

Challenge Working Paper

Work Package 2 – Securitization beyond borders: Exceptionalism inside the EU and impact on policing beyond borders

European measures to combat terrorist financing and the tension
between liberty and security

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Abstract: This paper discusses recent developments in the campaign to combat terrorist financing in Europe and questions the efficacy of financial surveillance as a method to counter terrorism. A background presentation of surveillance in modern society is followed by an overview of international initiatives to interdict money laundering over the past couple of decades. The measures used to combat terrorist finance are built upon this foundation of surveillance and criminal investigation. Applying these measures in the ‘war on terror’ has spillover effects for the financial transactions of citizens and non-citizens alike. The paper concludes by considering these problems and their impact on society within the context of a larger concern with liberty as juxtaposed to security in the early 21st century.

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European measures to combat terrorist financing and the tension
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Nobody expects the Spanish Inquisition!
– *Monty Python's Flying Circus*

The American firm that provided security integration services to the 2004 Athens Olympics employed a friend I have known for a number of years. As a manager in the program control office she was in regular contact with the senior management of the firm, and their counterparts in the Greek Olympic games' organisers. After the conclusion of the games and

It must be acknowledged that many of the techniques used are not original to the recent effort to combat the financing of terrorism. Rather, they extend global efforts made to counter criminal money laundering first begun decades ago. At the same time, these methods and institutions of surveillance stretch beyond banks and are now embedded within a variety of financial and non-financial business sectors. As Stephen Gill observed,

much of today's innovation in surveillance practice and technology is driven by state apparatuses—like that of the United States—gathering information about populations and firms, and collecting data on legal and illegal activities for reasons of planning, taxation and control—a process that has intensified in very significant ways since the attacks on the World Trade Center and Pentagon on September 11, 2001. (Gill, 2003: 17)

Gill approaches the issue as but one aspect of disciplinary neoliberalism (Gill, 1995). The global scale of financial surveillance practices has been institutionalised by United Nations Security Council Resolution 1373 (2001). The strategy developed to combat terrorist financing is problematic, however, for three reasons. First is the simple question as to whether or not it has, or is likely to have, any impact upon the conduct of terrorist organisations themselves. Second are the negative consequences these measures have upon the civil liberties of individual citizens. A third reason is a knock-on effect of the second, represented in the impact felt by migrants to the European Union and their ability to remit funds back to their families in foreign states.

The paper is structured in five parts with a general overview of technological surveillance in society presented in the next section. The second section provides background on the international institutions combating criminal money laundering. This includes the Financial Action Task Force (FATF), its various regional progeny (for Europe it is embodied in the Council of Europe Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures, MONEYVAL), and the Egmont Group of financial intelligence units (FIUs). The third part outlines the expansion of these organisations/processes from 2001 to explicitly combat the financing of terrorism. The next section describes the situation experienced by citizens as a result of the increased surveillance in banking services (data collection and identity verification) since 2001. The final section summarises this analysis of financial surveillance and the measures to combat terrorist financing in Europe.

A Surveillance Primer

In the '10 September 2001' world, surveillance within society was predominately concerned with mundane (non-terrorist) domestic criminal activity. For example, the increased presence of closed-circuit television (CCTV) in public spaces to deter street crime and in retail shops to deter shoplifting. Customers using credit cards were asked to verify identity and signatures were compared in an effort to reduce credit card fraud (Lyon, 2003). Because of the expanding presence of the Internet in the developed states, a concern with computer crime has emerged prompting additional legislation that requires Internet service providers (ISPs) to collect and retain data as an audit trail of citizens' on-line activities. In this 'virtual community' many of the crimes are analogues to those of the physical world (fraud, Ponzi schemes, etc.) and an audit trail of Website connections and e-mail messages can provide the physical evidence necessary for prosecution (Levi and Wall, 2004; Lyon, 2003).

