



Robert Schuman

*Consensus and Dissensus over the
European Constitution:
Security as the Pivotal Point of the Accords*

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These monographic papers address issues relevant to the ongoing European Convention which concluded in the Summer of 2003. The purpose of this Convention was to submit proposals for a new framework and process of restructuring the European Union. While the European Union has been successful in many areas of integration for over fifty years, the European Union must take more modern challenges and concerns into consideration in an effort to continue to meet its objectives at home and abroad. The main issues of this Convention were Europe's role in the international community, the concerns of the European citizens, and the impending enlargement process. In order for efficiency and progress to prevail, the institutions and decision-making processes must be revamped without jeopardizing the founding principles of this organization. As the member states negotiate the details of the draft constitutional treaty, the Jean Monnet/Robert Schuman Papers will attempt to provide not only concrete information on current Convention issues but also analyze various aspects of and actors involved in this unprecedented event.

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6. Is it possible that the Convention will be a failure? The effects on European integration.
7. Similarities and differences between the European Convention and the Philadelphia Convention of 1787.
8. The role of a politically and economically integrated Europe in the governance of the world.
9. How important is European integration to the United States today?
10. The failure of a necessary partnership? Do the United States and the European Union necessarily have to understand each other? Under what conditions?
11. Is it possible to conceive a strategic partnership between the United States, the European Union and Russia?
12. Russia: a member of the European Union? Who would be interested in this association?

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**Consensus and Dissensus over the European Constitution:
Security as the Pivotal Point of the Accords**

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CONSENSUS AND DISSENSUS OVER THE EUROPEAN CONSTITUTION: SECURITY AS THE PIVOTAL POINT OF THE ACCORDS

Abstract

The approval of the European Constitution is one of the key issues in the developmental process of integration in the European Union. The process of negotiations about the future European Constitution has clearly passed through two stages: the first, as coinciding with its presentation at the Thessalonica Summit in Greece, in June 2003, was characterized by the discrepancies between the members of the Union, particularly over the voting system, and the stalemate of the negotiations; and the second, commencing at the conjuncture of the 11-M terrorist attacks and their repercussions both inside Spain, with the victory of Rodríguez Zapatero in the general elections, and in the rest of Europe in which the issue of security has become a priority, having a direct impact on the desire to approve the Constitution as soon as possible.

The central hypothesis of this document is that the consolidation of the Union is currently presented as a matter of security; therefore this can be the driving force behind the necessary accords for the approval of the constitutional text.

Introduction

The European Union (EU) is, without doubt, presently facing the challenge of consolidating its project of integration. In addition to its enlargement towards the countries of the East, which will materialize in May 2004 when the EU will be composed of 25 States, the approval of the draft Constitution, the negotiations of which seemed to be deadlocked since December 2003, is now one of the priority issues for integration.

The Laeken Declaration of December 2001 signaled the start of the Convention on the Future of Europe which, chaired by Valéry Giscard d'Estaing, worked for 16 months in order to present its conclusions, which took the form of a draft Constitution for the EU.¹

The draft Constitution was developed within a framework consisting of the issue of the enlargement, the decision-making mechanisms, the implementation of policies and the challenges posed by migration, globalization, terrorism, organized crime, and competences, among other current issues.²

¹ The Convention established a three-phase working method (1. listening and compiling all the ideas; 2. debating and 3. formulating the fundamental characteristics of a new European constitution) that would guarantee, at the same time, the participation of all the social actors. Due to the fact that the Convention included the representation of the governments (one representative for each government of the Member States and 13 representatives of the candidate countries) and the national parliaments (30 representatives from the parliaments of the Member States and 26 representatives of the candidate states); the Commission (two representatives) and the European Parliament (16 representatives), and it received contributions from various civil society groups.

² José Moisés Martín, "A pesar de todo, sí", in *Aportaciones al debate sobre la Constitución Europea*, Izquierda Unida.

