CHAPTER 7  THE FOLLOW-UP TO THE TERRORIST FINANCING CONVENTION

The Terrorist Financing Convention was hardly seen as a model for further instruments when it was adopted in 1999. Since September 2001, however, a 'paradigm shift' has taken place in the field of counter-terrorism with prevention being raised to the forefront. The increased destructive capability of terrorist groups has not only prompted international cooperation to counter terrorism. It is also a factor that has redirected the legal responses to terrorism, as it has become more imperative to act pro-actively to prevent deadly attacks. Important changes have taken place at the national level, but the trend is also visible at the international level with some of the recent international legal instruments departing from the established tradition of anti-terrorism conventions and criminalising mainly indirect activities which may contribute to terrorism. These instruments can be said to belong to the same category as the Terrorist Financing Convention and to follow in its wake. The Financing Convention was explicitly cited as a model in the negotiations on the revision of the SUA treaties on maritime terrorism in 2002–2005,\(^1\) as well as in the elaboration of the Council of Europe Convention on the Prevention of Terrorism.

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The European Union Framework Decision on combating terrorism of 2002, which criminalises a broad range of offences related to the activities of a terrorist group is another example of the new trend of pro-actively criminalising forms of conduct that may lead to the commission of terrorist offences. This trend is also very much evident in the UN Security Council’s practice with two landmark resolutions on international terrorism, 1373 (2001) and 1624 (2005), focusing on preventive action, the former on the suppression of terrorist financing and the latter on countering incitement to terrorism.

Chapter 7

7.1. The EU Framework Decision on Combating Terrorism

7.1.1. The Definition of Terrorism as a Violent Act

The Council Framework Decision on combating terrorism was negotiated during the autumn of 2001 on the basis of a draft submitted by the European Commission shortly after September 11, and was formally adopted in June 2002. It is thus one of the first international legal instruments adopted after September 2001. While the

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3 The Council of Europe Convention on the Prevention of Terrorism, Warsaw, 16 May 2005, CETS No. 196 (Prevention Convention); the Convention entered into force on 1 June, 2007.
6 It has been pointed out, however, that the Commission Proposal was based on an earlier draft prepared and circulated before September 2001 and that the Framework Decision should therefore be seen as logical continuation of previous EU cooperation in justice and home affairs. According to Anne Weyembergh, ‘La Coopération pénale européenne face au terrorisme: rupture ou continuité?’, in Karine Bannelier et.al. (eds.), Le droit international face au terrorisme, Editions Pédone, 2002, 279–295, at 289: “De manière générale, les travaux réalisés dans le cadre du 3ème pilier du traité depuis le 11 septembre 2001 se situent dans la droite ligne des développements précédents: il n’y a pas à proprement parler