Before 11 September 2001, various attempts to increase and extend surveillance operations to counter the threat of terrorism and other transnational crimes were hindered by the more visible hazard to liberal society and the civil rights of citizens that was presented by increased surveillance. After the terrorist attacks it became an indisputable argument that surveillance was the means that could have prevented/protected against the event. However, the 9/11 Commission found that a number of clues were available to intelligence agencies prior to the attacks, from the surveillance mechanisms then in place (National Commission on Terrorist Attacks upon the United States, 2004). In hindsight, the picture is clear and the clues are obvious, but the point that is relevant to this discussion is the fact that surveillance *already* in place had successfully collected the data. The difficulty was in the collation and analysis of the data, to distinguish signal from noise, and not the result of any absence of relevant data. Increasing the quantity and variety of data will not resolve the problems of collation and analysis, but only reduce the signal to noise ratio and magnify the problem of distinguishing the vital clues present that could be used to prevent any planned terrorist activity.

The structures of observation are manifested in a multitude of subtle ways beyond the electronic trail of one's financial transactions. To be concerned with personal liberty (in the form of privacy) within the bounds of modern society is to worry about a variety of technologies promoted to provide safety and security. There are RFID tags on consumer products, data collection and retention in automobile computing systems, and a prototype for

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Quentin Skinner identified this predicament as a third concept of liberty. When reviewing a new edition of Isaiah Berlin's *Liberty*, Skinner suggested that in addition to positive and negative liberty (as developed by Berlin), there is a third form of liberty. '[T]he essence of the argument is that freedom is restricted by dependence, to be free as a citizen, therefore, requires that the actions of the state should reflect the will of all its citizens, for otherwise the excluded will remain dependent on those whose wills move the state to act.' Consequently for these citizens the 'mere awareness of living in dependence on the goodwill of others serves in itself to

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whenever there are unexplained financial assets present, even if unable to identify any other substantive (predicate) crime. In the UK this has been codified as ‘possessing a criminal lifestyle’. Consequently, if the individual appears to have more income than can be explained via legitimate sources, it must have originated from illegitimate sources. Upon reaching the determination that the defendant had such a ‘lifestyle’, the court is directed by the legislation to order the confiscation all assets which may have been acquired as a result of criminal activity (Alldridge, 2003: 127 - 129).

The first international convention to direct the criminalisation of any activities involving the ‘conversion or transfer of property, ... for the purpose of concealing or disguising the illicit origin of the property’ was the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances

affiliate groups (Pieth, 2002: 370). At present these groups include: the Caribbean Financial Action Task Force (CFATF), Council of Europe Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures (MONEYVAL), Asia/Pacific Group on Money Laundering (APG), the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG), the Financial Action Task Force for South America (GAFISUD), and since late 2004, the Eurasian Group (EAG, which covers China, Russia and several other former Soviet states), and the Middle East and North Africa Financial Action Task Force (MENAFATF). Just as with the FATF, the affiliates promote anti-money laundering policies and facilitate co-operation amongst member jurisdictions to identify and eliminate money laundering and terrorist financing operations.¹⁵

Within the European Union, the first directive to combat criminal money laundering was approved in 1991 (European Council, 1991). This directive was revised and extended in 2001 (European Parliament and Council of the European Union, 2001), and most recently, the third Directive 'on the prevention of the use of the financial system for the purpose of money laundering, including terrorist financing' has been proposed (European Parliament and Council of the European Union, 2004). Alldridge noted that 'there is a clear tension' between the desire of the EU to counter money laundering as a threat to the economy and the capacity of the EU, as a governmental entity, to implement and enforce criminal laws against money launderers (Alldridge, 2003: 97). Notwithstanding this difficulty, these EU Directives take on-board the FATF recommendations, and extend their influence beyond the domestic legislation of member states. Those neighbouring states that have ratified the European Economic Area (EEA) agreement are obligated also to incorporate the money laundering directive into their domestic law (Gilmore, 2004: 195). The activities of the FATF and other agencies to identify the evolving techniques used to launder money served to highlight

“What does NCIS do with all these reports? Firms are now disclosing so much because of the fear of prosecution that there is a danger of serious infringements being hidden by and lost under all the noise of all the minor problems and unfounded suspicions. All these SARs just gum up the works - the vast majority are just stored,” she says. (Levene, 2003)

In the process of trying to cover all possible avenues available to launder money, governments have massively increased the analysis workload facing law enforcement agencies.

