



Robert Schuman



**Transatlantic Cooperation in the War Against
Terror Financing: Building a Counter- Network**

-Mary Troy



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Miami European Union Center
University of Miami
1000 Memorial Drive
101 Ferré Building
Coral Gables, FL 33124-2231
Phone: 305-284-3266
Fax: (305) 284 4406
E-Mail: jroy@miami.edu
Web: www.miami.edu/eucenter

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**Transatlantic Cooperation in the War Against Terror Financing:
Building a Counter-Network**

Mary Troy*

**The Jean Monnet Chair
University of Miami
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* Mary Troy Johnston is an associate professor in the Department of Political Science at Loyola University New Orleans where she began her academic career in 1988. Her scholarship for almost two decades has focused on EU institutions and, in more recent years, the European Security and Defense Policy and transatlantic relations. Her major works include, *The European Council: Gatekeeper of the European Community* (Westview Press, 1994) and a forthcoming edited book with Adamski and Schweiss, *Old Europe, New Security: Evolution for a Complex World* (Ashgate Publishing, anticipated 2006) and articles on supranationalism, EU decision-making and transatlantic security. She conducts research internationally, has visited and interviewed officials at the EU, NATO and UN and has presented papers in Vienna, Hungary, and Oxford.

Transatlantic Cooperation in the War Against Terror Financing: Building a Counter-Network

Introduction

The terror network seems like the EU of terror, a federation of states in constant expansionary mode. Every country who wants to join in gets substantial help from Brussels to do so. (quoted in Napoleoni, p. 157)

Contemporary terrorism is distinguished, not so much by a command structure, but by the extent to which the terror network has permeated the farthest reaches of the globe, as well as the most accessible, and is sustained by a vast terror economy. Although the costs of lethal materials is not always prohibitive to individual terrorists, the costs of sustaining a global movement for the period of incubating and hatching a plot are prohibitive to most. The Council of Foreign Relations began its report describing a new threat,

Unlike other terrorist leaders, Osama bin Laden is not a military hero, a religious authority, or an obvious representative of the downtrodden and disillusioned. He is a rich financier.

So far, eliminating the leaders of terror does not seem to get at the roots of terror. Observers have tried to offer metaphors that convey images of the extensive and elusive nature of terror financing. An intuitive journalist likens it to a “financial archipelago with connections hidden beneath the surface.” Tracing the monies reveals the complexity, density and adaptability of terror networks. Despite global cooperation in combating terror financing since 9/11, Al Qaeda still boasts about its financial means, promising to reward followers in gold for killing Americans in Iraq. Terror financing reveals a side as dark as the wholesale destruction and murder witnessed in the WTC bombing. It reveals the destruction of society at its roots, and the destruction is non-discriminatory, corrupting, addicting, prostituting members of the most impoverished to the wealthiest societies, the least governed to the best governed states. Terrorists not only sponsor terrorism with their monies, they perpetrate and profit from crimes that are destructive in their own right. (Interview at UN, New York, 01/2006) Stopping the proceeds to crime from terror financing is a vital security objective, not often targeted in public discussions of the dangers of terrorism.

Recent research has argued that “social bonds are the critical element” in the process of an individual’s decision to join the jihad and that these contacts “precede ideological commitment”. (Sageman, p. 135) Financial investigation is an incisive tool for discovering the breakdown of the social networks and the income that supports terrorism, not to mention the identity and location of terrorists. It is not as costly as other

means of gathering intelligence; it can even be considered cheap in comparison to other strategies. The money chase does not carry the political risks and moral dilemmas of maintaining prisons and resorting to extreme and possibly illegal and inhumane means of extracting information from terror suspects. Furthermore, as long as countries have the desire to counter terror finance, they have the capacities. Crack investigators, individuals that seem to be born into that role, exist in every culture and like to cooperate with each other. Finally, making their financial sources more transparent will prevent people from unwittingly contributing to terrorism, especially as charities are exposed that divert funds to jihad.

The main objective of this paper is to make a convincing case for basing the campaign to combat terror financing in transatlantic relations. It is precisely because the EU poses itself as a counter-network to terror networks that it qualifies as an indispensable partner for the United States. The EU has global reach, operating a political economy with ties and activities in all corners of the world and is constantly expanding, internally, as well as increasing external contacts. Extraordinary benefits flow from European integration, significantly, the legal ties that bind EU member states with each other and third countries. This paper maintains supranationalism has created relationships that are qualitatively different from those based on the ad hoc bargaining of traditional diplomacy, relationships that are so well-defined and practiced that they can overcome bureaucratic obstacles and provide flexibility for institutional and policy innovation. The roots of the EU have grown deep. Collectively, member countries promote values that have gained appeal internationally, for example, respect for individual human rights and adherence to international law, and enabled Europe to exercise the influence of an opinion leader internationally while it controls a numerically strong voting bloc in international fora (one that is growing stronger given the attractiveness of many EU policy positions).

