



**COUNCIL OF
THE EUROPEAN UNION**

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NOTE

from : Council Secretariat

Subject : Outcome of the EU-US Ministerial Troika on Justice and Home Affairs held in
Washington on 6 November 2006

Delegations to the meeting were led:

on the EU side, by :

Finland : Kari Rajamäki (Minister of the Interior) and Leena Luhtanen (Minister of Justice)

Germany : August Hanning (State Secretary, Ministry of the Interior) and Lutz Diwell (State
Secretary, Ministry of Justice)

European Commission : Franco Frattini (Vice-President, Commissioner)

Council Secretariat : Ivan Bizjak (Director-General) and Gijs de Vries (Counter-Terrorism
Coordinator)

Eurojust: Michael Kennedy, President

Europol: Max-Peter Ratzel, Director

on the US side, by :

Alberto Gonzales (Attorney General) and Michael Chertoff (Secretary of Homeland Security).

1. DATA PROTECTION

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The EU Presidency stated that the PNR agreement had recently been successfully concluded. Due to the fact that data protection matters were of particular importance in the EU, discussion of these issues would have to take shared principles into account. The protection of privacy was of the utmost importance.

The Vice-President of the Commission stressed the importance of addressing this common issue jointly. There was a need for a comprehensive approach and open dialogue with the US. The mutual goal was to guarantee a high level of protection of personal data and to foster the exchange of data, in particular in fighting terrorism and organised crime. A new balance should be sought. Some mechanisms were already in place (PNR and MLA). Although there were different ways to protect privacy, protection had to remain the common goal. It was possible to convert common principles into agreements. He called for a high-level expert group to be set up. The common goal should be greater security and better protection of privacy. There was a need to explore how to improve the protection of personal data in order to achieve agreement.

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The Presidency stressed that an intensive examination of principles was needed and that, with good will, it would be possible to find an appropriate solution to the problem.

The future German Presidency stressed that Europe and the United States shared common values. Comprehensive cooperation was needed to tackle the challenges facing both sides. There were different feelings on both sides. The goal was to provide security while protecting data, but this would not be easy to achieve. The Senior Experts' Contact Group should deal with the issue in order to find more common ground.

The Vice-President of the Commission further explained that the EU was discussing the third-pillar data protection instrument and implementation of the principle of availability. At the same time, it had to find a way to make it possible for information to flow to and from the USA.

The US side concluded by stating that Europe and the US had different legal regimes. It had to continue work in a way that would not jeopardise cooperation. The US agreed to the establishment of a Senior Experts' Contact Group.

2. TERRORISM

- Recruitment and radicalisation

The Presidency reported on the work to assess recruitment and radicalisation, particularly among second-generation immigrants. The discussion on the outcome of the European Conference on the Active Participation of Ethnic Minority Youth in Society at the October JHA Council was pointed out as an example of this activity.

- State of play

The Counter-Terrorism (CT) Coordinator reported on the implementation of all four strands of the counter-terrorism strategy. An overview of national counter-terrorism mechanisms would be discussed at the December Council meeting. He mentioned the radicalisation of women and autonomous radicalisation as particular problems, as well as the problem of radicalisation in prisons and through the Internet.

Major crises may result in radicalisation. The CT Coordinator welcomed the plans by USA and EU experts to compare their findings on radicalisation. Particular attention had been paid to the protection of borders and infrastructure (air transport and ports). In this regard private-public cooperation and partnership was particularly important. He outlined the efforts to bring terrorists to justice, including through binding legislation at EU level **DELETED**.

There were different ways of cooperating with the USA.

It was important to preserve the balance between security and liberties. The EP enquiry into secret prisons was mentioned in this regard. As part of the current work, efforts to improve emergency capabilities, particularly transport and equipment, were mentioned. These were good reasons to step up cooperation between the EU and the USA.

The Vice-President of the Commission stated that many measures (i.e. data retention and practical cooperation) had been announced a year ago. They had been successfully implemented. He stressed the importance of the public-private security dialogue and mentioned the recent conference in Brussels at which detection technologies had been discussed. As a follow-up, a public-private task force would be set up. The experts were to submit a comprehensive plan in early 2007. The same topic could be tackled by the EU/US partnership, particularly on research and protection in the fields of transport and energy.

With regard to recruitment and radicalisation, the recruitment of well-educated persons, born in Europe, to act as suicide bombers was a matter of great concern. The Commission would organise a meeting of European teachers. Improved education and reaction to incitement should allow this problem to be addressed.

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The future German Presidency highlighted the role played by the Internet in terrorist recruitment and in enabling terrorists to communicate with one another. This was why the Internet would be a priority for the German Presidency. **DELETED**

The Presidency referred to the good cooperation with Russia on serious crises.

The US side shared the concerns expressed regarding the Internet.

- New approaches

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The Vice-President of the Commission pointed out that this was a matter of national responsibility. Decisions should be taken by the Member States.

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3. IMMIGRATION AND BORDER SECURITY

- Visa Waiver Programme and the issue of reciprocity

The EU Presidency highlighted the increasing flow of immigrants. The measures on the EU's southern maritime borders were discussed in the JHA Council in October. The problem of illegal immigration had been broadly discussed in the EU. With regard to the Visa Waiver Programme, the Presidency highlighted Schengen-related activities, especially to the extensive Schengen evaluations made during the year 2006 in the Member States that acceded to the union in 2004 and the importance of strengthening Transatlantic relations.

The Vice-President of the Commission stressed that Schengen enlargement was an important challenge. He mentioned the legislation on external borders which had recently been adopted, in particular the Schengen Border Code. Efficient controls at the external borders and freedom of movement inside the EU remained an important goal. With reference to the second report on reciprocity, he stressed that it was difficult to explain why some Member States were not included in the Visa Waiver Programme. All the EU Member States had introduced biometric passports. The number of refusals (by US) of visa applications has been decreasing. More data were needed to explain the reasons for the current situation.

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- Asylum data

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The Presidency underlined at the outset that the Dublin arrangements on asylum applicants and data protection rules would have to be observed as far as asylum data were concerned.

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4. TRAFFICKING IN HUMAN BEINGS

The Director of Europol reported on the specific threats identified by the Organised Crime Threat Assessment and activities to address those threats.

The Commission Vice-President stressed the crucial importance of cooperation with the countries of origin and transit as far as illegal migration was concerned. In addition to the Mediterranean, efforts to strengthen the eastern dimension (immigration from Central Asia) were mentioned.

The Presidency stated that the trafficking of human beings was on the agenda for the next Council meeting (in December). The intention is to have a political debate and agree on updates to the EU Action plan on Trafficking in Human beings. The Presidency also referred to a seminar organised by the Presidency in Helsinki on 23 – 24 October 2006 on identification of child victims of trafficking, in which also US experts had taken part as speakers.

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The future German Presidency felt that the problem of trafficking in human beings was being underestimated. It was closely linked to illegal immigration. It would be a priority issue for the German Presidency.

5. SIGNING OF THE EUROJUST – US COOPERATION AGREEMENT

An agreement on cooperation between Eurojust and the United States was signed in the margins of the meeting. The agreement was signed by Mr Michael Kennedy, President of the College of Eurojust, and Assistant Attorney General Alice Fisher, Criminal Division, Department of Justice.