On June 20, 2003, within the framework of the Thessalonica Summit in Greece, Giscard d'Estaing presented the draft European Constitution.³ On this occasion, the draft was referred to as “an edifice, a construction, an equilibrium and a balance”, and even a “synthesis”.⁴ The Constitution consolidates in a single text all the treaties accumulated over 50 years. It provides the basic values for the construction of a European citizen’s identity⁵ and makes reference to the important issue of the exercise of competences among member States of the Union: power, proportionality and subsidiarity.⁶ Furthermore, the Union is invested with a unique legal capacity, replacing those of the presently existing communities, and the three-pillar structure, which is a source of confusion and of superimposition of competences.

However, once the draft Constitution was presented, the main differences arose over the modification of the voting system in the Council that was agreed upon in the Nice Treaty. Faced with a possible loss of decision-making power within the Union, Spain and Poland used their power of veto during the Brussels meetings of December 2003 against the apparent *absolute power* of Germany and France, thereby halting the approval of the text.

Nevertheless, after the attacks of March 11 (11-M) in Madrid and the consequent victory of José Luis Rodríguez Zapatero in the Spanish elections, there is a renewed possibility that the Constitution will be signed within the anticipated deadline: between May 1, 2004 (date of the accession of the new members) and June 13 (date of the elections to the European Parliament).

Thus, given the opportunity for negotiation that opened with the arrival of Rodríguez Zapatero to power in Spain, leaving behind the unwavering position of the Aznar government regarding the distribution of the votes and thereby isolating Poland; the terrorist attacks of 11-M had a direct impact on the desire for the approval of the text of the European constitution: today, the consolidation of the Union is also presented as a matter of security.

³The draft consists of a preface, a preamble and four parts, containing a total of 466 Articles.

⁴ Joanna Griffin, “The European Press and the European Constitution”, in *World Press Review online*, June 26, 2003.

⁵ The draft brings together the basic tenets of the EU: democracy and a European social model; the creation of a true area of freedom, security and justice; the Charter of Fundamental Rights; the improvement of the procedures of coordination between the Member States with respect to economics; the definition of European symbols; the mutual acknowledgment of judicial decisions of each Member State and the creation of the position of Minister for Foreign Affairs of the European Union, among others. See: Franklin Dehousse, “The perils of a European Constitution” in: *A Constitution for Europe*. p. 6 and David Heathcoat-Amory, “The European Constitution and what it means for Britain”, Centre for Policy Studies, June 2003.

⁶ The principle of spheres of competences is the basis of the autonomy of the Community’s legal order, which simultaneously acts as its limit, since the Community’s capacity to act is determined by the competences vested in them. Under the principle of proportionality, the action of the Union must not exceed that which is necessary to achieve the objectives set forth in the Constitution. The principle of subsidiarity refers to the fact that the Union will act only if the objectives are not achieved by the Member States, either at local or regional level; or in the event that these have an explicit scale at Union level. The text also adheres to the principle that in exercise of the competences of the Union, its laws have primacy over the laws of the Member States. See: *Draft Treaty Establishing a Constitution for Europe. A Short Explanatory Guide*. Government of Ireland, Department of Foreign Affairs, October 2003 and Andreu Olesti Rayo, *Los principios del Tratado de la Unión Europea, del Tratado de Maastricht al Tratado de Ámsterdam*, Editorial Ariel, Madrid, Spain, 1998, pp.79-97

Consequently, it is possible to put forward the hypothesis that, given the accords achieved with respect to security in December 2003 and the importance of the issue after the events of 11-M, security may be the driving force behind the necessary accords for the approval of the constitutional text. Without doubt, an analysis of the future of the European Constitution necessarily concerns two elements:

- a) The disagreements, ranging from the distribution of votes in the Council, (Spain and Poland) and the incorporation of issues such as fiscal policy, social security and foreign policy within the decisions which the EU will have to make by qualified majority (United Kingdom), to matters such as the inclusion of a clause regarding the Christian roots of the EU (Spain, Poland, Italy and Ireland). This situation must be analyzed starting from the balance of power provided by the institutional system, given the actual capacity of veto held by each of the countries over the possible modifications to the Constituent Treaties.
- b) Security, which is now a priority issue for the EU, as the catalyst for generating accords with a view to a Union that will finish sealing the cracks opened by the conflict in Iraq and respond to the forthcoming challenges by strengthening its institutions with the approval of the Constitution.

