, Robert O. Keohane; ‘The Concept of National Interests: Uses and Limitations’, 1980, cited in: Stephan Keukeleire; ‘Reconceptualizing (European) Foreign Policy: Structural Foreign Policy’, Paper presented at the ECPR First Pan-European Conference on European Union Politics, 2002

³¹⁵ Wolfers made a distinction between possession and milieu goals. For further info see: Arnold Wolfers, ‘Discord and Collaboration, cited in: Stephan Keukelerie; ‘Reconceptualizing (European) Foreign Policy: Structural Foreign Policy’, Paper presented at the ECPR First Pan-European Conference on European Union Politics, 2002

³¹⁶ The Council of the EU; ‘A Secure Europe in a Better World: European Security Strategy’, December 2003, p. 12, available at: <http://ue.eu.int/uedocs/cmsUpload/78367.pdf>, retrieved on: 29 July 2009

³¹⁷ *Ibid.*

3.3. Concluding Remarks

Cooperation in the realm of foreign and security policy is so difficult among the states and international organizations. In this context, the EU and the US have challenges in cooperation and coordination in their counter-terrorism methods. This is mainly because of the unwillingness of the countries to give up enough of their own sovereignty in security policies. That makes cooperation and coordination so difficult even if it is inevitable.

As it is underlined again and again, that should be imprint on memory that the US and the EU have differences in their perception of security and terrorism as well. As can be seen above, there are both divergences and convergences. Even though there occurs conceptual differences when one studied their security strategies on paper, when it comes life out of the paper, it is not that black and white. As Solana put it: “Europeans and Americans, it seems no longer inhabit separate continents but separate planets (Venus and Mars, respectively). In the real cosmos, there is a planet that lies between the two. It is the Earth, a planet that we will have to share for the foreseeable future.”³¹⁸

On the whole, the transatlantic partnership is a *sine qua non* for the preservation of security and peace in the international arena. There are more things that the EU and the US converge on than they diverge on. They are faced with common threats and they share common values like freedom, democracy, human dignity, human rights, free trade and equality of men and women. These make the Transatlantic Partnership indispensable. The distinctive identities and perceptions of the US and the EU do not forestall a cooperative relationship. Beyond these, there is an economic interdependence between the two parties. The existing cooperation in economy should be extended to political and security matters also.

On the whole, in order to provide a secure Europe in a better world, the European soft power and the American hard power should come together. Fighting terrorism and preventing the proliferation of WMD are the world’s biggest threats with the problems in nation building

³¹⁸ Javier Solana; ‘Mars and Venus Reconciled: A New Era for Transatlantic Relations’, Speech at the Kennedy School of Government Harvard University, 7 April 2003, p.1, available at: <http://ue.eu.int/uedocs/cmsUpload/75373.pdf>, retrieved on: 30 July 2009

and the state failure. These problems require combined cooperation among the US and the EU. Although transatlantic partnership will necessarily continue to show some degree of asymmetry, it must be based on mutual respect and the realistic assumption that agreement will not always be possible on all issues and that therefore any disagreements must be managed equally respectfully.³¹⁹ As a result of the major converging issues, compatible values and over-lapping interests among the two parties, there is a strategic balance. As put by Burghardt, “The EU and the US share common objectives with regard to coherent strategies for the promotion of peace, stability and economic development around the globe. There is – in the short and medium term – no alternative to the EU-US relationship.”³²⁰

³¹⁹ Günter Burghardt; ‘The European Union and Transatlantic Relationship’, EU Diplomacy Papers, Department of Eu International Relations and Diplomacy Studies, College of Europe,2/2006, p. 22

³²⁰ *Ibid.*

CONCLUSION

Since the end of the Cold War, the changing security environment caused changes in the security threats, as well as the nature of the actors and the institutions, and this shift has been reflected in different security perceptions of these actors. The end of bipolar system paved the way to an insecure environment with uncertainties. The issue of terrorism transformed to occupy a more serious place on the security agenda. It has become one of the most complex threats to global security especially with the events of 9/11. It is an undeniable fact that terrorism is an independent security agenda for the nation states and the international system. This fact forced all the nation states to look beyond the national borders and national interests. The harmonization of policies as well as cooperation and coordination became inevitable. The EU which has attempted to create common policies on security has also undergone a transformation in this regard. After 9/11, the EU evaluated its security politics and created a new security structure with a special reference to the fight against terrorism. As a response to 9/11 attacks, the EU designed its security policies in a way that supports multilateral international order and cooperation. New policy instruments have been introduced in a combination of “hard” and “soft” power instruments ending in a cross-pillar fashion. Therefore, terrorism has also become important part of the European politics especially under the CFSP and JHA pillars.

The scope of the security issue is enlarged and became complex due mainly to the transformation of security challenges. In the new security environment, uncertain and unpredictable threats supersede the old security threats against the nation states. Terrorism which is at the top of the global security agenda is a concept that has no single definition. The political connotation of the word causes the definitional weaknesses which challenge international cooperation against terrorism. This study has attempted to analyze the different terrorism definitions and different responses by the two major global actors; the EU and the US. The rise of terrorism as a threat to security after the 9/11 events definitely affected the politics of global security.

Before 9/11, the Union had attempts to improve its security policies such as legal arrangements, establishment of EUROPOL and introduction of judicial networks to combat

terrorism. However, these attempts to create a common security policy suffered from some weaknesses such as; the lack of consensus on a single definition and the reluctance of the Member States for the intelligence sharing. The main problem stems from the national security concerns and the intergovernmental structures of the security issues. Furthermore, the procedures of the legal arrangements were on the voluntary and nonobligatory basis. So in that sense, the Union could not take concrete steps in order to fight against terrorism. Nevertheless, one could also ignore some significant steps although they were rather insufficient. After 9/11, the issue of terrorism became the key threat to security and the EU decided to respond by enhanced cross-pillar coordination. Some concrete steps such as the establishment of the European Arrest Warrant and the introduction of Counter-Terrorism Programme are taken. The root causes of terrorism started to be tackled and the notion of preventive engagement is introduced. In order to institutionalize its legal and administrative capacity, the EU introduced several measures and also adopted the European Security Strategy in which multilateral cooperation is underlined.

Although the EU declared its solidarity against terrorism which specified that if one of the Member States becomes victim of the terrorist attack, then Member States shall act jointly and mobilize all the instruments at their disposal, including military resources,³²¹ the political will to cooperate in a multilateral dimension is revealed only to a certain extent. It can be stated that, the EU attempted to create a common counter-terrorism policy; however, there is a paradox in it. After 9/11 the national states agreed on the necessity of the cooperation against cross border terrorist threat in principle, but they are slow to give the EU the powers (such as investigation and prosecution) and resources (such as spies and money)³²² as required. As has been mentioned several times throughout the study, the rise of terrorism with 9/11 changed the security perceptions in the nation states and some significant steps also taken. However, the good and lasting cooperation between the Member States could not be achieved in the literal sense. This is because security policy – especially when it concerns protecting citizens

³²¹ Conceptual Framework on ESDP Dimension of the Fight Against Terrorism, available at: <http://www.consilium.europa.eu/uedocs/cmsUpload/ESDPdimension.pdf>, retrieved on 07 August 2009

³²² Daniel Keohane; 'The EU and Counter-Terrorism', *Working Paper for Centre for the European Reform*, London, 2005, p.2, available at: http://www.cer.org.uk/pdf/wp629_terrorism_counter_keohane.pdf, retrieved on 07 August 2009

– goes to the core of national sovereignty and governments are reluctant to give the EU powers that could interfere with their national security practices.³²³

On the other hand, the internal efforts are not adequate to combat terrorism. In order to tackle terrorism, international cooperation with global actors should be realized. With this aim, the Union focused on transatlantic relations and engaged in cooperation with the US. However it is of utmost importance to note that, the EU and the US have different perspectives on terrorism which can also be observed in their security strategies. The US National Security emphasizes the military means with “hard” power, whereas the European Security Strategy emphasizes a broad approach with “soft” power based on multilateral dimension and preventive engagement. It can be said that there are both divergences and convergences in their security policies and counter-terrorism policy setting. They concluded various agreements such as Extradition and Mutual Legal Assistance Agreements for judicial cooperation, and the US – EUROPOL Agreement for the exchange of information.

On the whole, one can obviously see that it is difficult to reach a settlement in making a comprehensive terror definition regarding all dimensions and connotations including the dubious situation of freedom fighters or failed states. In this study, the basic definitions are examined instead of a deep conceptual analysis in order to have a better understanding of the European and American approaches. The Union brought cross pillar coordination to tackle terrorism. In addition to that, the EU developed strategies in a combination of hard and soft power politics. However, national sovereignty concerns limited the desired cooperation. Moreover, the cooperation and coordination with the global actors and third countries has become inevitable. To put it briefly, the EU’s internal and international efforts against terrorism after 9/11 made it a more cohesive and cooperative organization in order to collaboratively come up with solutions to deal with terrorism.

On the one hand, it is vital in the sense that there are considerable endeavors to increase cooperation and coordination among the EU Member States through the establishment of new institutions and legal arrangements in the EU. Nevertheless, these

³²³ *Ibid.*

attempts on paper should be put into practice. There are inadequacies in implementation as a result of the fact that, major decisions on cooperation in this field are still taken with an intergovernmental perspective. On the other hand, the transatlantic relations are of great significance in achieving an international solution against terrorism. The US should take into account the views of the EU and third countries in combating terrorism. Instead of repressive policies which even violate human rights and limit fundamental freedoms, internationally legitimized and coherent policies should be developed and implemented. The Union should engage with the US in supporting the maintenance of global security. Indeed, the internal challenges should be avoided and the harmonization among the Member States' policies should be achieved completely so that, the coordination and cooperation through the combination of "hard" and "soft" powers of the US and the EU can be possible.

Finally, it can be stated that the security policies of the US governments are shaped by the President's attitude as all the other policies are. In the case of 9/11 events, the impact of President Bush's attitude was prominent. The Bush doctrine shaped the counter-terrorism policies and security strategies of the US on a large scale. This also means that in the foreseeable future the newly elected President Obama's attitude will determine the US policy in this regard. Although the Obama Administration is ignored in this study; it would be meaningful to check out his speeches on terrorism to get an idea about his attitude. Obama's statements on various occasions reflect a more multilateral approach emphasizing partnerships in order to tackle terrorism.³²⁴ For example, Obama states: "We are building new partnerships around the world to disrupt, dismantle, and defeat al Qaeda and its affiliates. And we have renewed American diplomacy so that we once again have the strength and standing to truly lead the world."³²⁵

³²⁴ For further info see Obama's speech on August 1, 2007 'The War We Need To Win' available at: http://www.barackobama.com/2007/08/01/the_war_we_need_to_win.php, Guantanamo speech on May 21, 2009 available at: http://www.whitehouse.gov/the_press_office/Remarks-by-the-President-On-National-Security-5-21-09/, 'A New Beginning' speech in Cairo on June 4, 2009 available at: <http://www.whitehouse.gov/blog/NewBeginning/>

³²⁵ President Barack Obama, 'Remarks on National Security', May 21, 2009, Washington, available at: http://www.whitehouse.gov/the_press_office/Remarks-by-the-President-On-National-Security-5-21-09/, retrieved on 10 December 2009

Obama's various speeches hint at the new US approach in counter-terrorism policies based on cooperation and partnership. However, the questions about the level of cooperation and the effectiveness of partnership are still left unanswered. It would not be wrong to mention that the Obama Administration's policies support cooperation between all nations, governments and religions in order to tackle terrorism. It is certain that the road to successful reforms can only be established and maintained by the existence of a constructive and conciliatory dialogue between the two global actors, the EU and the US. It is *sine qua non* for the EU and the US to generate this consensus if they aim to implement effective policies against the global threats such as terrorism. This study has concluded that the politics of global security differ between the EU and the US. However, it leaves the questions of whether their differences have added more to insecurity rather than security in the global arena and of how the new policies of the Obama Administration would affect the desired cooperation for future research.