The EU offers a partner who can enlarge the pool of assets available. Transatlantic cooperation adds to advanced technologies critical to tracking down terror monies. Equally important, structures and processes of government that supply capacity to law enforcement, intelligence services and judiciaries are most reliable in these advanced countries. Indeed, coordinating the activities of this dense web of institutions required in the financial campaign requires sophistication unknown in the majority of states in the world. It is not enough for the EU and the U.S. to be able to implement policies on their own to counter terror finance. Anywhere terrorists decide to enrich themselves, states must be able to use legislative, legal and judicial tools to defeat them. Therefore, a strategy of the United Nations has been to enlist developed states in *capacity-building* where it is needed. Indeed, the EU and U.S. have enough excess capacity, including financial resources, to assist states that are dysfunctional or lacking in their basic functions. They also have shared experience in regional and international institutions with nation-building, a mission for which the EU has equipped itself and considers a legitimate exercise of power outside of its borders. EU enlargement to the East and preparations for subsequent expansion offer a model for nation-building. By the same token, the EU and United States have cooperated in NATO enlargement and programs that link non-members to the organization, especially Partnership for Peace. Transatlantic cooperation needs to build on these experiences to enhance learning and to

extend efforts to help weak states develop capacities to fight terror where they are sorely lacking.

In the final analysis, it makes sense for the United States to enlist allies in efforts with which they agree and to build cooperation where a strong basis already exists in shared institutions, commonality of values and political traditions, and previous experience pursuing joint endeavors. From the start of the war against terror, former Secretary of the Treasury Paul O'Neill underscored that "the financial campaign against terrorism is as important as the militia campaign." (<http://hongkong.usconsulate.gov/usinfo/terror/2001/100301.htm>) As the military instrument looks increasingly like a blunt instrument, it is important to marshal all the resources of state in the war against terror. Going after the lifelines of terrorists offers many advantages. Mainly, the instruments used include strengthening the rule of law and developing effective institutions from which societies in the grips of terrorists and their pernicious activities stand to gain.

Scope and Nature of Transatlantic Cooperation in the Financial Campaign

The EU and United States were not devoid of measures for combating terror financing before 9/11. To the contrary, the amount of preparation is surprising considering that a consensus did not exist on what priority to give the threat. Efforts before 9/11 were not sustained; however, institutional preparation meant that structures could be activated and expanded to avail and previous thinking could inform desperate decision-makers in the United States who sought to impose calm and a sense of control.

Elements of a collective security strategy against the terror economy had been put in place during the second Clinton term. In reaction to the bombings of U.S. embassies in Tanzania and Kenya, August 1998, the United States retaliated with a cruise missile attack against al Qaeda training camps in tandem with Executive Order 13099, setting in train a sanctions regime against Osama bin Laden. According to Clarke,

With these orders, the focus of U.S. strategy moved from a narrow approach focused primarily on law enforcement to a wider approach that aimed to bring into the fight all the varied tools and resources of the U.S. government. (Clarke, p. 190)

The United States took the case for sanctions against Afghanistan, including a plan to freeze the assets of associates of Osama bin Laden, to the UN. The United States worked hand in hand with Russia, a partner who had grown more willing as it watched the rise of Islamic fundamentalism in Central Asia and even suspected "the Taliban of involvement in the war in Chechnya." (Crossette) Cooperation between Russia and the United States was so close it was conducted at working group level, the first meeting taking place, May, 2001. Security Council members France and Britain went along with the sanctions. However, France, having pressed for a terminal date for the Iraq sanctions regime, agreed to the new sanctions against Afghanistan only on the condition they would be reviewed in a year. (Hunter) Both European countries were sympathetic to

U.S. concerns about terrorism, having each experienced long and continuing struggles with terrorist group in their own countries.

Significantly, the Security Council passed the UNSCR 1267 (i.e., the sanctions regime) under Chapter VII of the UN Charter, thus, carrying the effect that all members of the UN were legally bound to cooperate with resolution. Under the Security Council, a Sanctions Committee was set-up to implement the regime. A 2004 review of progress in combating terror financing lauded the viability of this international effort, stating, “The 1267 Sanction committee’s work is the most focused multilateral effort to combat the funding of terrorists and their supporters.” (“Strategic Goal 1: Counter Terrorism,” <http://www.state.gov/m/rm/rls/perfplan/2004/20462>)

EU member countries were out in front implementing the committee’s instruction to freeze the assets of named associates of Osama bin Laden. To effect the decision, they put the necessary regulation through the Council of Ministers in March 2001 and, collectively, implemented the freeze. For its part, the United States would wait to freeze the assets of five associates on the UN list until after 9/11.