Disagreements

The Voting System

As we all know, since the presentation of the draft at the Thessalonica Summit, the decisive point of discussion about the text originated from the proposed voting scheme for the Council, abolishing the old system established by the Nice Treaty, which, as of May 2004 would assign 27 votes to Spain and Poland, as opposed to the 29 of France and Germany, who have twice the population of the first two countries mentioned.⁷ This, in terms of policy-making and decision-making, put both countries almost on a par with France and Germany.⁸

⁷ The number of votes in the Council depends on the size of the country's population, but this number is not strictly proportional; instead it is adjusted in favor of the least populous countries. It should be noted that, under the stipulations of the Nice Treaty, until May 1, 2004, the number of votes of each country is as follows: Germany, France, Italy, the United Kingdom (10), Spain (8), Belgium, Greece, the Netherlands, Portugal (5), Austria, Sweden (4), Denmark, Ireland, Finland (3) and Luxembourg (2), giving a total of 87 votes. As of November 1, 2004, after the incorporation of the new members, the number of votes that each country may issue increases: Germany, France, Italy, the United Kingdom (29), Spain, Poland (27), the Netherlands (13), Belgium, Czech Republic, Greece, Hungary, Portugal (12), Austria, Sweden (10), Denmark, Ireland, Lithuania, Slovakia, Finland (7), Cyprus, Estonia, Lithuania, Luxembourg, Slovenia (4) and Malta (3) giving a total of 321 votes.

Until May 1, 2004, the minimum number of votes required to achieve a qualified majority is 62 (out of 87, i.e. 71.3%). As of November 1, 2004, a qualified majority will be achieved: a) if a majority of Member States approves it (in some cases a majority of two thirds is sufficient) and b) if a minimum number of 232 votes is met, which presupposes 72.3% of the total (by and large the same percentage as in the previous system). Furthermore, a Member State can ask for confirmation that the votes in favor represent at least 62% of the total population of the Union. If this is not the case, the decision will not be adopted. See: European Union, *Instituciones y otros órganos de la Unión Europea*, in: http://europa.eu.int/institutions/council/index_es.htm

⁸ Roberto Sarti and Fred Wston, "El deblacle de la Constitución Europea", *El Militante*, December 18 2003.

In the interests of ending what has been termed as “the democratic deficit” of the Union, the draft constitution proposes the introduction of a system of double majority composed of a) a qualified majority with 50% of the member States; and b) that they represent three fifths of the population (60%) of the Union.⁹

This new scheme was initially rejected by Spain, Italy, Portugal, Luxembourg, Austria, Sweden, Finland, the United Kingdom and Poland, among other countries of the EU.¹⁰ However, it would be Spain and Poland who would roundly oppose the new scheme, which they considered a reflection of a reduction in their power, arguing that the Convention had no mandate to modify the share of votes established in Nice.

In that regard, Aznar stated that the double majority¹¹ would mean that the agreement of the big four: Germany, France, Italy and the United Kingdom, will be able to make or block decisions, against which smaller countries, like Spain and Poland, would not really signify a counterweight.¹² For the Spanish head of state, the EU was putting trust and credibility at risk, by not respecting its own accords.¹³

The voting system would separate two intermediate countries, like Spain and Poland, from the leader group (Germany, France, Italy and the United Kingdom), taking away their ability to form blocking minorities which the Nice system provided them with. Additionally, both countries fear the heavy influence that Germany can have on the decisions of the countries of the East, which has a geographical proximity to them as well as historical, commercial and cultural ties.¹⁴

The response of Germany and France was clear: their unrestricted support for the voting system of the constitutional draft as presented by Giscard d’Estaing, which the other four founder States of the European Communities (Italy, Belgium, the Netherlands and Luxembourg) subsequently joined in with. For his part, the chairman of the Convention was strongly critical of Spain and Poland, stating that the Treaty of Nice gave Spain an advantageous position, whereas Poland did not sign the text given that it was approved for the Europe of the 15.