The Lived Experience – Banking since 2001

Probably the most common, and frequent, encounter with the expanded financial surveillance regime since 2001 is a request for multiple forms of identification. This information has become necessary in order to open an account, establish a new/different account with the same institution, make a deposit, purchase a home or insurance policy, to exchange foreign currency or to wire money. The customer experience is universal in that it is recommended by the FATF (Recommendation 5) and required by the EU Money Laundering Directive (Article 3). The requirement for a bank to ‘Know Your Customer’ (KYC) is not only a problem for those that explicitly desire to conceal their finances from state authorities (and in so doing avoid the original intention for the law). It is also problematic for those existing on the fringes of society within developed states, including migrant labour, recent immigrants, and the homeless. These individuals are not in a position to engage with formal banking structures (due to the cost to establish and maintain an account as much as the requirements for documentation), and as a result they may use an informal banking system (hawala, hundi, fei ch’ien, etc.), especially to send money home to family and friends. While in the case of migratory labour and emigrants these transactions are individually small, the aggregate quantities remitted to their home states may be substantial and a significant economic factor for the receiving states (World Bank, 2003; World Bank, 2004).

Since the passage of the 2003 Money Laundering Act in the United Kingdom, the emphasis on Know Your Customer (KYC) has at times appeared to go overboard. Problems with the inconsistent implementation of the requirement in the UK banking industry are recognised by regulatory officials. The Financial Services Authority official responsible for financial crime matters spoke about ‘Anti-money laundering regulation - next generation developments’ to the City & Financial Conference in 2004. He provided a couple of anecdotal examples while

emphasising the important contribution of the identification requirement to prevent money laundering.

There can be a funny side to this, such as the Oxford College required to produce its 15th century charter, complete with seal in order to open a new account. More often, it just seems mindlessly irritating, as it seemed for the senior colleague of mine trying to open an account for his daughter at a branch, only to be told (wrongly) that a council tax bill is not a utility bill! (Robinson, 2004)

Recognising that both the banking industry and banking customers have been inconvenienced by the increased emphasis on customer identification, the FSA undertook a programme to 'defuse the issue'. They have involved a variety of interested parties in a working group to build a common understanding of the issues and assist in determining methods to improve the process of establishing customer identification in the financial services sector (Financial Crime Sector, 2004).

For the established, employed citizen, the experience with providing identification at the bank is very often simply an annoyance, whereas for others the demand for multiple forms of identification and proof of local (permanent) residence may be an insurmountable obstacle to financial services. As de Goede has noted, the use of risk classification as a method to identify suspicious individuals in the campaign against terrorist financing may result in their financial exclusion. The effect of this methodology is to segregate from the general population individuals without regular financial transactions or a fixed address. In addition to suspected terrorists, this segregated group would include migrant workers, students and the unemployed. Essentially anyone that could also fit the risk profile of being a *potential* terrorist (de Goede, 2005: 38; see also de Goede, 2004: 9). The absence of suitable documentation, and the cost of maintaining a bank account, means that participation in the formal banking system is difficult for this stratum of society. This is not to suggest that the industry is unaware of the problem of financial exclusion. In a speech to the Financial Services Authority Conference on Fraud and Money Laundering in 2004, the Chief Executive of the British Bankers' Association outlined the organisation's participation in work to address the issue. One of these activities was 'an extensive consultative exercise with voluntary organisations, banks, regulators and others to lengthen the "long list" of appropriate [identification] documents for people who are financially excluded.' He went on to highlight, as a sign of success in this area, the establishment of 800,000 new 'basic bank accounts'

wrongdoers, the many, once again, have great difficulty in transferring money home to family

getting 100 to open bank accounts.’ (Tsingou, 2005: 101-102, citing *The Economist*, 29 September 2001)²⁵ The implication is that technological solutions using risk analysis methods and comparing customer transaction patterns against those of the notional terrorist sympathiser may be easily circumvented by mundane methods using the large pool of supporters attracted to the declared goals of a terrorist organisation. An extended group of ordinary citizens could be quietly recruited to provide very simple support—adding to their ‘normal’ pattern of financial transactions, for example, a small monthly transfer to another account, using cash provided to them anonymously.

To counter these simple solutions requires better human intelligence on terrorist organisations and not terabytes of data recording the financial transactions of the population at large. Yet financial institutions, faced with the legislated demands that they interdict the financing of terrorism, may choose to take a more basic approach to risk reduction. In addition to the various hurdles presented by a bank (in order to comply with anti-money laundering and terrorist financing regulation) discussed above, the individual account holder could be confronted with simple discrimination. Tsingou made this point when she described the problem created when this policing responsibility was placed upon banks and other financial institutions. Essentially, banks are now expected to make a value judgement about customers and their money and whether they may be involved in some terrorist activity, *in the future*.

