



**COUNCIL OF
THE EUROPEAN UNION**



Joint Statement of the European Union and its Member States and the United States of America on the Closure of the Guantanamo Bay Detention Facility and Future Counterterrorism Cooperation, based on Shared Values, International Law, and Respect for the Rule of Law and Human Rights

1. The European Union and the United States share fundamental values of freedom, democracy, and respect for international law, the rule of law and human rights. We, the leaders of the European Union and the United States of America, refer to the longstanding tradition of humanitarian assistance that is shared by the European Union and its Member States and the United States of America, our commitment to security, and our deep and abiding friendship. Efforts to combat terrorism should be conducted in a manner that comports with the rule of law, respects our common values, and complies with our respective obligations under international law, in particular international human rights law, refugee law, and humanitarian law. We consider that efforts to combat terrorism conducted in this manner make us stronger and more secure.

Closure of Guantanamo

2. We note the positive actions taken by the President of the United States of America when he ordered the closure of the Guantanamo Bay detention facility by January 22, 2010.

3. We welcome the determination of the United States of America to close the facility together with other steps taken, including the intensive review of its detention, transfer, trial and interrogation policies in the fight against terrorism and increased transparency about past practices in regard to these policies, as well as the elimination of secret detention facilities.

4. We reaffirm that the primary responsibility for closing Guantanamo and finding residence for the former detainees rests with the United States.

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5. However, we also recall the request made by the Government of the United States to assist it in finding residence for some of those persons cleared for release from the Guantanamo Bay detention facility, who the United States has determined it will not prosecute, and who for compelling reasons cannot return to their countries of origin, but have expressed the wish to be received by the one or the other EU Member State or Schengen associated country.

6. We take note of the commitment of the United States to develop a new and more sustainable approach to security-related issues and of the thorough review of US policies initiated by President Obama's Executive Orders of January 22, 2009. Against this background and in the expectation that underlying policy issues will be addressed, the EU and its Member States wish to help the US turn the page. In this context, certain Member States of the European Union have expressed their readiness to assist with the reception of certain former Guantanamo detainees, on a case-by-case basis.

7. Within this context, we express our satisfaction with the following framework for the possible reception of certain individuals currently held at the Guantanamo Bay detention facility in Member States of the European Union:

- Decisions on the reception of former detainees and the determination of their legal status fall within the sole responsibility and competence of a receiving EU Member State or Schengen associated country.
- As a result of EU rules relating to an area without controls at the internal borders, a decision of one Member State to accept a former detainee has implications for others and that, consequently, cooperation among Member States is necessary, whatever the individual decisions of the Member States on the subject matter might be. These implications have been addressed by Conclusions of the Council and the representatives of the Governments of the Member States of June 4, 2009. We note that these conclusions refer to a mechanism among EU Member States and Schengen partners on the exchange of information concerning Guantanamo former detainees.
- When considering the reception of a specific former detainee on the territory of a Member State, the United States of America will share with that Member State all available (confidential and other) intelligence and information concerning that person relevant in order to allow it to take an informed decision and conduct a proper security assessment.
- The US and EU Member States will keep each other informed of any relevant information which comes to light after the transfer of an ex-detainee.

8. We note that the United States will consider contributing to the costs incurred by EU Member States in relation to receiving ex-detainees on a case-by-case basis.

9. Other issues related to the reception of ex-detainees will be addressed bilaterally between the US and the Member States concerned.

Future counter-terrorism cooperation, based on shared values, international law, and respect for the rule of law and human rights

10. Based on the new course in US counter-terrorism policy initiated by the executive orders of 22 January 2009, and in the expectation of further changes in US counter-terrorism policy as a result of the ongoing policy reviews, we reaffirm that respect for the rule of law and our respective obligations under international law, including international human rights, refugee, and humanitarian law makes us more secure and strengthens us in the fight against terrorism. With a view therefore to deepening transatlantic cooperation on counter-terrorism and justice and home affairs matters more generally, we will pursue such cooperation on the basis of the following understandings:

- Taking into account that the action against international terrorism raises important legal questions, we recognize the importance of deepening our dialogue on international legal principles relevant to combating terrorism. In particular, we will continue working together in semi-annual meetings involving the Legal Advisers to the Foreign Ministries of the European Union member states (COJUR), representatives of the General Secretariat of the Council of the European Union and the European Commission, and the U.S. Department of State Legal Adviser, with the objective of furthering an improved mutual understanding of our respective legal frameworks, and developing common ground from which we can work more effectively in combating terrorism.
- Depending on the outcomes of the US policy review processes we might explore, including in the context of our regular dialogue among Legal Advisers, the possibility of developing a Set of Principles that might serve as a common reference point within the context of our shared efforts to counter terrorism.

11. Building on shared values and in a spirit of mutual respect, reciprocity and partnership, the EU and the US seek to deepen transatlantic cooperation in the area of freedom, security and justice, including cooperation in the fight against terrorism and also other areas such as judicial cooperation in criminal matters, tackling cross-border crime, facilitating free and secure travel, and exchanging data for law enforcement purposes while ensuring high standards of personal data protection.