During the Brussels Summit of December 2003, Spain and Poland put forward a series of variations to the double majority system of the text,¹⁵ which were rejected by the so-called “hard

⁹ It should be noted that the rule of the qualified majority will only enter into effect after November 1, 2009, on which date the Member States will be nearly 30. Until then, the Nice accords will apply.

¹⁰ Europa Press, “Villepin arremete contra España y otros países que rechazan cambiar el sistema de voto en la UE”, *El Mundo*, Madrid, Spain, June 06, 2003 and EFE, “Las discrepancias de España con el proyecto de Constitución de la UE”, *El Mundo*, Madrid, Spain, June 19 2003.

¹¹ The vote by double majority means the backing of one half plus one of the member states, provided they represent at least 60% of the population.

¹² Notimex, “Asegura Aznar que mantendrá posición sobre Constitución Europea”, *El Universal*, Mexico, March 25, 2004

¹³ EFE, “Aznar alerta de la “tentación” de Europa de “relamerse” con los problemas de EEUU en Irak”, in: *El Mundo*, Madrid, Spain, September 14, 2003.

¹⁴ Paloma Díaz Sotero, “Las claves para entender el conflicto en torno a la Constitución Europea”, *El Mundo*, Madrid, Spain, December 17, 2003.

¹⁵ There were three proposals presented by Spain: a) Maintaining the Nice accords as the basis, giving more weight to Germany, revising the share of power in 2008; b) assuming the Nice accords and correcting the system’s blocking

core” of the EU. The inflexibility of both positions led to the failure of the Summit and to an entanglement of the negotiations during the first few months of 2004.

Thus, given the democratic supranational system of the EU, in which the modification of Constituent Treaties requires the consensus of each of the members (unanimity), in a vote of one to one, Spain and Poland had the capacity to veto the approval of the Constitution and to bog down the negotiations of the text, exercising a power which until then seemed very relative as against the one concentrated in the hands of Germany and France.

Germany and France have, without doubt, performed a role of leadership in the European process. Both countries exercise great power in the decisions of the EU and no doubt their weight was felt in the debates of the Convention, given that the project presented by Giscard d’Estaing fully met with the expectations of both States, that possibly underestimated the expectations of two mid-size States like Spain and Poland over maintaining quotas of votes close to those of the big States of the EU. Such votes would obviously translate into real power for taking or obstructing decisions within the Council.

Spain and Poland exercised their power of veto, challenging the absolute power of France and Germany, which now became relative, paralyzing the negotiations of the Constitution, like a kind of corollary of the disagreements generated by the war in Iraq. In point of fact, some months earlier, both countries had taken up positions that clearly privileged their transatlantic alliance with the United States and not with their commitment to the construction of Europe.

Structural Funds

It is worth noting that Spain’s other concern about the proposed text of the Constitution centered around the fact that the entry of new members, with lesser economic resources than itself, might have the effect of reducing the 8,000 million Euros per annum received from regional funds and from the Cohesion Fund under the present financial prospects (2000-2006). However, Spain managed to get a section included in Article 54 along the lines that the first pluriannual financial framework after the Constitution’s entry into effect must be decided by unanimity,¹⁶ which allows it to exercise its power of veto if the approved budget harms its interests.