... this is a subjective and time-consuming strategy that can also lead to discrimination on the basis of ethnic background and create biases linked to personal characteristics. (Tsingou, 2005: 101)

There have already been cases that appear to reflect this assessment. For example, there was the decision by the Royal Bank of Scotland to close the long-standing accounts it held on behalf of a Palestinian charitable group, Friends of Al-Aqsa, and of its chair, Ismail Patel. At the same time, the Alliance and Leicester bank closed the account of the Palestine Solidarity Campaign (al Yafai, 2005).²⁶

Conclusions – Financial security at what cost to liberty/privacy?

The bottom-line is – to what extent do you value privacy (from your neighbours as much as from the state) and how much are you willing to exchange for security? A number of authors declare that this image of a balance is a false dichotomy, including security expert Bruce Schneier who insisted that security and liberty ‘are not two sides of a teeter-totter.’

(Schneier, 2003: 250) It is a question then of risk assessment and the response to this question and assessment of risk is very individualistic. Yet the solution established by the state is not geared towards permitting *individual* assessments of risk, but rather weighted to benefit law enforcement and intelligence gathering agencies. As an example, consider the insistence on inspecting the shoes of airline passengers by the Transportation Security Administration (TSA) in the U.S. This exercise is a reaction to the failed attempt by one lone individual to ignite a quantity of explosives he had concealed in his shoes. The policy statement provided on the TSA website reads,

You are NOT REQUIRED to remove your shoes before you enter the walk-through metal detector. However, TSA screeners may encourage you to remove them before entering the metal detector as many types of footwear will require additional screening even if the metal detector DOES NOT alarm. (Transportation Security Administration, 2005, emphasis in original)

This situation highlights another point made by Schneier, that the fundamental rationale for judicial and legislative restraints upon law enforcement officials in a democratic society is to prevent the abuse of power. 'These constraints have been created not to make the police ineffective, but because people know that the inevitable police abuses would be worse were the laws not in place.' (Schneier, 2003: 67 - 68) The loss of these restraints, as much as the loss of liberty, is the tragic consequence for society, and a demonstration that success is possible from terrorist action. When the purpose of terrorism is to create fear amongst a target population, than the reaction demonstrated by the various surveillance and security measures mentioned in this paper indicate the success of the terrorist attacks.²⁷ The fear generated by the 11 September 2001 attacks facilitated acquiescence that allowed the enactment of legislative measures that had been previously obstructed for their illiberal nature. Subsequent attacks in Madrid and London have motivated European leaders to similarly enact more stringent measures against terrorism.

The conceptualisation of a balance between liberty and security further highlights the question of whose liberty? This has been analysed by Didier Bigo for the Hague Programme's application of the term 'freedom'. Here, Bigo argues that there are 'at least 67 ways to conceptualises the relations' that exist between freedom, security, justice and danger. Crucially, the 'balance' that may be achieved amongst these relations 'depends on the hierarchy of values a community shares.' (Bigo, 2005) This observations explains why the focus placed on the danger originating from footwear by U.S. airport security is not found at a European airport, the hierarchy of concerns between the security systems are different.

Furthermore, it explains the long-standing observation made prior to September 2001 about the frailty of American airport security against hijacking, as compared to Europe and, at the extreme, Israel.

By contrast, financial institutions now are held responsible to identify and report suspicious activity, and if their anti-money laundering/terrorist financing system is evaluated and found lacking, they are subject to penalties. Domestically that means the institution is fined, for example, in 2003, the Abbey National Bank was fined £2,320,000 and the Northern Bank was fined £1,250,000 for failures to comply with existing anti-money laundering regulations (Harvey, 2004: 338). Internationally, that means that domestic institutions will be blocked from executing transactions with the banned foreign institution, for example two banks in Latvia identified by FinCen as ‘primary money laundering concerns’. Acting under the provisions of the USA PATRIOT Act this declaration by the U.S. government requires U.S. financial institutions to take ‘certain “special measures” against the designee.’ (U.S. Treasury, 2005) Just the announcement by itself had an immediate effect on the named banks according to a Latvian news report (The Baltic Times, 2005).