ANNEX I

A SECURE EUROPE IN A BETTER WORLD

EUROPEAN SECURITY STRATEGY

Brussels, 12 December 2003³²⁶

As a union of 25 states with over 450 million people producing a quarter of the world's Gross National Product (GNP), the European Union is inevitably a global player... it should be ready to share in the responsibility for global security and in building a better world.

Introduction

Europe has never been so prosperous, so secure nor so free. The violence of the first half of the 20th Century has given way to a period of peace and stability unprecedented in European history. The creation of the European Union has been central to this development. It has transformed the relations between our states, and the lives of our citizens. European countries are committed to dealing peacefully with disputes and to co-operating through common institutions. Over this period, the progressive spread of the rule of law and democracy has seen authoritarian regimes change into secure, stable and dynamic democracies. Successive enlargements are making a reality of the vision of a united and peaceful continent.

The United States has played a critical role in European integration and European security, in particular through NATO. The end of the Cold War has left the United States in a dominant position as a military actor. However, no single country is able to tackle today's complex problems on its own.

Europe still faces security threats and challenges. The outbreak of conflict in the Balkans was a reminder that war has not disappeared from our continent. Over the last decade, no region of the world has been untouched by armed conflict. Most of these conflicts have been within rather than between states, and most of the victims have been civilians.

³²⁶ Available at: <http://www.consilium.europa.eu/uedocs/cmsUpload/78367.pdf>

As a union of 25 states with over 450 million people producing a quarter of the world's Gross National Product (GNP), and with a wide range of instruments at its disposal, the European Union is inevitably a global player. In the last decade European forces have been deployed abroad to places as distant as Afghanistan, East Timor and the DRC. The increasing convergence of European interests and the strengthening of mutual solidarity of the EU makes us a more credible and effective actor. Europe should be ready to share in the responsibility for global security and in building a better world.

I. THE SECURITY ENVIRONMENT: GLOBAL CHALLENGES AND KEY THREATS

Global Challenges

The post Cold War environment is one of increasingly open borders in which the internal and external aspects of security are indissolubly linked. Flows of trade and investment, the development of technology and the spread of democracy have brought freedom and prosperity to many people. Others have perceived globalization as a cause of frustration and injustice. These developments have also increased the scope for non-state groups to play a part in international affairs. And they have increased European dependence – and so vulnerability – on an interconnected infrastructure in transport, energy, information and other fields.

Since 1990, almost 4 million people have died in wars, 90% of them civilians. Over 18 million people world-wide have left their homes as a result of conflict.

In much of the developing world, poverty and disease cause untold suffering and give rise to pressing security concerns. Almost 3 billion people, half the world's population, live on less than 2 Euros a day. 45 million die every year of hunger and malnutrition. AIDS is now one of the most devastating pandemics in human history and contributes to the breakdown of societies. New diseases can spread rapidly and become global threats. Sub-Saharan Africa is poorer now than it was 10 years ago. In many cases, economic failure is linked to political problems and violent conflict.

Security is a precondition of development. Conflict not only destroys infrastructure, including social infrastructure; it also encourages criminality, deters investment and makes normal economic activity impossible. A number of countries and regions are caught in a cycle of conflict, insecurity and poverty.

Competition for natural resources - notably water - which will be aggravated by global warming over the next decades is likely to create further turbulence and migratory movements in various regions.

Energy dependence is a special concern for Europe. Europe is the world's largest importer of oil and gas. Imports account for about 50% of energy consumption today. This will rise to 70% in 2030. Most energy imports come from the Gulf, Russia and North Africa.

Key Threats

Large-scale aggression against any Member State is now improbable. Instead, Europe faces new threats which are more diverse, less visible and less predictable.

Terrorism: Terrorism puts lives at risk; it imposes large costs; it seeks to undermine the openness and tolerance of our societies and it poses a growing strategic threat to the whole of Europe. Increasingly, terrorist movements are well-resourced, connected by electronic networks, and are willing to use unlimited violence to cause massive casualties.

The most recent wave of terrorism is global in its scope and is linked to violent religious extremism. It arises out of complex causes. These include the pressures of modernization, cultural, social and political crises, and the alienation of young people living in foreign societies. This phenomenon is also a part of our own society.

Europe is both a target and a base for such terrorism: European countries are targets and have been attacked. Logistical bases for *Al Qaeda* cells have been uncovered in the UK, Italy, Germany, Spain and Belgium. Concerted European action is indispensable.

Proliferation of Weapons of Mass Destruction is potentially the greatest threat to our security. The international treaty regimes and export control arrangements have slowed the spread of WMD and delivery systems. We are now, however, entering a new and dangerous period that raises the possibility of a WMD arms race, especially in the Middle East. Advances in the biological sciences may increase the potency of biological weapons in the coming years; attacks with chemical and radiological materials are also a serious possibility. The spread of missile technology adds a further element of instability and could put Europe at increasing risk.

The most frightening scenario is one in which terrorist groups acquire weapons of mass destruction. In this event, a small group would be able to inflict damage on a scale previously possible only for States and armies.

Regional Conflicts: Problems such as those in Kashmir, the Great Lakes Region and the Korean Peninsula impact on European interests directly and indirectly, as do conflicts nearer to home, above all in the Middle East. Violent or frozen conflicts, which also persist on our borders, threaten regional stability. They destroy human lives and social and physical infrastructures; they threaten minorities, fundamental freedoms and human rights. Conflict can lead to extremism, terrorism and state failure; it provides opportunities for organized crime. Regional insecurity can fuel the demand for WMD. The most practical way to tackle the often elusive new threats will sometimes be to deal with the older problems of regional conflict.

State Failure: Bad governance – corruption, abuse of power, weak institutions and lack of accountability - and civil conflict corrode States from within. In some cases, this has brought about the collapse of State institutions. Somalia, Liberia and Afghanistan under the Taliban are the best known recent examples. Collapse of the State can be associated with obvious threats, such as organized crime or terrorism. State failure is an alarming phenomenon that undermines global governance, and adds to regional instability.

Organized Crime: Europe is a prime target for organized crime. This internal threat to our security has an important external dimension: cross-border trafficking in drugs, women,

illegal migrants and weapons accounts for a large part of the activities of criminal gangs. It can have links with terrorism.

Such criminal activities are often associated with weak or failing states. Revenues from drugs have fuelled the weakening of state structures in several drug-producing countries. Revenues from trade in gemstones, timber and small arms, fuel conflict in other parts of the world. All these activities undermine both the rule of law and social order itself. In extreme cases, organized crime can come to dominate the state. 90% of the heroin in Europe comes from poppies grown in Afghanistan – where the drugs trade pays for private armies. Most of it is distributed through Balkan criminal networks which are also responsible for some 200,000 of the 700,000 women victims of the sex trade world wide. A new dimension to organized crime which will merit further attention is the growth in maritime piracy.

Taking these different elements together – terrorism committed to maximum violence, the availability of weapons of mass destruction, organized crime, the weakening of the state system and the privatization of force – we could be confronted with a very radical threat indeed.

II. STRATEGIC OBJECTIVES

We live in a world that holds brighter prospects but also greater threats than we have known. The future will depend partly on our actions. We need both to think globally and to act locally. To defend its security and to promote its values, the EU has three strategic objectives:

Addressing the Threats

The European Union has been active in tackling the key threats.

- It has responded after 11 September with measures that included the adoption of a European Arrest Warrant, steps to attack terrorist financing and an agreement on

mutual legal assistance with the U.S.A. The EU continues to develop cooperation in this area and to improve its defences.

- It has pursued policies against proliferation over many years. The Union has just agreed a further programme of action which foresees steps to strengthen the International Atomic Energy Agency, measures to tighten export controls and to deal with illegal shipments and illicit procurement. The EU is committed to achieving universal adherence to multilateral treaty regimes, as well as to strengthening the treaties and their verification provisions.
- The European Union and Member States have intervened to help deal with regional conflicts and to put failed states back on their feet, including in the Balkans, Afghanistan, and in the DRC. Restoring good government to the Balkans, fostering democracy and enabling the authorities there to tackle organized crime is one of the most effective ways of dealing with organized crime within the EU.

In an era of globalization, distant threats may be as much a concern as those that are near at hand. Nuclear activities in North Korea, nuclear risks in South Asia, and proliferation in the Middle East are all of concern to Europe.

Terrorists and criminals are now able to operate world-wide: their activities in central or southeast Asia may be a threat to European countries or their citizens. Meanwhile, global communication increases awareness in Europe of regional conflicts or humanitarian tragedies anywhere in the world.

Our traditional concept of self- defence – up to and including the Cold War – was based on the threat of invasion. With the new threats, the first line of defence will often be abroad. The new threats are dynamic. The risks of proliferation grow over time; left alone, terrorist networks will become ever more dangerous. State failure and organized crime spread if they are neglected – as we have seen in West Africa. This implies that we should be ready to act before a crisis occurs. Conflict prevention and threat prevention cannot start too early.

In contrast to the massive visible threat in the Cold War, none of the new threats is purely military; nor can any be tackled by purely military means. Each requires a mixture of instruments. Proliferation may be contained through export controls and attacked through political, economic and other pressures while the underlying political causes are also tackled. Dealing with terrorism may require a mixture of intelligence, police, judicial, military and other means. In failed states, military instruments may be needed to restore order, humanitarian means to tackle the immediate crisis. Regional conflicts need political solutions but military assets and effective policing may be needed in the post conflict phase. Economic instruments serve reconstruction, and civilian crisis management helps restore civil government. The European Union is particularly well equipped to respond to such multi-faceted situations.

Building Security in our Neighborhood

Even in an era of globalization, geography is still important. It is in the European interest that countries on our borders are well-governed. Neighbors who are engaged in violent conflict, weak states where organized crime flourishes, dysfunctional societies or exploding population growth on its borders all pose problems for Europe.

The integration of acceding states increases our security but also brings the EU closer to troubled areas. Our task is to promote a ring of well governed countries to the East of the European Union and on the borders of the Mediterranean with whom we can enjoy close and cooperative relations.

The importance of this is best illustrated in the Balkans. Through our concerted efforts with the US, Russia, NATO and other international partners, the stability of the region is no longer threatened by the outbreak of major conflict. The credibility of our foreign policy depends on the consolidation of our achievements there. The European perspective offers both a strategic objective and an incentive for reform.

It is not in our interest that enlargement should create new dividing lines in Europe. We need to extend the benefits of economic and political cooperation to our neighbors in the East while tackling political problems there. We should now take a stronger and more active interest in the problems of the Southern Caucasus, which will in due course also be a neighboring region.