For its part, the United Kingdom has insisted that it will not consent to a qualified majority of the EU voting on matters such as taxes, social security, changes in the Treaty or foreign policy, which must continue to be the competence of the States.¹⁷ Furthermore, 16 of the smaller countries, including most of the newly-admitted member States, cling to their ambitions of having one representative per country in the Commission, contradicting the Convention’s

options and c) accepting the option of the double majority proposed by the Convention, but increasing the requisite population threshold for decision-making from 60% to 70%. See: Agencias, “El fracaso de la Cumbre de Bruselas aplaza de nuevo la primera Constitución de la UE”, *El Mundo*, Madrid, Spain, December 14, 2003.

¹⁶ “Prodi se enfrenta a Aznar al proponer un reparto de fondos de la UE sin veto”, *El País*, Madrid, Spain, September 18, 2003.

¹⁷ EFE, “Reino Unido anuncia su apoyo oficial aunque con reservas al borrador de la Constitución Europea”, *El Mundo*, Madrid, Spain, September 09, 2003.

formula of reducing the number of commissioners from 20 to 15, and the possibility of increasing the number of seats on the European Parliament.¹⁸

The issue of religion also appears in the EU arena of debate, with the proposal from Spain, Poland and Ireland of including in the preamble a reference to the Christian roots of Europe. Although countries like France have made pronouncements against such a reference, one would have to wonder if somehow it could become a kind of “clause” dedicated specifically to Turkey, who continues to await its adhesion to the EU.

The Conjunction of 11-M and Security as the Pivotal Point of Accords

Clearly, March 11 will be remembered by all of us as Europe’s day of terror. The Madrid train attacks marked a watershed in the European process, opening up two central elements: on the one hand, Rodríguez Zapatero, Spain’s President Elect, has expressed his intention of progressing in the negotiations for the signing of the Constitution; on the other, the attack shook the whole of Europe, renewing the enthusiasm for the Constitution. Unity is now an element of security – a weapon against terrorism.

Of course, the victory of the Spanish Socialist Worker Party (the *PSOE*) and its candidate in the general elections of March 14 in Spain mark a change in the international position of Spain both in the European sphere, in which the President Elect has stated his willingness to accept the double majority; and in the transatlantic sphere, wherein Rodríguez Zapatero has ratified his campaign promise to withdraw Spanish troops from Iraq, unless there is a new UN Security Council resolution and this body takes charge of the process of Iraqi reconstruction and democratization. Although cooperation with the United States continues, the aim is to not undermine the privileged relationship that he is trying to build with the European Union.¹⁹

The ideas of the next Spanish President can be summed up in the following expression by Ortega y Gasset:

“Furthermore, and from the standpoint of our democracy, the European Constitution can contribute to overcoming the neo-*Franquista* isolation to which we are subject. Spain is the problem and Europe the solution”. The Europeanization of Spain once again becomes a contribution to the solution of our democratic problems: territorial vertebration, recovery of the democratic culture, social model, abandonment of any bellicose venture alongside the “American friend” ... what is evident is that the Popular Party’s *Spanishist and Spanishizing* project does not fit with the current proposal of the European Constitution. It once again becomes necessary to anchor our democratic project in the main current of Europe. It is a project that has cost us so many years of collective effort – practically since the famous “Munich conspiracy” – and which the Popular Party has been dismantling in just 8 years of government.”²⁰

¹⁸ EFE, “Los ministros de Exteriores de la UE discuten sobre la Constitución”, *El Mundo*, Madrid, Spain, November 28, 2003.

¹⁹“España levantará bloqueo a Constitución Europea”, *El Universal*, Mexico, March 15, 2004

²⁰ José Moisés Martín, *op cit.*, p. 4

The next Foreign Relations Minister, Miguel Ángel Moratinos, has announced that one of the absolute priorities of the new government is to “return to Europe and with Europe”.²¹ In this regard, Moratinos has stated that it is not necessary for Spain to maintain the power which the Nice Treaty conferred upon it three years ago. The new socialist government would consider it more important to maintain a political weight, which in its opinion was lost with Aznar, to convince other countries of its own proposals.