The surveillance of financial transactions as part of the effort to combat terrorist financing does not actually address the risk of terrorism itself. It does, however, significantly expand the capacity of the state to reproduce a ‘data double’ for any of its residents. The surveillant assemblage creates a vast collection of data about residents and visitors (Haggerty and Ericson, 2000). From within this monumental stack of straw and hay the state security services attempt to isolate and remove the violent few that seek to wreak havoc and create fear in society. The danger to democratic society is that this expanded police power is not limited simply to the pursuit of terrorism. One analysis of the EU’s Common Position on the application of specific measures to combat terrorism emphasised the point that there was a limited intellectual debate to define ‘terrorism’ for it.²⁸ The political solution that resulted from this compromise definition carries with it the potential to establish as ‘terrorist’ a variety of actions that previously would not have been considered acts of terrorism but merely political dissent.

If terrorism is to encompass hackers and organizations that protest in the North Sea then – to put it somewhat bluntly – the efforts to fight money laundering become part of the problem as well. They are at risk of being perceived as instruments of repression and terror. (Pieth, 2002: 376)

The solution offered by the Common Position suggests the existence of a separate law enforcement agenda with respect to computer crime and environmental activism, and as a result it was this agenda that found its way into the EU's Common Position.²⁹ However, should this agenda come to reflect a more common perception, it may initiate a move back towards the original reason, and justification, for banking secrecy. The rationale (*ex post facto* perhaps) offered by Switzerland for the maintenance of banking secrecy was the historical experience of German Jews before World War II (Faith, 1982: 49 - 87). If any resistance to government policy may be categorised and treated as 'terrorist', political dissent in a democratic society may disappear, and residents pursue avenues to conceal their financial transactions.

The point raised about financial exclusion due to the processes of financial surveillance to combat terrorist financing resonates with a wider concern raised before 2001 about surveillance in general (Lyon, 2001). In this context financial exclusion is simply one facet of the wider problem of social exclusion created by the use of surveillance in society. These 'anonymous' or 'indiscriminate' modes of surveillance foster and promote social exclusion, and as such have the potential for technologically-based forms of discrimination and, if you will, segregation in society between those that are clearly 'okay' and those that for one reason or another are 'suspicious' and therefore must be kept separate, identified, and known (Lyon, 2003). Waldron arrived at a similar conclusion in his assessment of the balance between liberty and security, one that intersects with Bigo's question concerning whose liberty is at risk. 'We should be even more careful about giving up our commitment to the civil liberties combat

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customer, available from their national identification number. This includes not only where they live, but also the status of their bank account, credit card account, and health (they refuse to sell him a pizza that is inappropriate for his blood pressure and cholesterol level).

⁵ With regard to these automotive systems, and in particular the ability to monitor the driving activities of one's teenage children, see for example (Higgins, 2005).

⁶ For a discussion of 'tipping-off', see (Alldridge, 2003: 200ff)

⁷ See for example the *Lite Standard* (London) 'Is this you?' contest.

⁸ For further analysis of CCTV in Britain see (Mccahill and Norris, 2002).

⁹ Eurobarometer polls subsequent to the U.S. terrorist attacks in 2001 reflect an increased concern with terrorism, which we may take to mean an increased acceptance of anti-terrorism measures. The 2002 report highlighted citizens' growing anxieties, where '86% of Europeans say that they personally fear terrorism (12 percentage points more than one year earlier)' (Directorate-General Press and Communication, 2002: i)

¹⁰ My line of thought here on liberty and security is indebted to a short article that forced me to question my previous understanding of liberty and the notional balance between liberty and security. See (Aradau, 2005)

¹¹ There is a more detailed development of this argument for a third concept of liberty in (Skinner, 2002b).

¹² This law journal article discussed U.S. laws and this remark is specific to the Federal sentencing guidelines in place at the time.

¹³ The members of the FATF, as of 11 February 2005, are: 68

¹⁶ The change in question involved the conversion of Recommendations 4 and 5 of the 1990 version into Recommendation 4 of the 1996 (which was then rolled-up into Recommendation 1 of the 2003 revision). The 1990 text was explicitly linked to illegal drugs, whereas the 1996 text reads ‘Each country should extend the offence of drug money laundering to one based on serious offences. Each country would determine which serious crimes would be designated as money laundering predicate offences.’