Resolution of the Arab/Israeli conflict is a strategic priority for Europe. Without this, there will be little chance of dealing with other problems in the Middle East. The European Union must remain engaged and ready to commit resources to the problem until it is solved. The two state solutions - which Europe has long supported- are now widely accepted. Implementing it will require a united and cooperative effort by the European Union, the United States, the United Nations and Russia, and the countries of the region, but above all by the Israelis and the Palestinians themselves.

The Mediterranean area generally continues to undergo serious problems of economic stagnation, social unrest and unresolved conflicts. The European Union's interests require a continued engagement with Mediterranean partners, through more effective economic, security and cultural cooperation in the framework of the Barcelona Process. A broader engagement with the Arab World should also be considered.

AN INTERNATIONAL ORDER BASED ON EFFECTIVE MULTILATERALISM

In a world of global threats, global markets and global media, our security and prosperity increasingly depend on an effective multilateral system. The development of a stronger international society, well functioning international institutions and a rule-based international order is our objective.

We are committed to upholding and developing International Law. The fundamental framework for international relations is the United Nations Charter. The United Nations Security Council has the primary responsibility for the maintenance of international peace and security. Strengthening the United Nations, equipping it to fulfill its responsibilities and to act effectively, is a European priority.

We want international organizations, regimes and treaties to be effective in confronting threats to international peace and security, and must therefore be ready to act when their rules are broken.

Key institutions in the international system, such as the World Trade Organization (WTO) and the International Financial Institutions, have extended their membership. China has joined the WTO and Russia is negotiating its entry. It should be an objective for us to widen the membership of such bodies while maintaining their high standards.

One of the core elements of the international system is the transatlantic relationship. This is not only in our bilateral interest but strengthens the international community as a whole. NATO is an important expression of this relationship.

Regional organizations also strengthen global governance. For the European Union, the strength and effectiveness of the OSCE and the Council of Europe has a particular significance. Other regional organizations such as ASEAN, MERCOSUR and the African Union make an important contribution to a more orderly world.

It is a condition of a rule-based international order that law evolves in response to developments such as proliferation, terrorism and global warming. We have an interest in further developing existing institutions such as the World Trade Organization and in supporting new ones such as the International Criminal Court. Our own experience in Europe demonstrates that security can be increased through confidence building and arms control regimes. Such instruments can also make an important contribution to security and stability in our neighborhood and beyond.

The quality of international society depends on the quality of the governments that are its foundation. The best protection for our security is a world of well-governed democratic states. Spreading good governance, supporting social and political reform, dealing with corruption and abuse of power, establishing the rule of law and protecting human rights are the best means of strengthening the international order.

Trade and development policies can be powerful tools for promoting reform. As the world's largest provider of official assistance and its largest trading entity, the European Union and its Member States are well placed to pursue these goals.

Contributing to better governance through assistance programmes, conditionality and targeted trade measures remains an important feature in our policy that we should further reinforce. A world seen as offering justice and opportunity for everyone will be more secure for the European Union and its citizens.

A number of countries have placed themselves outside the bounds of international society. Some have sought isolation; others persistently violate international norms. It is desirable that such countries should rejoin the international community, and the EU should be ready to provide assistance. Those who are unwilling to do so should understand that there is a price to be paid, including in their relationship with the European Union.

III. POLICY IMPLICATIONS FOR EUROPE

The European Union has made progress towards a coherent foreign policy and effective crisis management. We have instruments in place that can be used effectively, as we have demonstrated in the Balkans and beyond. But if we are to make a contribution that matches our potential, we need to be more active, more coherent and more capable. And we need to work with others.

More active in pursuing our strategic objectives. This applies to the full spectrum of instruments for crisis management and conflict prevention at our disposal, including political, diplomatic, military and civilian, trade and development activities. Active policies are needed to counter the new dynamic threats. We need to develop a strategic culture that fosters early, rapid, and when necessary, robust intervention.

As a Union of 25 members, spending more than 160 billion Euros on defence, we should be able to sustain several operations simultaneously. We could add particular value by developing operations involving both military and civilian capabilities.

The EU should support the United Nations as it responds to threats to international peace and security. The EU is committed to reinforcing its cooperation with the UN to assist countries emerging from conflicts, and to enhancing its support for the UN in short-term crisis management situations.

We need to be able to act before countries around us deteriorate, when signs of proliferation are detected, and before humanitarian emergencies arise. Preventive engagement can avoid more serious problems in the future. A European Union which takes greater responsibility and which is more active will be one which carries greater political weight.

More Capable. A more capable Europe is within our grasp, though it will take time to realize our full potential. Actions underway – notably the establishment of a defence agency – take us in the right direction.

To transform our militaries into more flexible, mobile forces, and to enable them to address the new threats, more resources for defence and more effective use of resources are necessary.

Systematic use of pooled and shared assets would reduce duplications, overheads and, in the medium-term, increase capabilities.

In almost every major intervention, military efficiency has been followed by civilian chaos. We need greater capacity to bring all necessary civilian resources to bear in crisis and post crisis situations.

Stronger diplomatic capability: we need a system that combines the resources of Member States with those of EU institutions. Dealing with problems that are more distant and more foreign requires better understanding and communication.

Common threat assessments are the best basis for common actions. This requires improved sharing intelligence among Member States and with partners.

As we increase capabilities in the different areas, we should think in terms of a wider spectrum of missions. This might include joint disarmament operations, support for third countries in combating terrorism and security sector reform. The last of these would be part of broader institution building.

The EU-NATO permanent arrangements, in particular Berlin Plus, enhance the operational capability of the EU and provide the framework for the strategic partnership between the two organizations in crisis management. This reflects our common determination to tackle the challenges of the new century.

More Coherent. The point of the Common Foreign and Security Policy and European Security and Defence Policy is that we are stronger when we act together. Over recent years we have created a number of different instruments, each of which has its own structure and rationale.

The challenge now is to bring together the different instruments and capabilities: European assistance programmes and the European Development Fund, military and civilian capabilities from Member States and other instruments. All of these can have an impact on our security and on that of third countries. Security is the first condition for development.

Diplomatic efforts, development, trade and environmental policies, should follow the same agenda. In a crisis there is no substitute for unity of command.

Better co-ordination between external action and Justice and Home Affairs policies is crucial in the fight both against terrorism and organized crime.

Greater coherence is needed not only among EU instruments but also embracing the external activities of the individual member states.

Coherent policies are also needed regionally, especially in dealing with conflict. Problems are rarely solved on a single country basis, or without regional support, as in different ways experience in both the Balkans and West Africa shows.

Working with partners. There are few if any problems we can deal with on our own. The threats described above are common threats, shared with all our closest partners. International cooperation is a necessity. We need to pursue our objectives both through multilateral cooperation in international organizations and through partnerships with key actors.

The transatlantic relationship is irreplaceable. Acting together, the European Union and the United States can be a formidable force for good in the world. Our aim should be an effective and balanced partnership with the USA. This is an additional reason for the EU to build up further its capabilities and increase its coherence.

We should continue to work for closer relations with Russia, a major factor in our security and prosperity. Respect for common values will reinforce progress towards a strategic partnership.

Our history, geography and cultural ties give us links with every part of the world: our neighbors in the Middle East, our partners in Africa, in Latin America, and in Asia. These relationships are an important asset to build on. In particular we should look to develop strategic partnerships, with Japan, China, Canada and India as well as with all those who share our goals and values, and are prepared to act in their support.

Conclusion

This is a world of new dangers but also of new opportunities. The European Union has the potential to make a major contribution, both in dealing with the threats and in helping realize the opportunities. An active and capable European Union would make an impact on a global scale. In doing so, it would contribute to an effective multilateral system leading to a fairer, safer and more united world.

ANNEX II

**THE NATIONAL SECURITY STRATEGY OF THE UNITED STATES OF
AMERICA³²⁷
SEPTEMBER 2002
THE WHITE HOUSE
WASHINGTON**

The great struggles of the twentieth century between liberty and totalitarianism ended with a decisive victory for the forces of freedom—and a single sustainable model for national success: freedom, democracy, and free enterprise. In the twenty-first century, only nations that share a commitment to protecting basic human rights and guaranteeing political and economic freedom will be able to unleash the potential of their people and assure their future prosperity. People everywhere want to be able to speak freely; choose who will govern them; worship as they please; educate their children—male and female; own property; and enjoy the benefits of their labor. These values of freedom are right and true for every person, in every society—and the duty of protecting these values against their enemies is the common calling of freedom-loving people across the globe and across the ages.

Today, the United States enjoys a position of unparalleled military strength and great economic and political influence. In keeping with our heritage and principles, we do not use our strength to press for unilateral advantage. We seek instead to create a balance of power that favors human freedom: conditions in which all nations and all societies can choose for themselves the rewards and challenges of political and economic liberty. In a world that is safe, people will be able to make their own lives better. We will defend the peace by fighting terrorists and tyrants. We will preserve the peace by building good relations among the great powers. We will extend the peace by encouraging free and open societies on every continent.

Defending our Nation against its enemies is the first and fundamental commitment of the Federal Government. Today, that task has changed dramatically. Enemies in the past

³²⁷ Available at: <http://www.globalsecurity.org/military/library/policy/national/nss-020920.pdf>

needed great armies and great industrial capabilities to endanger America. Now, shadowy networks of individuals can bring great chaos and suffering to our shores for less than it costs to purchase a single tank. Terrorists are organized to penetrate open societies and to turn the power of modern technologies against us.

To defeat this threat we must make use of every tool in our arsenal—military power, better homeland defenses, law enforcement, intelligence, and vigorous efforts to cut off terrorist financing. The war against terrorists of global reach is a global enterprise of uncertain duration. America will help nations that need our assistance in combating terror. And America will hold to account nations that are compromised by terror, including those who harbor terrorists— because the allies of terror are the enemies of civilization. The United States and countries cooperating with us must not allow the terrorists to develop new home bases. Together, we will seek to deny them sanctuary at every turn.

The gravest danger our Nation faces lies at the crossroads of radicalism and technology. Our enemies have openly declared that they are seeking weapons of mass destruction, and evidence indicates that they are doing so with determination. The United States will not allow these efforts to succeed. We will build defenses against ballistic missiles and other means of delivery. We will cooperate with other nations to deny, contain, and curtail our enemies' efforts to acquire dangerous technologies. And, as a matter of common sense and self-defense, America will act against such emerging threats before they are fully formed. We cannot defend America and our friends by hoping for the best. So we must be prepared to defeat our enemies' plans, using the best intelligence and proceeding with deliberation. History will judge harshly those who saw this coming danger but failed to act. In the new world we have entered, the only path to peace and security is the path of action.

As we defend the peace, we will also take advantage of an historic opportunity to preserve the peace. Today, the international community has the best chance since the rise of the nation-state in the seventeenth century to build a world where great powers compete in peace instead of continually prepare for war. Today, the world's great powers find ourselves on the same side— united by common dangers of terrorist violence and chaos. The United States will build on these common interests to promote global security. We are also

increasingly united by common values. Russia is in the midst of a hopeful transition, reaching for its democratic future and a partner in the war on terror. Chinese leaders are discovering that economic freedom is the only source of national wealth. In time, they will find that social and political freedom is the only source of national greatness. America will encourage the advancement of democracy and economic openness in both nations, because these are the best foundations for domestic stability and international order. We will strongly resist aggression from other great powers—even as we welcome their peaceful pursuit of prosperity, trade, and cultural advancement.