On March 31, Giscard D’Estaing held a meeting with Rodríguez Zapatero in which he transmitted the “optimistic environment” that exists in respect of the possibility of achieving a consensus in respect of the constitution. For its part, the Irish Presidency of the EU has declared itself in favor of reopening the negotiations after the announcement of the *PSOE* that its government will accept a reform of the decision-making system implementing the principle of double majority.²²

Although the victory of Rodríguez Zapatero implies a significant change in Spain’s position regarding the negotiations, it is a fact that these favorable prospects cannot be consolidated until May, after the change of government in Spain.²³ However, the driving force behind the approval of the text of the European Constitution is currently determined by the importance of security for Europe after 11-M.

What are the elements that would lead us to state that security has today become the pivotal point of the accords of the EU?

To begin with, we should remember that during the discussions on the draft constitution, one of the main accords reached between the members was precisely related with the EU Security and Defense Policy, thereby commencing the sealing of the fracture opened with the conflict in Iraq.

In an Intergovernmental Conference held in Naples, Italy, in December 2003, the EU members agreed to develop a common view on European defense based on the development of military capabilities (by creating a European Armament, Research and Military Capabilities Agency) and complementariness with NATO, thereby overcoming the old ruptures between pro-Allies and pro-Europeans.

According to the text of the draft Constitution, which was approved in Brussels, the EU “shall conduct a common foreign and security policy, based on the development of mutual political solidarity among Member States, the identification of questions of general interest and

²¹ “Zapatero dará prioridad a la UE y promoverá una relaciones no sumisas con EEUU”, *El País*, Madrid, Spain, March 17, 2004.

²² Europa Press, “Giscard transmite a Zapatero que hay un “ambiente favorable” para aprobar la Constitución Europea”, *El Mundo*, Madrid, Spain, March 31, 2004.

²³ Given that it transpired in the media the Aznar would maintain his position regarding the draft European Constitution. Notimex, “Asegura Aznar que mantendrá posición sobre Constitución Europea”, *El Universal*, Mexico, March 25, 2004.

the achievement of an ever-increasing degree of convergence of Member States' actions,"²⁴ and, "before undertaking any action on the international scene or any commitment which could affect the Union's interests, each Member State shall consult the others within the European Council or the Council of Ministers."²⁵

Moreover, the constitutional text states that the common security and defense policy "shall provide the Union with an operational capacity drawing on assets civil and military", to which they may resort "on missions outside the Union for peace-keeping, conflict prevention and strengthening international security in accordance with the principles of the United Nations Charter".²⁶

Notable among the accords in that regard is the solidarity clause²⁷ and the approval of a rider protocol text making reference to the development of combat units²⁸ and incorporating the concept of "structured cooperation" under which those countries who wish to may go further than the rest in that respect, as they did so at the time of the single currency or the Schengen space for removing borders, undertaking to meet a series of conditions as soon as the future Constitution enters into effect (anticipated for 2006), such as developing greater military capabilities and participating, if necessary, in multinational forces, as well as taking part in the European programs for the development of military equipment and in the European Armament Agency.²⁹

Furthermore, in the Council of Brussels meeting of December 12, 2003, the text of the first European Security Strategy, drawn up by Javier Solana, High Representative of the CFSP, was

²⁴ European Convention, *Draft Treaty establishing a Constitution for Europe*, adopted by consensus at the European Convention on June 13, and July 10, 2003, p. 32 Article 39, Specific provisions for implementing common foreign and security policy. Part 1

²⁵ *Ibid.* p. 32 Article 39, Specific provisions for implementing common foreign and security policy, Part 5.