In conjunction with new institutions and policy, new international law was also created during this period. The UN concluded a Treaty to Suppress Terror Financing, signed December 1999, bringing the number of treaties to combat terror to twelve. Once in force after twenty-two ratifications, Article 18 of the Treaty legally obligated states “to prevent and counter preparations in their respective territories” related to terror financing. This obligation extended to concrete steps, for example, states’ mandating “know your customer” policies, adopting reporting techniques, and reporting suspect transactions (Art. 18, para b). Article 24 enables the International Court of Justice to step in, ultimately, to resolve an impasse between states in utilizing the Treaty. U.S. financial institutions would not be required to instate customer vigilance until the Patriot Act, post-9/11. Furthermore, U.S. distrust of international courts is legend with the country’s staunch resistance to the International Criminal Court. Overcoming traditional cultural and political concerns, the United States capitalized on a changed mood in the Senate, the ratifying body. The Bush administration achieved Senate approval of the UN Treaty to Suppress Terror Financing, and led an international effort to convince countries to ratify all of the Treaties concerned with the threat of terrorism. As of the start of 2004, among EU countries, UK, Denmark, Spain, Netherlands, Italy, France, Austria, Finland, and Cyprus had signed all twelve treaties, whereas Germany, Greece, Sweden and Lithuania had signed all but one.

In the immediate wake of the WTC bombings, the EU demonstrated what can be termed without exaggeration, unconditional support for the United States in the war against terror. On 20 September 2001, transatlantic leaders issued a “Joint U.S.-EU Statement on Combating Terrorism” in which they resolved, “We will mount a comprehensive, systematic and sustained effort to eliminate international terrorism – its leaders, its actions, its networks.” The *Washington Post* reported an example of “no questions asked” cooperation from the EU.

In the aftermath of the Sept. 11 terrorist attacks, the council [Council of Ministers] backed an American initiative to add scores of names to a list of more than 260 individuals and organizations that are targeted by the sanctions. At the time, the United States supplied virtually no evidence to support its claims. (“Easing Sanctions on Bin Laden Associates”)

As the war on terror was declared, the Danes were in the presidency of the EU and were forthcoming in their support. They directed EU efforts by establishing an EU clearinghouse to freeze additional terror assets under UNSCR 1267 and were so far-reaching that they even extended the freeze to entities and people beyond the list the United States sponsored. (<http://www.state.gov/documents/organization/20144.pdf>) EU member countries continued their efforts. They adopted a common definition of terrorism, essential for swift extradition of terrorists and common policing. A legal definition of terrorism was unprecedented in the large majority of EU member countries. Prior to 9/11, criminal statutes covered terrorism in only six EU member countries, Germany, Italy, France, Britain, Portugal and Spain (“EU moves to Tighten Anti-Terror Laws.”) Adoption of the Common Arrest Warrant proceeded immediately, speeded up by the fact it had been in the works for several years. After an initial meeting of the European Council, following the WTC assault in September 2001, Justice and Home Affairs ministers produced a framework decision on the Common Arrest Warrant, 13 June 2002. The decades-old experience with terrorism in those countries evidently yielded lessons. For example, the British Government was able to claim that the decision would serve to “bring the rest of the EU up to the standard of the UK.” (http://www.publications.parliament.uk/cgi-bin/uk_parl&Stemmer=en&W...)

Individually, EU member countries used their influential membership in multilateral organizations to support U.S. policy. The centerpiece of international efforts has been UNSCR 1373 and its implementing structure, the UN Counter-Terrorism Committee (CTC), chaired by the British representative to the UN, Sir Jeremy Greenstock. The committee has made considerable contributions in helping UN members reform internal legislation (i.e. capacity-building) to combat terror, especially in the financial realm, and in monitoring progress. As the resolution supporting this committee was passed under Chapter VII of the UN Charter, member countries of the UN are bound to implement the decisions of the committee, for example, required mandatory reports every ninety days on measures taken to comply with UN standards in combating terror. Despite this potential for action, the Select Committee on Foreign Affairs in the UK determined at the end of 2002, “the UN has little capacity to enforce Resolution 1373” and, consequently, “is essentially reliant upon its more powerful members.” The EU has addressed this political gap to some extent, linking agreements with Third countries to their cooperation with efforts to combat terror. The United States reported the following observation to the CTC, 19 December 2001,

The U.S. and European Union have developed unprecedented cooperation on counterterrorism since September 11, including close cooperation on the freezing of the assets of terrorists and their supporters, as well as increased assistance in investigations and the sharing of information...