Finally, the United States will use this moment of opportunity to extend the benefits of freedom across the globe. We will actively work to bring the hope of democracy, development, free markets, and free trade to every corner of the world. The events of September 11, 2001, taught us that weak states, like Afghanistan, can pose as great a danger to our national interests as strong states. Poverty does not make poor people into terrorists and murderers. Yet poverty, weak institutions, and corruption can make weak states vulnerable to terrorist networks and drug cartels within their borders.

The United States will stand beside any nation determined to build a better future by seeking the rewards of liberty for its people. Free trade and free markets have proven their ability to lift whole societies out of poverty—so the United States will work with individual nations, entire regions, and the entire global trading community to build a world that trades in freedom and therefore grows in prosperity. The United States will deliver greater development assistance through the New Millennium Challenge Account to nations that govern justly, invest in their people, and encourage economic freedom. We will also continue to lead the world in efforts to reduce the terrible toll of HIV/AIDS and other infectious diseases.

In building a balance of power that favors freedom, the United States is guided by the conviction that all nations have important responsibilities. Nations that enjoy freedom must actively fight terror. Nations that depend on international stability must help prevent the spread of weapons of mass destruction. Nations that seek international aid must govern themselves wisely, so that aid is well spent. For freedom to thrive, accountability must be

expected and required.

We are also guided by the conviction that no nation can build a safer, better world alone. Alliances and multilateral institutions can multiply the strength of freedom-loving nations. The United States is committed to lasting institutions like the United Nations, the World Trade Organization, the Organization of American States, and NATO as well as other long-standing alliances. Coalitions of the willing can augment these permanent institutions. In all cases, international obligations are to be taken seriously. They are not to be undertaken symbolically to rally support for an ideal without furthering its attainment.

Freedom is the non-negotiable demand of human dignity; the birthright of every person—in every civilization. Throughout history, freedom has been threatened by war and terror; it has been challenged by the clashing wills of powerful states and the evil designs of tyrants; and it has been tested by widespread poverty and disease. Today, humanity holds in its hands the opportunity to further freedom's triumph over all these foes. The United States welcomes our responsibility to lead in this great mission.

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I. OVERVIEW OF AMERICA'S

INTERNATIONAL STRATEGY

“Our Nation’s cause has always been larger than our Nation’s defense. We fight, as we always fight, for a just peace—a peace that favors liberty. We will defend the peace against the threats from terrorists and tyrants.

We will preserve the peace by building good relations among the great powers. And we will extend the peace by encouraging free and open societies on every continent.”

PRESIDENT BUSH

WEST POINT, NEW YORK

JUNE 1, 2002

The United States possesses unprecedented— and unequalled—strength and influence in the world. Sustained by faith in the principles of liberty, and the value of a free society, this position comes with unparalleled responsibilities, obligations, and opportunity. The great strength of this nation must be used to promote a balance of power that favors freedom.

For most of the twentieth century, the world was divided by a great struggle over ideas: destructive totalitarian visions versus freedom and equality.

That great struggle is over. The militant visions of class, nation, and race which promised utopia and delivered misery have been defeated and discredited. America is now threatened less by conquering states than we are by failing ones.

We are menaced less by fleets and armies than by catastrophic technologies in the hands of the embittered few. We must defeat these threats to our Nation, allies, and friends.

This is also a time of opportunity for America. We will work to translate this moment of influence into decades of peace, prosperity, and liberty.

The U.S. national security strategy will be based on a distinctly American internationalism that reflects the union of our values and our national interests. The aim of this strategy is to help make the world not just safer but better. Our goals on the path to progress are clear: political and economic freedom, peaceful relations with other states, and respect for human dignity.

And this path is not America's alone. It is open to all.

To achieve these goals, the United States will:

- champion aspirations for human dignity;
- strengthen alliances to defeat global terrorism and work to prevent attacks against us and our friends;
- work with others to defuse regional conflicts;
- prevent our enemies from threatening us, our allies, and our friends, with weapons of mass destruction;
- ignite a new era of global economic growth through free markets and free trade;
- expand the circle of development by opening societies and building the infrastructure of democracy;
- develop agendas for cooperative action with other main centers of global power; and
- transform America's national security institutions to meet the challenges and opportunities of the twenty-first century.

II. CHAMPION ASPIRATIONS FOR HUMAN DIGNITY

“Some worry that it is somehow undiplomatic or impolite to speak the language of right and wrong. I disagree. Different circumstances require different methods, but not different moralities.”

PRESIDENT BUSH

WEST POINT, NEW YORK

JUNE 1, 2002

In pursuit of our goals, our first imperative is to clarify what we stand for: the United States must defend liberty and justice because these principles are right and true for all people every-where. No nation owns these aspirations, and no nation is exempt from them. Fathers and mothers in all societies want their children to be educated and to live free from poverty and violence. No people on earth yearn to be oppressed, aspire to servitude, or eagerly await the midnight knock of the secret police.

America must stand firmly for the nonnegotiable demands of human dignity: the rule of law; limits on the absolute power of the state; free speech; freedom of worship; equal justice; respect for women; religious and ethnic tolerance; and respect for private property.

These demands can be met in many ways. America’s constitution has served us well. Many other nations, with different histories and cultures, facing different circumstances, have successfully incorporated these core principles into their own systems of governance. History has not been kind to those nations which ignored or flouted the rights and aspirations of their people.

America’s experience as a great multi-ethnic democracy affirms our conviction that people of many heritages and faiths can live and prosper in peace. Our own history is a long struggle to live up to our ideals. But even in our worst moments, the principles enshrined in

the Declaration of Independence were there to guide us. As a result, America is not just a stronger, but is a freer and more just society.

Today, these ideals are a lifeline to lonely defenders of liberty. And when openings arrive, we can encourage change—as we did in central and eastern Europe between 1989 and 1991, or in Belgrade in 2000. When we see democratic processes take hold among our friends in Taiwan or in the Republic of Korea, and see elected leaders replace generals in Latin America and Africa, we see examples of how authoritarian systems can evolve, marrying local history and traditions with the principles we all cherish.

Embodying lessons from our past and using the opportunity we have today, the national security strategy of the United States must start from these core beliefs and look outward for possibilities to expand liberty.

Our principles will guide our government's decisions about international cooperation, the character of our foreign assistance, and the allocation of resources. They will guide our actions and our words in international bodies. We will:

- speak out honestly about violations of the nonnegotiable demands of human dignity using our voice and vote in international institutions to advance freedom;
- use our foreign aid to promote freedom and support those who struggle non-violently for it, ensuring that nations moving toward democracy are rewarded for the steps they take;
- make freedom and the development of democratic institutions key themes in our bilateral relations, seeking solidarity and cooperation from other democracies while we press governments that deny human rights to move toward a better future; and
- take special efforts to promote freedom of religion and conscience and defend it from encroachment by repressive governments. We will champion the cause of human dignity and oppose those who resist it.

III. STRENGTHEN ALLIANCES TO DEFEAT GLOBAL TERRORISM AND WORK TO PREVENT

ATTACKS AGAINST US AND OUR FRIENDS

“Just three days removed from these events, Americans do not yet have the distance of history. But our responsibility to history is already clear: to answer these attacks and rid the world of evil. War has been waged against us by stealth and deceit and murder. This nation is peaceful, but fierce when stirred to anger. The conflict was begun on the timing and terms of others. It will end in a way, and at an hour, of our choosing.”

PRESIDENT BUSH

WASHINGTON, D.C. (THE NATIONAL CATHEDRAL)

SEPTEMBER 14, 2001

The United States of America is fighting a war against terrorists of global reach. The enemy is not a single political regime or person or religion or ideology. The enemy is terrorism—premeditated, politically motivated violence perpetrated against innocents. In many regions, legitimate grievances prevent the emergence of a lasting peace. Such grievances deserve to be, and must be, addressed within a political process. But no cause justifies terror. The United States will make no concessions to terrorist demands and strike no deals with them. We make no distinction between terrorists and those who knowingly harbor or provide aid to them.

The struggle against global terrorism is different from any other war in our history. It will be fought on many fronts against a particularly elusive enemy over an extended period of time. Progress will come through the persistent accumulation of successes—some seen, some unseen.

Today our enemies have seen the results of what civilized nations can, and will, do

against regimes that harbor, support, and use terrorism to achieve their political goals. Afghanistan has been liberated; coalition forces continue to hunt down the Taliban and Al-Qaida. But it is not only this battlefield on which we will engage terrorists. Thousands of trained terrorists remain at large with cells in North America, South America, Europe, Africa, the Middle East, and across Asia.

Our priority will be first to disrupt and destroy terrorist organizations of global reach and attack their leadership; command, control, and communications; material support; and finances. This will have a disabling effect upon the terrorists' ability to plan and operate.

We will continue to encourage our regional partners to take up a coordinated effort that isolates the terrorists. Once the regional campaign localizes the threat to a particular state, we will help ensure the state has the military, law enforcement, political, and financial tools necessary to finish the task.

The United States will continue to work with our allies to disrupt the financing of terrorism. We will identify and block the sources of funding for terrorism, freeze the assets of terrorists and those who support them, deny terrorists access to the international financial system, protect legitimate charities from being abused by terrorists, and prevent the movement of terrorists' assets through alternative financial networks.

However, this campaign need not be sequential to be effective; the cumulative effect across all regions will help achieve the results we seek.

We will disrupt and destroy terrorist organizations by:

- direct and continuous action using all the elements of national and international power. Our immediate focus will be those terrorist organizations of global reach and any terrorist or state sponsor of terrorism which attempts to gain or use weapons of mass destruction (WMD) or their precursors;

- defending the United States, the American people, and our interests at home and

abroad by identifying and destroying the threat before it reaches our borders. While the United States will constantly strive to enlist the support of the international community, we will not hesitate to act alone, if necessary, to exercise our right of self-defense by acting preemptively against such terrorists, to prevent them from doing harm against our people and our country; and

- denying further sponsorship, support, and sanctuary to terrorists by convincing or compelling states to accept their sovereign responsibilities.

We will also wage a war of ideas to win the battle against international terrorism. This includes:

- using the full influence of the United States, and working closely with allies and friends, to make clear that all acts of terrorism are illegitimate so that terrorism will be viewed in the same light as slavery, piracy, or genocide: behavior that no respectable government can condone or support and all must oppose;

- supporting moderate and modern government, especially in the Muslim world, to ensure that the conditions and ideologies that promote terrorism do not find fertile ground in any nation;

- diminishing the underlying conditions that spawn terrorism by enlisting the international community to focus its efforts and resources on areas most at risk; and

- using effective public diplomacy to promote the free flow of information and ideas to kindle the hopes and aspirations of freedom of those in societies ruled by the sponsors of global terrorism.

While we recognize that our best defense is a good offense, we are also strengthening America's homeland security to protect against and deter attack.