¹⁷ See < <http://www.un.org/Docs/sc/committees/1373/>>

¹⁸ The USA PATRIOT Act was a hodgepodge of law enforcement measures that had been set aside in the past after determining they were contrary to American ideals of liberty, freedom, and civil rights. Michael Levi reported that ‘my interviews indicate that following widespread opposition justified on the grounds of privacy concerns and organized by an e-mail lobby of bankers (in unusual collaboration with left- and right-wing privacy enthusiasts) to Congress and the media, these proposals were withdrawn in 2000 until terrorism reoriented privacy values in 2001.’ (Levi, 2002: 187)

¹⁹ From the obvious to the sublime in the methods used to finance terrorism. One of the men arrested in connection with the 11 March 2004 Madrid bombings was a dealer in counterfeit designer clothing. The conclusion reached as a result was that the global market for counterfeit luxury goods is financing terrorism. The secretary general of Interpol was quoted as saying in an address to the U.S. Congress, ‘Intellectual property crime is becoming the preferred method of funding for a number of terrorist groups.’ The NCIS in Britain did not agree with this position, replying to the information request of a journalist with the statement –

Claims that there are links between other sectors of serious crime and IPC [intellectual property crime] are not substantiated by available intelligence. Paramilitary groups active in Northern Ireland use IPC to support criminal terrorist activity but there is no intelligence to support other links between IPC in the UK and terrorist activity. (Eagar, 2005)

²⁰ This amounts to between \$1 and \$2 million a day of *suspected* money laundering.

²¹ The NCIS website reported – ‘In 2003, NCIS received around 100,000 disclosures - an increase of nearly 60 per cent on 2002, itself nearly double 2001's figures.’ (National Criminal Intelligence Service, 2005)

- ²² Traditional informal banking systems in the Middle East and Asia are variously known as ‘hawala’, ‘hundi’, ‘fei ch’ien’, ‘phoe kuan’, ‘hui k’nan’, ‘ch’iao hui’, and ‘nging sing kek’. See (Shanmugam, 2004)
- ²³ The *Global Development Finance* (2004) Appendix on remittances was quite clear that the figures reported only those funds that passed through formal banking systems. While the increases in reported remittances from 2001 to 2003 may represent in part an increased use of formal banking (as a result of the increased regulation of informal transfer agents), nonetheless a large portion of total remittances continue to move via informal banking systems. ‘Officials in major fund-transfer agencies argue, based on the volume of funds flowing through their systems, that unrecorded remittances may be larger than recorded remittances.’ (World Bank, 2004: 170)
- ²⁴ This situation was also found by Roger Ballard to be true for UK-base hawaladars who aggregated their local funds and transferred them to Dubai-based Exchange Houses on accounts maintained at New York City banks (in U.S. dollars) (Ballard, 2003: 10 - 12).
- ²⁵ Calomiris is the Henry Kaufman Professor of Financial Institutions at Columbia University.
- ²⁶ These actions in the UK follow earlier American action taken against charities. The Texas-based Holy Land Foundation was closed in 2001. The Palestinian charity was accused of providing funds to Hamas, a U.S.-designated terrorist organisation (FT.com staff, 2001).
- ²⁷ The definition deployed by Schneier was ‘Terrorism is not a movement or ideology, but a military tactic. A terrorist is someone who employs physical or psychological violence against noncombatants in an attempt to coerce, control, or simply change a political situation by causing terror in the general populace.’ (Schneier, 2003: 69)
- ²⁸ Council Common Position 2001/931/CFSP on the application of specific measures to combat terrorism OJ 2001 L 344/93
- ²⁹ Recent events in Denmark would appear to justify this concern for a broad application of these anti-terrorist measures. Greenpeace Nordic was charged and convicted as the responsible organisation behind the activity of a group of activists. In October 2003, these activists staged a protest denouncing GMO food at the headquarters of the Danish Agriculture Council. The organisation had been charged under laws passed to implement UN and EU directives to combat terrorist financing. As noted by the defence lawyer in remarks to Statewatch—‘I think that a lot of the politicians now feel that this is an

unpleasant case and that this use of the amendment was not what they intended.’
(Statewatch, 2005) See also (Formisano, 2005).

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