<http://www.state.gov/p/io/rls/rpt/2001/6917.htm>)

Furthermore, the CTC was seen to be of so much value to members of the Security Council, another resolution, UNSCR 1535, was passed in 2004 to give to the committee more ability to do its work. (<http://www.un.org/Docs/sc/committees/1373/cted.html>) The United States has been especially supportive of strengthening this committee. (Interview at the UN, New York, 01/2006) The U.S. willingness to cede so much authority to a UN institution should be seen as an example of “situational supranationalism”, which will be discussed in more detail later. As a member of the UN, the United States is also subject to that committee within its mandate. The main reform in 2004 to increase capacity was to create the Counter-Terrorism Committee Executive Directorate (CTED), which meets every week and has always been chaired by a member of the EU. Having a member of the EU in the high profile position allows the United States to use its influence behind the scene and not be seen as trying to coopt the committee.

Adding to European influence in the UN, Germany joined the Security Council as a non-permanent member for a two-year term beginning 2003 and had a turn chairing the top body. In other contexts, Germany assumed the chair of the Financial Action Task Force (FATF) in 2002, the international organization that oversees the global campaign against terror financing, especially the money laundering component. This body is primarily comprised of members from Europe and the Americas. The officials who cooperate in this sector have shown policy fluency, innovation and efficiency that are not seen in more politicized institutions. The responsiveness and adaptability of the FATF depends on shared technical understandings among officials that provide a distinct culture as the bases for productive relationships and cooperation.

Europeans also play a prominent role in the G-8, an organization that quickly adapted to the new post-9/11 environment and has played an essential role in defining broad international policies for countering terror. Through annual summits that bring together heads of government of the most advanced economies and the President of the EU Commission, meetings of finance ministers and their officials, the G-8 combines both political capacity and the specialization needed to monitor and assist the financial campaign. EU member countries make up half of the membership of the G-8, and in cooperation with either Canada or Russia, which happens often, a majority.

Another institutional setting that has increasingly provided opportunities for cooperation on terror finance is the EU-U.S transatlantic dialogue that culminates in annual summits. Whereas summits are the occasion for setting priorities and spearheading action in specific policy areas, regular work takes place at official level. The financing of terror was identified as a priority at the summit level in September 2004 and has continued as a specific dialogue in which informal cooperation takes place on multiple levels from working groups of officials to high-ranking members of the U.S. Treasury, State Department, European Commission, Presidency and Council Secretariat. The informal nature of cooperation allows for the participation of organizations that otherwise are guarded in their operations, for example, Europol and the FBI. The flexible

nature of this framework allows for technical-legal projects, such as the drafting of texts to enhance cooperation and to serve as models for other countries. At the same time, the existence of a set structure facilitates more fluid exchanges of information and ad hoc operational cooperation.

Despite so many factors favorable to transatlantic cooperation, serious problems remain. This is especially the case with information-sharing. Law enforcement against the financial plots of terrorists hinges more than anything else on effective collection and use of intelligence. The disposition to share intelligence has had to be cultivated from the ground up. At the outset of the war on terror, few countries in the world had established the trust, much less the necessity, to share information. U.S. intelligence has traditionally operated on a “need to know” standard, which in practice, translates into most countries not needing to know. The exception has been Britain’s “special relationship” with the United States, of which an important dimension has been intelligence cooperation. Individually, EU countries have been as prone to national territorialism on intelligence issues. Post-9/11, a journalist observed, “If Britain and Belgium are sharing information on a certain individual, they may not know if Portugal’s got a file on him.” (Burgess) Nonetheless, transatlantic intelligence cooperation had modest beginnings before 9/11. NATO actions in the Balkans had required crossing national intelligence boundaries, albeit cooperation was limited to the mission. Within the EU, France and Spain had developed close cooperation “out of common concern over the Basque separatist group ETA, which operates along their border.” Despite examples of highly selective cooperation and an observable overall improvement since 9/11, many voices have been raised that cooperation has not gone far enough and that obstacles persist. A common complaint of Europeans is that cooperation is not reciprocated by the United States. A European official was quoted, “If you call sharing a one-way street, then we share information. He further lamented, “They [United States] want what we have immediately, and demand it. But if we ask for something, it can take months before we even get an initial reply.” (Farah and Eggen)

Reciprocity is a practice in international relations that has been able to facilitate cooperation, especially with trade agreements. As of yet, this practice has not established itself in relations on countering terror financing. For example, it is notably absent in the extradition agreement concluded between the UK and the United States, in which the latter is the only one to receive assurances that suspected terrorists will be extradited without a judge’s intervention. (Blitz) The United States does not possess relations as “special” with other EU countries to be able to achieve agreements as “unequal”.