This Administration has proposed the largest government reorganization since the

Truman Administration created the National Security Council and the Department of Defense. Centered on a new Department of Homeland Security and including a new unified military command and a fundamental reordering of the FBI, our comprehensive plan to secure the homeland encompasses every level of government and the cooperation of the public and the private sector.

This strategy will turn adversity into opportunity. For example, emergency management systems will be better able to cope not just with terrorism but with all hazards. Our medical system will be strengthened to manage not just bio-terror, but all infectious diseases and mass-casualty dangers. Our border controls will not just stop terrorists, but improve the efficient movement of legitimate traffic.

While our focus is protecting America, we know that to defeat terrorism in today's globalized world we need support from our allies and friends. Wherever possible, the United States will rely on regional organizations and state powers to meet their obligations to fight terrorism. Where governments find the fight against terrorism beyond their capacities, we will match their willpower and their resources with whatever help we and our allies can provide.

As we pursue the terrorists in Afghanistan, we will continue to work with international organizations such as the United Nations, as well as non-governmental organizations, and other countries to provide the humanitarian, political, economic, and security assistance necessary to rebuild Afghanistan so that it will never again abuse its people, threaten its neighbors, and provide a haven for terrorists.

In the war against global terrorism, we will never forget that we are ultimately fighting for our democratic values and way of life. Freedom and fear are at war, and there will be no quick or easy end to this conflict. In leading the campaign against terrorism, we are forging new, productive international relationships and redefining existing ones in ways that meet the challenges of the twenty-first century.

IV. WORK WITH OTHERS TO

DEFUSE REGIONAL CONFLICTS

“We build a world of justice, or we will live in a world of coercion. The magnitude of our shared responsibilities makes our disagreements look so small.”

PRESIDENT BUSH

BERLIN, GERMANY

MAY 23, 2002

Concerned nations must remain actively engaged in critical regional disputes to avoid explosive escalation and minimize human suffering. In an increasingly interconnected world, regional crisis can strain our alliances, rekindle rivalries among the major powers, and create horrifying affronts to human dignity. When violence erupts and states falter, the United States will work with friends and partners to alleviate suffering and restore stability.

No doctrine can anticipate every circumstance in which U.S. action—direct or indirect—is warranted. We have finite political, economic, and military resources to meet our global priorities. The United States will approach each case with these strategic principles in mind:

- The United States should invest time and resources into building international relationships and institutions that can help manage local crises when they emerge.

- The United States should be realistic about its ability to help those who are unwilling or unready to help themselves. Where and when people are ready to do their part, we will be willing to move decisively.

The Israeli-Palestinian conflict is critical because of the toll of human suffering, because

of America's close relationship with the state of Israel and key Arab states, and because of that region's importance to other global priorities of the United States. There can be no peace for either side without freedom for both sides. America stands committed to an independent and democratic Palestine, living beside Israel in peace and security. Like all other people, Palestinians deserve a government that serves their interests and listens to their voices. The United States will continue to encourage all parties to step up to their responsibilities as we seek a just and comprehensive settlement to the conflict.

The United States, the international donor community, and the World Bank stand ready to work with a reformed Palestinian government on economic development, increased humanitarian assistance, and a program to establish, finance, and monitor a truly independent judiciary. If Palestinians embrace democracy and the rule of law, confront corruption, and firmly reject terror, they can count on American support for the creation of a Palestinian state.

Israel also has a large stake in the success of a democratic Palestine. Permanent occupation threatens Israel's identity and democracy. So the United States continues to challenge Israeli leaders to take concrete steps to support the emergence of a viable, credible Palestinian state. As there is progress towards security, Israel forces need to withdraw fully to positions they held prior to September 28, 2000. And consistent with the recommendations of the Mitchell Committee, Israeli settlement activity in the occupied territories must stop. As violence subsides, freedom of movement should be restored, permitting innocent Palestinians to resume work and normal life. The United States can play a crucial role but, ultimately, lasting peace can only come when Israelis and Palestinians resolve the issues and end the conflict between them.

In South Asia, the United States has also emphasized the need for India and Pakistan to resolve their disputes. This Administration invested time and resources building strong bilateral relations with India and Pakistan. These strong relations then gave us leverage to play a constructive role when tensions in the region became acute. With Pakistan, our bilateral relations have been bolstered by Pakistan's choice to join the war against terror and move toward building a more open and tolerant society. The Administration sees India's potential to become one of the great democratic powers of the twenty-first century and has worked hard to

transform our relationship accordingly. Our involvement in this regional dispute, building on earlier investments in bilateral relations, looks first to concrete steps by India and Pakistan that can help defuse military confrontation.

Indonesia took courageous steps to create a working democracy and respect for the rule of law. By tolerating ethnic minorities, respecting the rule of law, and accepting open markets, Indonesia may be able to employ the engine of opportunity that has helped lift some of its neighbors out of poverty and desperation. It is the initiative by Indonesia that allows U.S. assistance to make a difference.

In the Western Hemisphere we have formed flexible coalitions with countries that share our priorities, particularly Mexico, Brazil, Canada, Chile, and Colombia. Together we will promote a truly democratic hemisphere where our integration advances security, prosperity, opportunity, and hope. We will work with regional institutions, such as the Summit of the Americas process, the Organization of American States (OAS), and the Defense Ministerial of the Americas for the benefit of the entire hemisphere.

Parts of Latin America confront regional conflict, especially arising from the violence of drug cartels and their accomplices. This conflict and unrestrained narcotics trafficking could imperil the health and security of the United States. Therefore we have developed an active strategy to help the Andean nations adjust their economies, enforce their laws, defeat terrorist organizations, and cut off the supply of drugs, while—as important—we work to reduce the demand for drugs in our own country.

In Colombia, we recognize the link between terrorist and extremist groups that challenge the security of the state and drug trafficking activities that help finance the operations of such groups. We are working to help Colombia defend its democratic institutions and defeat illegal armed groups of both the left and right by extending effective sovereignty over the entire national territory and provide basic security to the Colombian people.

In Africa, promise and opportunity sit side by side with disease, war, and desperate

poverty. This threatens both a core value of the United States—preserving human dignity—and our strategic priority—combating global terror. American interests and American principles, therefore, lead in the same direction: we will work with others for an African continent that lives in liberty, peace, and growing prosperity. Together with our European allies, we must help strengthen Africa’s fragile states; help build indigenous capability to secure porous borders, and help build up the law enforcement and intelligence infrastructure to deny havens for terrorists.

An ever more lethal environment exists in Africa as local civil wars spread beyond borders to create regional war zones. Forming coalitions of the willing and cooperative security arrangements are key to confronting these emerging transnational threats.

Africa’s great size and diversity requires a security strategy that focuses on bilateral engagement and builds coalitions of the willing. This Administration will focus on three interlocking strategies for the region:

- countries with major impact on their neighborhood such as South Africa, Nigeria, Kenya, and Ethiopia are anchors for regional engagement and require focused attention;
- coordination with European allies and international institutions is essential for constructive conflict mediation and successful peace operations; and
- Africa’s capable reforming states and sub-regional organizations must be strengthened as the primary means to address transnational threats on a sustained basis.

Ultimately the path of political and economic freedom presents the surest route to progress in sub-Saharan Africa, where most wars are conflicts over material resources and political access often tragically waged on the basis of ethnic and religious difference. The transition to the African Union with its stated commitment to good governance and a common responsibility for democratic political systems offers opportunities to strengthen democracy on the continent.

**V. PREVENT OUR ENEMIES FROM THREATENING US OUR ALLIES,
AND OUR FRIENDS**

WITH WEAPONS OF MASS DESTRUCTION

“The gravest danger to freedom lies at the crossroads of radicalism and technology. When the spread of chemical and biological and nuclear weapons, along with ballistic missile technology—when that occurs, even weak states and small groups could attain a catastrophic power to strike great nations.

Our enemies have declared this very intention, and have been caught seeking these terrible weapons. They want the capability to blackmail us, or to harm us, or to harm our friends—and we will oppose them with all our power.”

PRESIDENT BUSH

WEST POINT, NEW YORK

JUNE 1, 2002

The nature of the Cold War threat required the United States—with our allies and friends—to emphasize deterrence of the enemy’s use of force, producing a grim strategy of mutual assured destruction. With the collapse of the Soviet Union and the end of the Cold War, our security environment has undergone profound transformation.

Having moved from confrontation to cooperation as the hallmark of our relationship with Russia, the dividends are evident: an end to the balance of terror that divided us; an historic reduction in the nuclear arsenals on both sides; and cooperation in areas such as counterterrorism and missile defense that until recently were inconceivable.

But new deadly challenges have emerged from rogue states and terrorists. None of these contemporary threats rival the sheer destructive power that was arrayed against us by the

Soviet Union. However, the nature and motivations of these new adversaries, their determination to obtain destructive powers hitherto available only to the world's strongest states, and the greater likelihood that they will use weapons of mass destruction against us, make today's security environment more complex and dangerous.

In the 1990s we witnessed the emergence of a small number of rogue states that, while different in important ways, share a number of attributes. These states:

- brutalize their own people and squander their national resources for the personal gain of the rulers;

- display no regard for international law, threaten their neighbors, and callously violate international treaties to which they are party;

- are determined to acquire weapons of mass destruction, along with other advanced military technology, to be used as threats or offensively to achieve the aggressive designs of these regimes;

- sponsor terrorism around the globe; and

- reject basic human values and hate the United States and everything for which it stands.

At the time of the Gulf War, we acquired irrefutable proof that Iraq's designs were not limited to the chemical weapons it had used against Iran and its own people, but also extended to the acquisition of nuclear weapons and biological agents. In the past decade North Korea has become the world's principal purveyor of ballistic missiles, and has tested increasingly capable missiles while developing its own WMD arsenal. Other rogue regimes seek nuclear, biological, and chemical weapons as well. These states' pursuit of, and global trade in, such weapons has become a looming threat to all nations.

We must be prepared to stop rogue states and their terrorist clients before they are able

to threaten or use weapons of mass destruction against the United States and our allies and friends. Our response must take full advantage of strengthened alliances, the establishment of new partnerships with former adversaries, innovation in the use of military forces, modern technologies, including the development of an effective missile defense system, and increased emphasis on intelligence collection and analysis.

Our comprehensive strategy to combat WMD includes:

- *Proactive counter-proliferation efforts.* We must deter and defend against the threat before it is unleashed. We must ensure that key capabilities—detection, active and passive defenses, and counterforce capabilities—are integrated into our defense transformation and our homeland security systems. Counter-proliferation must also be integrated into the doctrine, training, and equipping of our forces and those of our allies to ensure that we can prevail in any conflict with WMD-armed adversaries.

- *Strengthened nonproliferation efforts to prevent rogue states and terrorists from acquiring the materials, technologies, and expertise necessary for weapons of mass destruction.* We will enhance diplomacy, arms control, multilateral export controls, and threat reduction assistance that impede states and terrorists seeking WMD, and when necessary, interdict enabling technologies and materials. We will continue to build coalitions to support these efforts, encouraging their increased political and financial support for nonproliferation and threat reduction programs. The recent G-8 agreement to commit up to \$20 billion to a global partnership against proliferation marks a major step forward.