²⁶ *Ibid.* p. 33 Art. 40. Specific provisions for implementing the common security and defence policy. Part 1

²⁷ The solidarity Clause is contained in Article 42 of the Draft Constitution, which sets forth that:

'The Union and its Member States shall act jointly in a spirit of solidarity if a Member State is the victim of terrorist attack or natural or man-made disaster. The Union shall mobilise all the instruments at its disposal, including the military resources made available by the Member States, to:

- a) – prevent the terrorist threat in the territory of the Member States;
 - protect democratic institutions and the civilian population from any terrorist attack;
 - assist a Member State in its territory at the request of its political authorities in the event of a terrorist attack;
- b) assist a Member State in its territory at the request of its political authorities in the event of a disaster."

²⁸ It was agreed that by the year 2007, the EU shall have combat units that will be organized on the basis of a tactical plan as a combat formation with the support elements, including logistical transport. These units shall have to be able to maintain themselves by their own means for an initial period of 30 days, extendable to at least 120.

²⁹ Each country that wishes to join the European defense initiative will have to meet with certain requirements, such as being able to deploy 1,500 soldiers so that they will be available in just ten days at a distance of 4,000 kilometers and stay there for a period of between 30 and 120 days. Currently, these conditions are only met by four Member States: the United Kingdom, France, Italy and Germany. The other members of the EU have until 2007 to develop their capabilities. Furthermore, the participant States will have to meet a level of expenditure yet to be stipulated in military equipment, which will have to be harmonized and inter-operative, without prejudice to their NATO commitments. See: Cárlos Yarnoz, "La Convención para el futuro de Europa propone una eurozona de defensa común, Los países de la UE que quieran podrán alcanzar mayor grado de compromiso militar", *El País*, Madrid, Spain, December 19, 2002 and EFE, "Principio de acuerdo sobre una defensa común complementaria a la OTAN", *El Mundo*, Madrid, Spain, December 01, 2003.

approved. For the first time, the EU identified the threats to its security and the lines of defense that it will put forward.

The threats were then identified using the multidimensional concept of security; hence poverty, pandemics, and competition for natural or energy resources were incorporated with terrorism, international organized crime, the proliferation of weapons of mass destruction and regional conflicts such as the Middle East.

As for the lines of defense, the document states that the EU must develop the capacity to send missions to distant places and contribute to international security by exercising an effective multilateralism, international cooperation and the strengthening of multilateral institutions. Also, the importance of the Atlantic Alliance is ratified and a commitment to develop prevention is established: Europe, he stated, “should be capable of implementing the full spectrum of its political and economic instruments, as well of its Member States, to launch diplomatic initiatives, to conduct civilian, police or military operations, before countries around us deteriorate, before humanitarian emergencies arise or when signs of proliferation are detected”.³⁰

The 11-M attacks have encouraged most of the countries to give a sign of unity and of progress in the European construction process. In point of fact, the central themes of the Brussels Council meeting held on March 25 and 26 were terrorism and the Constitution, even though the central theme of the meeting was supposed to have been the revision of the *Lisbon Strategy*, regarding the economic development of the Union. Hence, the contents of the agenda that will allow the Union to become the most dynamic economic region by 2010 were subsumed under the issue of security, specifically terrorism, an area in which Europe had already strengthened its cooperation since the events of September 11, 2001.³¹

Faced with the exigency of providing responses to the terrorist threat from organizations such as Al-Qaeda, the community leaders approved the strategic plan designed by the Ministers for Justice on March 19, which contemplates a series of responses such as strengthening cooperation in terms of intelligence and measures for strengthening international policing activities, improving the measures for freezing accounts linked with suspicious groups and giving priority to the care of victims and the wounds of extremism. The High Representative for the CFSP, Javier Solana, stated:

“One priority is better intelligence-sharing. More information must be exchanged more quickly... [we] must implement fully and without delay legislative measures such as the European arrest warrant [...] accelerate the strengthening of border controls

³⁰ Javier Solana, “Una ruta europea hacia la seguridad”, *El País*, Madrid, Spain, December 12, 2003.