Bureaucratic inertia has been another problem that has interfered with transatlantic efforts. A problem inherent to bureaucracies is compounded when these structures have to learn new functions. While trying to navigate their own “fences and layers”, bureaucracies have had to span across continents to tie into, yet, more fences and layers. (Betts, p. 6) In addition, they have had to communicate in ways never attempted before and in ways even prohibited in the past.

The Common Arrest Warrant in the EU was plagued by a combination of bureaucratic foot-dragging and political hesitancy from the start. It had been under consideration for two years before 9/11 and only pushed to conclusion by that tragedy. Even given the more urgent focus, the decision became hostage to one member, Italy, who held out for a delay. Once over that hurdle, Germany found itself pressing for delays in implementation. March 2004, Burgess reports five EU member countries had failed to fully implement the program. (Burgess) The press coverage of the financial campaign makes many references to delayed policies and missed deadlines.

That the financial actions against terror are nested in bureaucracies largely hidden from public view has both advantages and disadvantages. The main advantage is the issues are located in permanent institutional contexts. Unlike more politicized issues, progress does not depend on capturing the political agenda. So much of the work has to do with adapting processes and structures, issue publics either do not understand or care to understand. These are the same issues officials are content to nurture along. However, to keep the momentum of the financial campaign, public inattention may deny officials much needed political support for their efforts, as well as accountability.

The conception of “more bureaucracy,” as a result of the terror threat, is one that is hard to accept in the present political climate in the United States. A bureaucracy that functions as it is supposed to needs a new appreciation in the age of terror. As a consensus builds that “failed states” are dangerous to international security, it has to be remembered that states fail partly because they lack functional bureaucracies or possess ones riddled with corruption. One cannot deny the fact that bureaucracies are going to have to grow to face-off against an enemy, networked and chameleon-like, one that changes not only the way it presents itself but the way it sources itself. So, it seems governments are going to have to expand their tentacles to airports, financial institutions, national borders and cyberspace, and intertwine them with like-minded governments. In the United States, absorbing this reality in an anti-government political season, where globalization looked to promise more instead of less freedom, has already required a political volte-face. Even for seasoned bureaucrats, a dilemma is produced by the need for new structures and processes and the need to bring the old system more efficient control. According to an informed observer, “Many professionals suffocating under the inertia of a sprawling intelligence bureaucracy think the community badly needs streamlining.” (Betts, p. 6) The international bureaucratization process, the link-up with the bureaucracies of international and regional organizations, requires more than an adjustment in conceptions; it requires thinking anew. For the EU, the reckoning is also difficult, but it has been conditioned by the incremental development over a half-century of supranational, authoritative institutions and, in a political context more influenced by social democracy, an acceptance of government responsibilities.

One thing is certain, bureaucratic obstacles are sure to exist if the overriding political climate is one of disagreement. Transatlantic foreign policy divisions and divergent approaches indisputably interfere with cooperation on combating terror financing. Consider, for instance, the policy of freezing the assets of charities that divert funds to terrorists. Although the United States and EU had a consensus on the overall

policy objective, they initially diverged in their identification of suspect charities. The EU was hesitant to punish charities that assisted Palestinians, in keeping with the belief that the roots of terror in the region could be found in misery and exclusion, even given the proof they were involved in sponsoring terror against Israel. Albeit wary of imposing more hardship on the Palestinian people, the EU finally complied with the U.S. designation of some of the charities as terror organizations. When Hamas succeeded in Palestinian elections in February 2006, the EU and U.S. coordinated their approaches closely based on multilateral cooperation in a group known as the Quartet, comprising EU, UN, U.S., and Russia.

Another issue on which differences have emerged has to do with the priority human rights should be assigned in the war on terror. The relationship between human rights and the war on terror has significant implications. The UN emphasizes the high priority of strengthening this relationship. Specifically, in the financial campaign this issue has emerged in the form of persons who have ended up with their assets frozen and as they are left waiting to be convicted of a crime. An exemption on a humanitarian basis has been agreed to allow individuals to draw down on their accounts for personal maintenance expenses while they wait for resolution. By the same token, humanitarian concerns have affected the conclusion of extradition agreements, in that European countries are opposed to extraditing suspects who might face capital punishment. This issue had to be worked at the highest political levels between the United States and Germany. Indeed, a compromise was not reached until October 2003, according to German Justice Minister Brigitte Zypries, with the conditions,

When there is a question of a death penalty, we can withhold evidence or the results of an investigation. We only provide it if we are sure this bit of information will not yield the death penalty and the U.S. has agreed to this formulation. (Boustany)

There is no way to assess the impact the largest disagreements, those concerning the Bush administration's embrace of unilateralism and, relatedly, the use of force in Iraq, have had on transatlantic efforts to rout out terrorists and their monies. Suffice it to say, when the Bush administration came into office determined to conduct a review of sanctions policy and other international commitments, against the background of dismissing the multilateral approach, progress on countering the financing of terror ground to a halt.