- *Effective consequence management to respond to the effects of WMD use, whether by terrorists or hostile states.* Minimizing the effects of WMD use against our people will help deter those who possess such weapons and dissuade those who seek to acquire them by persuading enemies that they cannot attain their desired ends. The United States must also be prepared to respond to the effects of WMD use against our forces abroad, and to help friends and allies if they are attacked.

It has taken almost a decade for us to comprehend the true nature of this new threat.

Given the goals of rogue states and terrorists, the United States can no longer solely rely on a reactive posture as we have in the past. The inability to deter a potential attacker, the immediacy of today's threats, and the magnitude of potential harm that could be caused by our adversaries' choice of weapons, do not permit that option. We cannot let our enemies strike first.

- In the Cold War, especially following the Cuban missile crisis, we faced a generally status quo, risk-averse adversary. Deterrence was an effective defense. But deterrence based only upon the threat of retaliation is less likely to work against leaders of rogue states more willing to take risks, gambling with the lives of their people, and the wealth of their nations.

- In the Cold War, weapons of mass destruction were considered weapons of last resort whose use risked the destruction of those who used them. Today, our enemies see weapons of mass destruction as weapons of choice. For rogue states these weapons are tools of intimidation and military aggression against their neighbors. These weapons may also allow these states to attempt to black-mail the United States and our allies to prevent us from deterring or repelling the aggressive behavior of rogue states. Such states also see these weapons as their best means of overcoming the conventional superiority of the United States.

- Traditional concepts of deterrence will not work against a terrorist enemy whose avowed tactics are wanton destruction and the targeting of innocents; whose so-called soldiers seek martyrdom in death and whose most potent protection is statelessness. The overlap between states that sponsor terror and those that pursue WMD compels us to action.

For centuries, international law recognized that nations need not suffer an attack before they can lawfully take action to defend themselves against forces that present an imminent danger of attack. Legal scholars and international jurists often conditioned the legitimacy of preemption on the existence of an imminent threat—most often a visible mobilization of armies, navies, and air forces preparing to attack.

We must adapt the concept of imminent threat to the capabilities and objectives of today's adversaries. Rogue states and terrorists do not seek to attack us using conventional

means. They know such attacks would fail. Instead, they rely on acts of terror and, potentially, the use of weapons of mass destruction—weapons that can be easily concealed, delivered covertly, and used without warning.

The targets of these attacks are our military forces and our civilian population, in direct violation of one of the principal norms of the law of warfare. As was demonstrated by the losses on September 11, 2001, mass civilian casualties is the specific objective of terrorists and these losses would be exponentially more severe if terrorists acquired and used weapons of mass destruction.

The United States has long maintained the option of preemptive actions to counter a sufficient threat to our national security. The greater the threat, the greater is the risk of inaction— and the more compelling the case for taking anticipatory action to defend ourselves, even if uncertainty remains as to the time and place of the enemy’s attack. To forestall or prevent such hostile acts by our adversaries, the United States will, if necessary, act preemptively.

The United States will not use force in all cases to preempt emerging threats, nor should nations use preemption as a pretext for aggression. Yet in an age where the enemies of civilization openly and actively seek the world’s most destructive technologies, the United States cannot remain idle while dangers gather.

We will always proceed deliberately, weighing the consequences of our actions. To support preemptive options, we will:

- build better, more integrated intelligence capabilities to provide timely, accurate information on threats, wherever they may emerge;
- coordinate closely with allies to form a common assessment of the most dangerous threats; and
- continue to transform our military forces to ensure our ability to conduct rapid and

precise operations to achieve decisive results.

The purpose of our actions will always be to eliminate a specific threat to the United States or our allies and friends. The reasons for our actions will be clear, the force measured, and the cause just.

VI. IGNITE A NEW ERA OF GLOBAL ECONOMIC

GROWTH THROUGH FREE MARKETS AND FREE TRADE

“When nations close their markets and opportunity is hoarded by a privileged few, no amount—no amount—of development aid is ever enough. When nations respect their people, open markets, invest in better health and education, every dollar of aid, every dollar of trade revenue and domestic capital is used more effectively.”

PRESIDENT BUSH

MONTERREY, MEXICO

MARCH 22, 2002

A strong world economy enhances our national security by advancing prosperity and freedom in the rest of the world. Economic growth supported by free trade and free markets creates new jobs and higher incomes. It allows people to lift their lives out of poverty, spurs economic and legal reform, and the fight against corruption, and it reinforces the habits of liberty.

We will promote economic growth and economic freedom beyond America’s shores. All governments are responsible for creating their own economic policies and responding to their own economic challenges. We will use our economic engagement with other countries to underscore the benefits of policies that generate higher productivity and sustained economic growth, including:

Rule of law and intolerance of corruption so that people are confident that they will be able to enjoy the fruits of their economic endeavors;

- strong financial systems that allow capital to be put to its most efficient use;

- sound fiscal policies to support business activity;
- investments in health and education that improve the well-being and skills of the labor force and population as a whole; and
- free trade that provides new avenues for growth and fosters the diffusion of technologies and ideas that increase productivity and opportunity.
- pro-growth legal and regulatory policies to encourage business investment, innovation, and entrepreneurial activity;
- tax policies—particularly lower marginal tax rates—that improve incentives for work and investment;

The lessons of history are clear: market economies, not command-and-control economies with the heavy hand of government, are the best way to promote prosperity and reduce poverty. Policies that further strengthen market incentives and market institutions are relevant for all economies—industrialized countries, emerging markets, and the developing world.

A return to strong economic growth in Europe and Japan is vital to U.S. national security interests. We want our allies to have strong economies for their own sake, for the sake of the global economy, and for the sake of global security. European efforts to remove structural barriers in their economies are particularly important in this regard, as are Japan's efforts to end deflation and address the problems of non-performing loans in the Japanese banking system. We will continue to use our regular consultations with Japan and our European partners—including through the Group of Seven (G-7)—to discuss policies they are adopting to promote growth in their economies and support higher global economic growth.

Improving stability in emerging markets is also key to global economic growth. International flows of investment capital are needed to expand the productive potential of these economies. These flows allow emerging markets and developing countries to make the

investments that raise living standards and reduce poverty. Our long-term objective should be a world in which all countries have investment-grade credit ratings that allow them access to international capital markets and to invest in their future.

We are committed to policies that will help emerging markets achieve access to larger capital flows at lower cost. To this end, we will continue to pursue reforms aimed at reducing uncertainty in financial markets. We will work actively with other countries, the International Monetary Fund (IMF), and the private sector to implement the G-7 Action Plan negotiated earlier this year for preventing financial crises and more effectively resolving them when they occur.

The best way to deal with financial crises is to prevent them from occurring, and we have encouraged the IMF to improve its efforts doing so. We will continue to work with the IMF to streamline the policy conditions for its lending and to focus its lending strategy on achieving economic growth through sound fiscal and monetary policy, exchange rate policy, and financial sector policy.

The concept of “free trade” arose as a moral principle even before it became a pillar of economics. If you can make something that others value, you should be able to sell it to them. If others make something that you value, you should be able to buy it. This is real freedom, the freedom for a person—or a nation—to make a living. To promote free trade, the United States has developed a comprehensive strategy:

- *Seize the global initiative.* The new global trade negotiations we helped launch at Doha in November 2001 will have an ambitious agenda, especially in agriculture, manufacturing, and services, targeted for completion in 2005. The United States has led the way in completing the accession of China and a democratic Taiwan to the World Trade Organization. We will assist Russia’s preparations to join the WTO.

- *Press regional initiatives.* The United States and other democracies in the Western Hemisphere have agreed to create the Free Trade Area of the Americas, targeted for completion in 2005. This year the United States will advocate market-access negotiations with

its partners, targeted on agriculture, industrial goods, services, investment, and government procurement. We will also offer more opportunity to the poorest continent, Africa, starting with full use of the preferences allowed in the African Growth and Opportunity Act, and leading to free trade.

- *Move ahead with bilateral free trade agreements.* Building on the free trade agreement with Jordan enacted in 2001, the Administration will work this year to complete free trade agreements with Chile and Singapore. Our aim is to achieve free trade agreements with a mix of developed and developing countries in all regions of the world. Initially, Central America, Southern Africa, Morocco, and Australia will be our principal focal points.

- *Renew the executive-congressional partnership.* Every administration's trade strategy depends on a productive partnership with Congress. After a gap of 8 years, the Administration reestablished majority support in the Congress for trade liberalization by passing Trade Promotion Authority and the other market opening measures for developing countries in the Trade Act of 2002. This Administration will work with Congress to enact new bilateral, regional, and global trade agreements that will be concluded under the recently passed Trade Promotion Authority.

- *Promote the connection between trade and development.* Trade policies can help developing countries strengthen property rights, competition, the rule of law, investment, the spread of knowledge, open societies, the efficient allocation of resources, and regional integration—all leading to growth, opportunity, and confidence in developing countries. The United States is implementing The Africa Growth and Opportunity Act to provide market-access for nearly all goods produced in the 35 countries of sub-Saharan Africa. We will make more use of this act and its equivalent for the Caribbean Basin and continue to work with multilateral and regional institutions to help poorer countries take advantage of these opportunities. Beyond market access, the most important area where trade intersects with poverty is in public health. We will ensure that the WTO intellectual property rules are flexible enough to allow developing nations to gain access to critical medicines for extraordinary dangers like HIV/AIDS, tuberculosis, and malaria.

- *Enforce trade agreements and laws against unfair practices.* Commerce depends on the rule of law; international trade depends on enforceable agreements. Our top priorities are to resolve ongoing disputes with the European Union, Canada, and Mexico and to make a global effort to address new technology, science, and health regulations that needlessly impede farm exports and improved agriculture. Laws against unfair trade practices are often abused, but the international community must be able to address genuine concerns about government subsidies and dumping. International industrial espionage which undermines fair competition must be detected and deterred.

- *Help domestic industries and workers adjust.*

There is a sound statutory framework for these transitional safeguards which we have used in the agricultural sector and which we are using this year to help the American steel industry. The benefits of free trade depend upon the enforcement of fair trading practices. These safeguards help ensure that the benefits of free trade do not come at the expense of American workers. Trade adjustment assistance will help workers adapt to the change and dynamism of open markets.

- *Protect the environment and workers.* The United States must foster economic growth in ways that will provide a better life along with widening prosperity. We will incorporate labor and environmental concerns into U.S. trade negotiations, creating a healthy “network” between multilateral environmental agreements with the WTO, and use the International Labor Organization, trade preference programs, and trade talks to improve working conditions in conjunction with freer trade.

- *Enhance energy security.* We will strengthen our own energy security and the shared prosperity of the global economy by working with our allies, trading partners, and energy producers to expand the sources and types of global energy supplied, especially in the Western Hemisphere, Africa, Central Asia, and the Caspian region. We will also continue to work with our partners to develop cleaner and more energy efficient technologies.