³¹ After the terrorist attacks in the United States, the members of the EU confirmed on successive occasions (e.g. at the extraordinary meeting of September 21, 2001 and at the meeting of the European Council of October 8, 2001) their intention to combat any form of terrorist act. Among other things, they undertook to strengthen cooperation between the authorities in charge of combating terrorism, i.e. Europol and Eurojust and the police services. In the European Council meeting at Laeken, the Member States undertook to strengthen cooperation between the expert services in the fight against terrorism and to find a common definition of terrorist crimes. In June 2002, the Council approved a framework Decision aimed at harmonizing the legislations of the Member States, establishing minimum standards related with the constituent elements of the penalties.

and document security. And we must look again at our existing curbs on the financing of terrorism.”³²

Furthermore, the Heads of State invoked the solidarity clause contemplated in the draft of the European Constitution, in which all the Member States are obligated to provide each other, according to their means, with assistance in the event that an ally is attacked and they created the figure of the “European counter-terrorism coordinator”. The latter post was assigned to Gijs de Vries, a former Dutch Interior Minister, who will act under the instructions of Javier Solana.

In this context, on March 25, the Polish Prime Minister, Leszek Miller, made known his decision to no longer block the approval of the text, stating that “we cannot remain intransigent before the matter of the division of votes, when we must arm ourselves in harmony against terror”.³³

Poland’s change of position portrays the general mood in Europe: each of the members of the Union, including the 10 countries of the accession, are committed to negotiating the terms of the Constitution and to giving up some of their claims under the aegis of a higher motive: security and viability of each of the countries which, from their perspective, necessarily passes through the consolidation of the integration project.³⁴

Although it was agreed to postpone the negotiations on the Constitution until the formation of the new Spanish Government, with a view to reinforcing the security of the Union, emphasis has been placed on the importance of working on the negotiations over titles of the Constitution related with Justice and Interior Affairs, in which the States’ veto right would be eliminated. In fact, the EU leaders agreed on the deadline of June 17 for achieving the accords regarding the constitutional draft.

Conclusions

One of the consequences of the 11-M attack is that it finished sealing the crack opened with the fight against terrorism and the war in Iraq between the United States and what Rumsfeld coined as “old Europe”, represented by France and Germany.

It is highly likely that the members of the EU will soon reach agreements around the constitutional draft, with the priority being their security. Today, there is a clear will to negotiate among all the members, who are of the idea that approving the constitutional text is indispensable for the security of the Union. Thus, on the basis of the accords reached in December 2003 with respect to foreign policy, security and defense, the issue of security becomes the driving force, the pivotal point of the accords of the EU.

³² Javier Solana, "La democracia europea contra el terrorismo" *Reforma*, Mexico, April 02, 2004.

³³ Leszek Miller *cit pos.* Johan Juizinga, *El 11-M y la constitución Europea*, March 25, 2004. Electronic version available at: www.rnw.nl/iforman/html/act040325_constitucioneuropea.html

³⁴ Erik Struyf, “La UE responde al terrorismo con un impulso a la Constitución Europea”, at: [Cinco Días.com](http://CincoDias.com), March 26, 2004. Electronic version available on the internet in the European Library of Universidad Complutense de Madrid. www.ucm.es

Europe recognizes that terrorism is a transnational problem, which necessarily requires the cooperation of the States in order to be stopped. In the current international system, conflict, understood as a war between two States, has assumed a different nature: a fight against organizations, small groups who act outside State control and who challenge the stability of States and their systems of national security.

Consequently, we may expect the EU to toughen its position against terrorism, moving a little closer to the fight against terrorism that the Bush government has been carrying on, though this has not been cloaked in international legality. Like it or not, the concern regarding safety will be the principal basis of the accords with a view to the approval of the European Constitution and it will also be the motive for strengthening the two pillars of the Union that have until now been considered fragile, given its dependence on the disposition of its members to cooperate: the CFSP and judicial cooperation.

Europe is clearly *securitizing* its agenda.

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