The "unprecedented" level of transatlantic cooperation described above seems to have been motivated by the determination of the United States, by plans previously on the drawing boards and the adaptability of a variety of institutional contexts in which transatlantic cooperation already took place. In addition, Europeans were motivated by genuine sympathy with the plight of the United States, a plight they were not sure they fully shared until the Madrid bombings in 2004. In the interim between terrorist attacks in New York and Madrid, steely resolve dissipated. That pattern could be repeated again as other concerns of state surface and memories of destruction fade. However, the United

States and the EU would be well advised to maximize their cooperation in the financial campaign while a window of opportunity exists to collectively out-network the terrorists.

Counter-terrorism Requires a Counter-network

One advantage of contemporary terrorists derives from their roots in traditional societies. They are creatures of societies intimately connected on a personal basis and constructed on “trust” that enables networks to expand beyond face-to-face contacts, with global communications, on any scale. The *hawala* system that is so useful to terrorists in transferring monies for which no trail of transactions exist is only accessible to insiders, only penetrable by intelligence that replicates the relations that connect the informal system. Experience in the United States of relations on the ground in these traditional societies is so limited that key departments did not even know about the age-old existence of such informal systems of financial exchange.

The networked nature of terrorism that spans the globe insulates terrorists from accountability to any “public”. Crenshaw and Love make an insightful point,

Because terrorist groups are increasingly networked globally, with training, recruitment, financing and operations carried out in several countries, increased deaths of one country’s citizens may not reduce sympathy, support, and recruitment for the group in other countries.”
(p. 127)

Whereas states in their policies are still dependent on domestic politics, terror networks are entirely unaccountable. Much of the freedom of maneuver of terrorists and increasing potency of attacks comes from the elusive, unidentifiable network.

Building networks is not so natural to more modern states. Post-materialist societies only possess remnants of natural trust and, therefore, must build their relations in other ways. As an organization constructed on complicated transnational links throughout the EU and with Third countries, not to mention links with international and non-governmental organizations, the EU exists amidst a variety of ties that bind, ranging from informal to legal ones. Like the terrorists, the *modus operandi* of EU is networking. Scholars have long commented on the “density” of the EU owing to the myriad of officials and politicians caught up in its workings, the frequency of their interactions, and commonality of purpose. The term “eurocrat” implies that a specific identification attaches to the organization. EU expert Helen Wallace states, “For some time, networks have been a preferred way of describing the character of decision-making and policy development in the EU,” referencing Héritier and Peterson in this regard. (Wallace, p. 339) She suggests the term, “intensive transgovernmentalism,” and to justify her term of art, explains in EU decision-making “the volume and density of activity is considerable.” Extensive contacts not only exist on the level of elites. Reflecting on the work of Markens Jachtenfuchs, Wallace makes the following observation,

European governance is a more fluid and malleable set of ways in which governments in the regular meaning of the term – from the participating countries interact with a wide variety of political, societal, and economic actors to respond to pressures and demands for public policy and for political aggregation or arbitration. (Wallace, p. 337)

Another quality of the EU network is that it is expansionary. Traditionally, when countries have operated in an expansionary mode, they have used their military strength to conquer territory or to influence other countries to acquiesce in their policies. The EU, a late-comer militarily, has gone about it differently, utilizing an approach which is now generally recognized as “soft power,” based on the seminal work of Nye. Using the language of Nye, the EU uses methods that are designed more “to attract” than to punish or threaten. It has adopted the posture of a “role model,” for example in its oft-stated adherence to international norms and law. The Danish presidency revealed this preferred role, stating that in countering terror, “it is our ambition that the EU should become the standard-bearer in the UN and other international fora.” The EU has also tried to convert economic assistance into a tool in the arsenal of countering terror. The high-level expert report, “NATO’s Role in Confronting International Terrorism”, recognized the link in EU policy between fighting terror and economic relations with non-EU countries, maintaining,

Part of the EU’s efforts to deal with terrorism in surrounding countries includes providing aid and in particular, building on the Barcelona Process, which promotes economic and social development in nearby Mediterranean countries in order to achieve a more stable and peaceful region. (Clarke & McCaffrey, p. 38)

A self-stated goal of the EU in its Plan of Action, March 2004, to combat terror is “to ensure that specific counter-terrorism issues are a key element of EU relations at all levels with priority countries”. (reproduced in Clarke & McCaffrey, p. 39)

The capacity of the EU to effectively conduct “soft power” is large; it matches the criteria Nye considers gives countries advantages in mustering soft power. Nye remarks the countries privileged are “those with multiple channels of communication,” “whose dominant culture and ideas are closer to prevailing global norms,” and “whose credibility is enhanced by their domestic and international values and policies.” (Nye, pp. 31-32) In the soft power game of countering terror financing, the same advantages accrue.