Economic growth should be accompanied by global efforts to stabilize greenhouse gas

concentrations associated with this growth, containing them at a level that prevents dangerous human interference with the global climate. Our overall objective is to reduce America's greenhouse gas emissions relative to the size of our economy, cutting such emissions per unit of economic activity by 18 percent over the next 10 years, by the year 2012. Our strategies for attaining this goal will be to:

- remain committed to the basic U.N. Framework Convention for international cooperation;

- obtain agreements with key industries to cut emissions of some of the most potent greenhouse gases and give transferable credits to companies that can show real cuts;

- develop improved standards for measuring and registering emission reductions;

- promote renewable energy production and clean coal technology, as well as nuclear power—which produces no greenhouse gas emissions, while also improving fuel economy for U.S. cars and trucks;

- increase spending on research and new conservation technologies, to a total of

\$4.5 billion—the largest sum being spent on climate change by any country in the world and a \$700 million increase over last year's budget; and

- assist developing countries, especially the major greenhouse gas emitters such as China and India, so that they will have the tools and resources to join this effort and be able to grow along a cleaner and better path.

VII. EXPAND THE CIRCLE OF DEVELOPMENT BY

OPENING SOCIETIES AND BUILDING

THE INFRASTRUCTURE OF DEMOCRACY

“In World War II we fought to make the world safer, then worked to rebuild it. As we wage war today to keep the world safe from terror, we must also work to make the world a better place for all its citizens.”

PRESIDENT BUSH

WASHINGTON, D.C. (INTER-AMERICAN DEVELOPMENT BANK)

MARCH 14, 2002

A world where some live in comfort and plenty, while half of the human race lives on less than \$2 a day, is neither just nor stable. Including all of the world’s poor in an expanding circle of development—and opportunity—is a moral imperative and one of the top priorities of U.S. international policy.

Decades of massive development assistance have failed to spur economic growth in the poorest countries. Worse, development aid has often served to prop up failed policies, relieving the pressure for reform and perpetuating misery. Results of aid are typically measured in dollars spent by donors, not in the rates of growth and poverty reduction achieved by recipients. These are the indicators of a failed strategy.

Working with other nations, the United States is confronting this failure. We forged a new consensus at the U.N. Conference on Financing for Development in Monterrey that the objectives of assistance—and the strategies to achieve those objectives—must change.

This Administration’s goal is to help unleash the productive potential of individuals in

all nations. Sustained growth and poverty reduction is impossible without the right national policies. Where governments have implemented real policy changes, we will provide significant new levels of assistance. The United States and other developed countries should set an ambitious and specific target: to double the size of the world's poorest economies within a decade.

The United States Government will pursue these major strategies to achieve this goal:

- *Provide resources to aid countries that have met the challenge of national reform.* We propose a 50 percent increase in the core development assistance given by the United States. While continuing our present programs, including humanitarian assistance based on need alone, these billions of new dollars will form a new Millennium Challenge Account for projects in countries whose governments rule justly, invest in their people, and encourage economic freedom. Governments must fight corruption, respect basic human rights, embrace the rule of law, invest in health care and education, follow responsible economic policies, and enable entrepreneurship. The Millennium Challenge Account will reward countries that have demonstrated real policy change and challenge those that have not to implement reforms.

- *Improve the effectiveness of the World Bank and other development banks in raising living standards.* The United States is committed to a comprehensive reform agenda for making the World Bank and the other multilateral development banks more effective in improving the lives of the world's poor. We have reversed the downward trend in U.S. contributions and proposed an 18 percent increase in the U.S. contributions to the International Development Association (IDA)—the World Bank's fund for the poorest countries—and the African Development Fund. The key to raising living standards and reducing poverty around the world is increasing productivity growth, especially in the poorest countries. We will continue to press the multilateral development banks to focus on activities that increase economic productivity, such as improvements in education, health, rule of law, and private sector development. Every project, every loan, every grant must be judged by how much it will increase productivity growth in developing countries.

- *Insist upon measurable results to ensure that development assistance is actually making a difference in the lives of the world's poor.*

When it comes to economic development, what really matters is that more children are getting a better education, more people have access to health care and clean water, or more workers can find jobs to make a better future for their families. We have a moral obligation to measure the success of our development assistance by whether it is delivering results. For this reason, we will continue to demand that our own development assistance as well as assistance from the multilateral development banks has measurable goals and concrete benchmarks for achieving those goals. Thanks to U.S. leadership, the recent IDA replenishment agreement will establish a monitoring and evaluation system that measures recipient countries' progress. For the first time, donors can link a portion of their contributions to IDA to the achievement of actual development results, and part of the U.S. contribution is linked in this way. We will strive to make sure that the World Bank and other multilateral development banks build on this progress so that a focus on results is an integral part of everything that these institutions do.

- *Increase the amount of development assistance that is provided in the form of grants instead of loans.* Greater use of results-based grants is the best way to help poor countries make productive investments, particularly in the social sectors, without saddling them with ever-larger debt burdens. As a result of U.S. leadership, the recent IDA agreement provided for significant increases in grant funding for the poorest countries for education, HIV/AIDS, health, nutrition, water, sanitation, and other human needs. Our goal is to build on that progress by increasing the use of grants at the other multilateral development banks. We will also challenge universities, nonprofits, and the private sector to match government efforts by using grants to support development projects that show results.

- *Open societies to commerce and investment.*

Trade and investment are the real engines of economic growth. Even if government aid increases, most money for development must come from trade, domestic capital, and foreign investment. An effective strategy must try to expand these flows as well. Free markets and

free trade are key priorities of our national security strategy.

- *Secure public health.* The scale of the public health crisis in poor countries is enormous. In countries afflicted by epidemics and pandemics like HIV/AIDS, malaria, and tuberculosis, growth and development will be threatened until these scourges can be contained. Resources from the developed world are necessary but will be effective only with honest governance, which supports prevention programs and provides effective local infrastructure. The United States has strongly backed the new global fund for HIV/AIDS organized by U.N. Secretary General Kofi Annan and its focus on combining prevention with a broad strategy for treatment and care. The United States already contributes more than twice as much money to such efforts as the next largest donor. If the global fund demonstrates its promise, we will be ready to give even more.

- *Emphasize education.* Literacy and learning are the foundation of democracy and development. Only about 7 percent of World Bank resources are devoted to education. This proportion should grow. The United States will increase its own funding for education assistance by at least 20 percent with an emphasis on improving basic education and teacher training in Africa. The United States can also bring information technology to these societies, many of whose education systems have been devastated by HIV/AIDS.

- *Continue to aid agricultural development.*

New technologies, including biotechnology, have enormous potential to improve crop yields in developing countries while using fewer pesticides and less water. Using sound science, the United States should help bring these benefits to the 800 million people, including 300 million children, who still suffer from hunger and malnutrition.

VIII. DEVELOP AGENDAS FOR COOPERATIVE ACTION WITH THE OTHER MAIN CENTERS OF GLOBAL POWER

“We have our best chance since the rise of the nation-state in the 17th century to build a world where the great powers compete in peace instead of prepare for war.”

PRESIDENT BUSH

WEST POINT, NEW YORK

JUNE 1, 2002

America will implement its strategies by organizing coalitions—as broad as practicable— of states able and willing to promote a balance of power that favors freedom. Effective coalition leadership requires clear priorities, an appreciation of others’ interests, and consistent consultations among partners with a spirit of humility.

There is little of lasting consequence that the United States can accomplish in the world without the sustained cooperation of its allies and friends in Canada and Europe. Europe is also the seat of two of the strongest and most able international institutions in the world: the North Atlantic Treaty Organization (NATO), which has, since its inception, been the fulcrum of transatlantic and inter-European security, and the European Union (EU), our partner in opening world trade.

The attacks of September 11 were also an attack on NATO, as NATO itself recognized when it invoked its Article V self-defense clause for the first time. NATO’s core mission— collective defense of the transatlantic alliance of democracies—remains, but NATO must develop new structures and capabilities to carry out that mission under new circumstances. NATO must build a capability to field, at short notice, highly mobile, specially trained forces whenever they are needed to respond to a threat against any member of the alliance.

The alliance must be able to act wherever our interests are threatened, creating coalitions under NATO's own mandate, as well as contributing to mission-based coalitions. To achieve this, we must:

- expand NATO's membership to those democratic nations willing and able to share the burden of defending and advancing our common interests;

- ensure that the military forces of NATO nations have appropriate combat contributions to make in coalition warfare;

- develop planning processes to enable those contributions to become effective multinational fighting forces;

- take advantage of the technological opportunities and economies of scale in our defense spending to transform NATO military forces so that they dominate potential aggressors and diminish our vulnerabilities;

- streamline and increase the flexibility of command structures to meet new operational demands and the associated requirements of training, integrating, and experimenting with new force configurations; and

- maintain the ability to work and fight together as allies even as we take the necessary steps to transform and modernize our forces.

If NATO succeeds in enacting these changes, the rewards will be a partnership as central to the security and interests of its member states as was the case during the Cold War. We will sustain a common perspective on the threats to our societies and improve our ability to take common action in defense of our nations and their interests. At the same time, we welcome our European allies' efforts to forge a greater foreign policy and defense identity with the EU, and commit ourselves to close consultations to ensure that these developments work with NATO. We cannot afford to lose this opportunity to better prepare the family of transatlantic democracies for the challenges to come.

The attacks of September 11 energized America's Asian alliances. Australia invoked the ANZUS Treaty to declare the September 11 was an attack on Australia itself, following that historic decision with the dispatch of some of the world's finest combat forces for Operation Enduring Freedom. Japan and the Republic of Korea provided unprecedented levels of military logistical support within weeks of the terrorist attack. We have deepened cooperation on counter-terrorism with our alliance partners in Thailand and the Philippines and received invaluable assistance from close friends like Singapore and New Zealand.

The war against terrorism has proven that America's alliances in Asia not only underpin regional peace and stability, but are flexible and ready to deal with new challenges. To enhance our Asian alliances and friendships, we will:

- look to Japan to continue forging a leading role in regional and global affairs based on our common interests, our common values, and our close defense and diplomatic cooperation;
- work with South Korea to maintain vigilance towards the North while preparing our alliance to make contributions to the broader stability of the region over the longer term;
- build on 50 years of U.S.-Australian alliance cooperation as we continue working together to resolve regional and global problems—as we have so many times from the Battle of the Coral Sea to Tora Bora;
- maintain forces in the region that reflect our commitments to our allies, our requirements, our technological advances, and the strategic environment; and
- build on stability provided by these alliances, as well as with institutions such as ASEAN and the Asia-Pacific Economic Cooperation forum, to develop a mix of regional and bilateral strategies to manage change in this dynamic region.

We are attentive to the possible renewal of old patterns of great power competition.

Several potential great powers are now in the midst of internal transition—most importantly Russia, India, and China. In all three cases, recent developments have encouraged our hope that a truly global consensus about basic principles is slowly taking shape.

With Russia, we are already building a new strategic relationship based on a central reality of the twenty-first century: the United States and Russia are no longer strategic adversaries. The Moscow Treaty on Strategic Reductions is emblematic of this new reality and reflects a critical change in Russian thinking that promises to lead to productive, long-term relations with the Euro-Atlantic community and the United States. Russia's top leaders have a realistic assessment of their country's current weakness and the policies—internal and external—needed to reverse those weaknesses. They understand, increasingly, that Cold War approaches do not serve their national interests and that Russian and American strategic interests overlap in many areas.