The challenge, as stated by G-7 finance ministers in Dubai, September 2003, is to improve co-operation and information sharing – both within individual countries and across national borders, among law enforcement agencies, supervisory authorities, financial intelligence units and other operational arms. (Nogran and Carauna)

The challenge, then, is to build a network that enables the coalition to put down human intelligence in any part of the world, to increase the number of states who identify with the interests of the leaders against terror, and to legislate and enforce laws universally that snare the terrorists.

Forming political networks goes against the grain of traditional national interests. Whereas businesses have found it necessary to network to gain comparative advantages in global markets, states have been late to take advantage of networking to achieve goals internationally. Businesses routinely expose themselves to the risks of forming networks:

When companies enter into networks, they give up some of the control they enjoy in markets. They have to share knowledge, make their operations transparent, and allow their partners to know a lot more about how they conduct business. In short, they give up some of their autonomy to become part of an extended commercial activity. In the process, they become exposed and vulnerable. (Rifkin, p. 187)

However, guarding this vulnerability becomes a lower priority to pursuing the benefits of networking. Vulnerability, if it serves to bind the partners, may be converted to an asset.

In a network, vulnerability is considered a strength, not a weakness, a signal of trust and a willingness to work together to everyone's mutual benefit. (Rifkin, p. 187)

The same benefits can accrue to out-networking the terrorists. Whereas networks reduce "lead time in getting new products and services out the door", they also can speed up the prosecution of a suspected terrorist that requires evidence-sharing. (Rifkin, p. 190) One such prosecution was known to have been held up because reams of German documents overwhelmed translation capabilities in the United States. Intelligent collection and analysis may also be done more efficiently as joint working methods become established among national services, which, after all, have the same interests in survival.

The Advantages of the EU as a Network: Supranationalism and Surveillance

At first sight, proposing a transatlantic counter-network may not seem a novel idea. After all, the traditional defense alliance brings independent, sovereignty-conscious countries together for collective security. Why not rely primarily on NATO for counter-terrorism? The network this paper considers is distinct as it builds on the twin strengths of the EU – supranationalism and surveillance- therefore, modeling itself on the EU way of cooperation.

Potentially, the prospect of supranationalism, if it is seen as an infringement on sovereignty, could rule out the participation of the United States. However,

supranationalism may be a more manageable set of relations than elites in the United States have believed. True, EU member countries have engaged in a form of supranationalism that may be considered “devolved supranationalism”, in that EU governments have voluntarily given up power to EU institutions. (Johnston, p. 27) Devolved supranationalism is an extended process that requires adaptations on the part of national institutions. The powers that have been transferred are so extensive and cover so many policy areas that the arrangement has gained a semi-permanent character. Theoretically, since sovereignty remains in national institutions, devolution allows for powers to be withdrawn from EU institutions. The reality, nonetheless, is that EU member countries share the same context of interdependence, have entered together into future commitments, and have seen their relations increasingly institutionalized over more than a half-century of experience with European integration. The cumulative effect is that they share a dense complex of relationships that tends to be progressive and enduring. As explained below, an alternative that may better suit the political culture of the United States is one of “situational supranationalism”.

Clearly, U.S. foreign policy does not favor relationships that “tie and bind”, and since 9/11 has become even less tolerant of what elites perceive as constraints on the country’s power. Obviously, the unilateral lurch the Bush administration has directed was to increase the scope of action of the United States. The case of transatlantic cooperation to counter terror financing is all the more interesting as it demonstrates cooperation that was maintained even as broader transatlantic foreign policy relations declined in the face of the Iraq war. Cooperation in the financial campaign against terror is a good example of situational supranationalism. In a world in which transnational issues threaten national security and economic stability, countries, including the United States, often choose to cooperate by giving their consent to specific transfers of decisional authority, in some cases, even creating a supranational institution for the purpose at hand. The limits and scope of cooperation are carefully delimited, to the extent countries may even prescribe objectives to be achieved or deadlines for their joint efforts to be completed. The case of transatlantic cooperation in countering terror finance is replete with examples of situational supranationalism which the United States has welcomed, and, which far from limiting the scope of U.S. capabilities, has expanded them.