United States policy seeks to use this turn in Russian thinking to refocus our relationship on emerging and potential common interests and challenges. We are broadening our already extensive cooperation in the global war on terrorism. We are facilitating Russia's entry into the World Trade Organization, without lowering standards for accession, to promote beneficial bilateral trade and investment relations. We have created the NATO-Russia Council with the goal of deepening security cooperation among Russia, our European allies, and ourselves. We will continue to bolster the independence and stability of the states of the former Soviet Union in the belief that a prosperous and stable neighborhood will reinforce Russia's growing commitment to integration into the Euro-Atlantic community.

At the same time, we are realistic about the differences that still divide us from Russia and about the time and effort it will take to build an enduring strategic partnership. Lingering distrust of our motives and policies by key Russian elites slows improvement in our relations. Russia's uneven commitment to the basic values of free-market democracy and dubious record in combating the proliferation of weapons of mass destruction remain matters of great concern. Russia's very weakness limits the opportunities for cooperation. Nevertheless, those opportunities are vastly greater now than in recent years—or even decades.

The United States has undertaken a transformation in its bilateral relationship with India based on a conviction that U.S. interests require a strong relationship with India. We are the two largest democracies, committed to political freedom protected by representative government. India is moving toward greater economic freedom as well. We have a common interest in the free flow of commerce, including through the vital sea lanes of the Indian Ocean. Finally, we share an interest in fighting terrorism and in creating a strategically stable Asia.

Differences remain, including over the development of India's nuclear and missile programs, and the pace of India's economic reforms. But while in the past these concerns may have dominated our thinking about India, today we start with a view of India as a growing world power with which we have common strategic interests. Through a strong partnership with India, we can best address any differences and shape a dynamic future.

The United States relationship with China is an important part of our strategy to promote a stable, peaceful, and prosperous Asia-Pacific region. We welcome the emergence of a strong, peaceful, and prosperous China. The democratic development of China is crucial to that future. Yet, a quarter century after beginning the process of shedding the worst features of the Communist legacy, China's leaders have not yet made the next series of fundamental choices about the character of their state. In pursuing advanced military capabilities that can threaten its neighbors in the Asia-Pacific region, China is following an outdated path that, in the end, will hamper its own pursuit of national greatness. In time, China will find that social and political freedom is the only source of that greatness.

The United States seeks a constructive relationship with a changing China. We already cooperate well where our interests overlap, including the current war on terrorism and in promoting stability on the Korean peninsula. Likewise, we have coordinated on the future of Afghanistan and have initiated a comprehensive dialogue on counterterrorism and similar transitional concerns. Shared health and environmental threats, such as the spread of HIV/AIDS, challenge us to promote jointly the welfare of our citizens.

Addressing these transnational threats will challenge China to become more open with

information, promote the development of civil society, and enhance individual human rights. China has begun to take the road to political openness, permitting many personal freedoms and conducting village-level elections, yet remains strongly committed to national one-party rule by the Communist Party. To make that nation truly accountable to its citizen's needs and aspirations, however, much work remains to be done. Only by allowing the Chinese people to think, assemble, and worship freely can China reach its full potential.

Our important trade relationship will benefit from China's entry into the World Trade Organization, which will create more export opportunities and ultimately more jobs for American farmers, workers, and companies. China is our fourth largest trading partner, with over \$100 billion in annual two-way trade. The power of market principles and the WTO's requirements for transparency and accountability will advance openness and the rule of law in China to help establish basic protections for commerce and for citizens. There are, however, other areas in which we have profound disagreements. Our commitment to the self-defense of Taiwan under the Taiwan Relations Act is one. Human rights is another. We expect China to adhere to its nonproliferation commitments. We will work to narrow differences where they exist, but not allow them to preclude cooperation where we agree.

The events of September 11, 2001, fundamentally changed the context for relations between the United States and other main centers of global power, and opened vast, new opportunities. With our long-standing allies in Europe and Asia, and with leaders in Russia, India, and China, we must develop active agendas of cooperation lest these relationships become routine and unproductive.

Every agency of the United States Government shares the challenge. We can build fruitful habits of consultation, quiet argument, sober analysis, and common action. In the long-term, these are the practices that will sustain the supremacy of our common principles and keep open the path of progress.

IX. TRANSFORM AMERICA’S NATIONAL SECURITY

INSTITUTIONS TO MEET THE CHALLENGES AND OPPORTUNITIES OF THE TWENTY-FIRST CENTURY

“Terrorists attacked a symbol of American prosperity. They did not touch its source. America is successful because of the hard work, creativity, and enterprise of our people.”

PRESIDENT BUSH

WASHINGTON, D.C. (JOINT SESSION OF CONGRESS)

SEPTEMBER 20, 2001

The major institutions of American national security were designed in a different era to meet different requirements. All of them must be transformed.

It is time to reaffirm the essential role of American military strength. We must build and maintain our defenses beyond challenge. Our military’s highest priority is to defend the United States. To do so effectively, our military must:

- assure our allies and friends;
- dissuade future military competition;
- deter threats against U.S. interests, allies, and friends; and
- decisively defeat any adversary if deterrence fails.

The unparalleled strength of the United States armed forces, and their forward presence, have maintained the peace in some of the world’s most strategically vital regions. However, the threats and enemies we must confront have changed, and so must our forces. A military structured to deter massive Cold War-era armies must be transformed to focus more on how an adversary might fight rather than where and when a war might occur. We will channel our

energies to overcome a host of operational challenges.

The presence of American forces overseas is one of the most profound symbols of the U.S. commitments to allies and friends. Through our willingness to use force in our own defense and in defense of others, the United States demonstrates its resolve to maintain a balance of power that favors freedom. To contend with uncertainty and to meet the many security challenges we face, the United States will require bases and stations within and beyond Western Europe and Northeast Asia, as well as temporary access arrangements for the long-distance deployment of U.S. forces.

Before the war in Afghanistan, that area was low on the list of major planning contingencies. Yet, in a very short time, we had to operate across the length and breadth of that remote nation, using every branch of the armed forces. We must prepare for more such deployments by developing assets such as advanced remote sensing, long-range precision strike capabilities, and transformed maneuver and expeditionary forces. This broad portfolio of military capabilities must also include the ability to defend the homeland, conduct information operations, ensure U.S. access to distant theaters, and protect critical U.S. infrastructure and assets in outer space.

Innovation within the armed forces will rest on experimentation with new approaches to warfare, strengthening joint operations, exploiting U.S. intelligence advantages, and taking full advantage of science and technology. We must also transform the way the Department of Defense is run, especially in financial management and recruitment and retention. Finally, while maintaining near-term readiness and the ability to fight the war on terrorism, the goal must be to provide the President with a wider range of military options to discourage aggression or any form of coercion against the United States, our allies, and our friends.

We know from history that deterrence can fail; and we know from experience that some enemies cannot be deterred. The United States must and will maintain the capability to defeat any attempt by an enemy—whether a state or non-state actor—to impose its will on the United States, our allies, or our friends. We will maintain the forces sufficient to support our obligations, and to defend freedom. Our forces will be strong enough to dissuade potential

adversaries from pursuing a military build-up in hopes of surpassing, or equaling, the power of the United States.

Intelligence—and how we use it—is our first line of defense against terrorists and the threat posed by hostile states. Designed around the priority of gathering enormous information about a massive, fixed object—the Soviet bloc—the intelligence community is coping with the challenge of following a far more complex and elusive set of targets.

We must transform our intelligence capabilities and build new ones to keep pace with the nature of these threats. Intelligence must be appropriately integrated with our defense and law enforcement systems and coordinated with our allies and friends. We need to protect the capabilities we have so that we do not arm our enemies with the knowledge of how best to surprise us. Those who would harm us also seek the benefit of surprise to limit our prevention and response options and to maximize injury.

We must strengthen intelligence warning and analysis to provide integrated threat assessments for national and homeland security. Since the threats inspired by foreign governments and groups may be conducted inside the United States, we must also ensure the proper fusion of information between intelligence and law enforcement.

Initiatives in this area will include:

- strengthening the authority of the Director of Central Intelligence to lead the development and actions of the Nation's foreign intelligence capabilities;
- establishing a new framework for intelligence warning that provides seamless and integrated warning across the spectrum of threats facing the nation and our allies;
- continuing to develop new methods of collecting information to sustain our intelligence advantage;
- investing in future capabilities while working to protect them through a more vigorous effort to prevent the compromise of intelligence capabilities; and

- collecting intelligence against the terrorist danger across the government with all-source analysis.

As the United States Government relies on the armed forces to defend America's interests, it must rely on diplomacy to interact with other nations.

We will ensure that the Department of State receives funding sufficient to ensure the success of American diplomacy. The State Department takes the lead in managing our bilateral relationships with other governments. And in this new era, its people and institutions must be able to interact equally adroitly with non-governmental organizations and international institutions. Officials trained mainly in international politics must also extend their reach to understand complex issues of domestic governance around the world, including public health, education, law enforcement, the judiciary, and public diplomacy.

Our diplomats serve at the front line of complex negotiations, civil wars, and other humanitarian catastrophes. As humanitarian relief requirements are better understood, we must also be able to help build police forces, court systems, and legal codes, local and provincial government institutions, and electoral systems. Effective international cooperation is needed to accomplish these goals, backed by American readiness to play our part.

Just as our diplomatic institutions must adapt so that we can reach out to others, we also need a different and more comprehensive approach to public information efforts that can help people around the world learn about and understand America. The war on terrorism is not a clash of civilizations. It does, however, reveal the clash inside a civilization, a battle for the future of the Muslim world. This is a struggle of ideas and this is an area where America must excel.

We will take the actions necessary to ensure that our efforts to meet our global security commitments and protect Americans are not impaired by the potential for investigations, inquiry, or prosecution by the International Criminal Court (ICC), whose jurisdiction does not extend to Americans and which we do not accept. We will work together with other nations to avoid complications in our military operations and cooperation, through such mechanisms as

multilateral and bilateral agreements that will protect U.S. nationals from the ICC. We will implement fully the American Service Members Protection Act, whose provisions are intended to ensure and enhance the protection of U.S. personnel and officials.

We will make hard choices in the coming year and beyond to ensure the right level and allocation of government spending on national security. The United States Government must strengthen its defenses to win this war. At home, our most important priority is to protect the homeland for the American people.

Today, the distinction between domestic and foreign affairs is diminishing. In a globalized world, events beyond America's borders have a greater impact inside them. Our society must be open to people, ideas, and goods from across the globe. The characteristics we most cherish—our freedom, our cities, our systems of movement, and modern life—are vulnerable to terrorism. This vulnerability will persist long after we bring to justice those responsible for the September 11 attacks. As time passes, individuals may gain access to means of destruction that until now could be wielded only by armies, fleets, and squadrons. This is a new condition of life. We will adjust to it and thrive—in spite of it.

In exercising our leadership, we will respect the values, judgment, and interests of our friends and partners. Still, we will be prepared to act apart when our interests and unique responsibilities require. When we disagree on particulars, we will explain forthrightly the grounds for our concerns and strive to forge viable alternatives. We will not allow such disagreements to obscure our determination to secure together, with our allies and our friends, our shared fundamental interests and values.

Ultimately, the foundation of American strength is at home. It is in the skills of our people, the dynamism of our economy, and the resilience of our institutions. A diverse, modern society has inherent, ambitious, entrepreneurial energy. Our strength comes from what we do with that energy. That is where our national security begins.

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