Supranationalism in the EU, not only has provided the member governments with more capacity for common decisionmaking and action, but according to Mark Leonard, has increased their power in a transformative fashion. Instead of wielding the power of “spectacle,” in reference to the power the United States prefers, they now wield the power of “surveillance”. (Leonard, p. 39) Leonard refers to the EU regulatory and legal regimes that determine the behavior of citizens in Europe. He continues, “Europeans understand that the key to their success is the fact that their surveillance is voluntary and mutual.” (Leonard, p. 26) It is also subject to the rule of law, understood in both European and American legal traditions as law that is known to the public and applied equally. Whereas the temptation in the war against terror is to resort to secrecy so that we do not alert terrorists to our plans and to make extraordinary laws for our enemies, the strength of the surveillance society is that citizens understand and recognize the need for

rules and become complicit in ordering their societies while believing that the great hope is that the rule of law is applied universally. Surveillance, as Leonard has conceived it, depends on democratic legitimacy where it gathers its force.

As we have seen, international cooperation on countering terror finance has benefited from the rule-bound nature of the EU. Although the negotiations that precede regulations in the EU are difficult and can be protracted, once in place, they are enacted by twenty-five countries. They have “automaticity”, as they do not require national implementing legislation, and they have legal authority and all that implies, especially democratic legitimacy. (Interview with UN official, New York, 01/2006) Supranationalism, to the extent it provides surveillance, not to mention how much it benefits international cooperation, may be one of the most convenient tools in the war against terrorism, and, ironically, one of the most efficient owing to its legal impact. Whereas the United States has been skeptical of international cooperation because negotiations are time-consuming while the threats are urgent, supranational cooperation as the EU practices it demonstrates efficiency that even the United States may find difficult to emulate given the complexity of U.S. government, how politicized it has become not to mention regular interdepartmental and other kinds of “turf” disputes.

In conclusion, whereas a consensus has developed that “failed states” are the breeding ground of terror, awareness needs to develop that “functional states” possess the best means of countering terror. Such states not only need to be “role models” but stewards of distressed and undeveloped states. Whereas allies in the past were appreciated as “force” multipliers, it must be realized that security depends on more than force. Allies bring to the table a new set of tools. They serve as multipliers of intelligence, state capacity and relations. European allies have pioneered a new form of international cooperation, supranational cooperation, that provides legal authority and the power of surveillance. In short, they have created a network that is the closest thing to “natural” that advanced states have to offer. Seen in the light of the financial campaign, transatlantic relations present an incomparable set of relations for prosecuting terror.

Epilogue

As I write, January 2006, Louisiana Governor Kathleen Blanco is a leading member of a delegation to the Netherlands to view the Dutch system of flood control. The delegation is looking for lessons on how to plan levies in New Orleans to prevent another Katrina-like disaster. The reflex in the United States until now has been how strong and how high the levies should be to keep out the flood. The Dutch innovated a different approach after their Katrina, a devastating flood that engulfed Rotterdam in 1953. They shifted their attention away from levies and implemented what has been described as “an elaborate *network* (my italics) of dikes, man-made islands and 11/2-mile stretch of floodgates”. (<http://www.netherlands-embassy.org/article.asp?articleref=AR00001823EN>, 13 January 2006) In short, the Dutch approach is more systematic, relying less on strength than smart technology that relies on relevancies and interconnections in places difficult to imagine if the objective is

to stop the water at the city gates. Indeed, the Dutch say they no longer have to raise the dikes at Rotterdam.

A student of European politics for over two decades, I realize the vision is also different. The approach that focuses on levies is intensively place-bound, almost obsessively focused, to the detriment of the whole picture. The alternative approach that devises flood control away from the place to be protected may be termed “global” and suggests more wide-ranging and open examination of possibilities.

The possibilities in flood control may serve as a metaphor for security in an age of global terror and shed light on the crossed-perspectives that have damaged transatlantic relations since 9/11. Take the most controversial of terror-related issues, the war in Iraq. The United States termed its own approach, “shock and awe” and derided the approach of Europeans who wanted more time to try the UN inspection regime. No matter how frustrating and flawed the UN inspection regime, there can be no doubt it succeeded in defusing tensions and reducing Iraq’s military capabilities. After the Iraq War, tensions are inflamed in the Muslim world and the desire of every enemy of the United States is to gain more destructive capabilities. Raising the “levies” in Iraq has not provided the security the United States desires.

The article above argues that the best way of countering terrorism is through constructing a transatlantic network that functions by integrating specific counter-terrorism functions. The United States can accept this power sharing with Europe if, indeed, it reframes its participation as a source of strength and broadens its concept of power beyond military power.

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