



**COUNCIL OF
THE EUROPEAN UNION**

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NOTE

from : Presidency
to : Delegations

Subject : EU-US Statement on "Enhancing transatlantic cooperation in the area of Justice, Freedom and Security", adopted in Washington D.C. on 28 October 2009

The European Union (EU) and the United States of America (U.S.) share common values of democracy, rule of law and respect for human rights and fundamental freedoms. We recognize that transnational crime and terrorism pose a threat to these shared values. We thus seek to deepen transatlantic cooperation in the pursuit of greater justice, freedom and security.

This statement is adopted at a time when the EU is setting out new ambitions for its policy for the area of Justice, Freedom and Security with the adoption of a new multiannual policy programme by the end of 2009, the Stockholm Programme. This process will lead to an update of EU policies, many of which have a transatlantic dimension. The U.S. has reaffirmed a foreign policy based upon its values and ideals, while also protecting the American people and building new justice and home affairs programs and partnerships in furtherance of this policy. We would like to take this opportunity to renew our partnership for the next five years.

We welcome this opportunity to reflect upon our progress over the past years. The EU and the U.S. have benefitted from a long-standing, productive partnership in the areas of justice, freedom and security. Our progress is reflected in our agreements on extradition and mutual legal assistance, information on flight passengers, customs cooperation, collaboration in tracking terrorist financing and EU assistance in facilitating the closure of the Guantanamo Bay detention facility. We also recall our close operational partnership leading to international agreements and working arrangements between the U.S. and Europol, Eurojust and Frontex, respectively, and the posting of liaison officers at each other's diplomatic representations and at Europol and Eurojust. We take note that transatlantic cooperation between the U.S. and EU and EU's Member States takes place in many ways, formal and informal, and on a daily basis, including through ongoing operational cooperation.

Our partnership will benefit our people and address our common challenges of maintaining security and individual rights while facilitating travel, business, and communication. We face common threats from those who seek to commit acts of terrorism and transnational crime. Our partnership must be balanced, agile, creative and forward-thinking.

In the spirit of mutual respect and partnership, we commit to enhancing our policy and operational cooperation to meet common challenges with due regard to reciprocity. To this end we will further enhance the exchange of information on policy and operational initiatives, share experiences and best practices, reinforce cross-border law enforcement and judicial cooperation, and organise, when relevant, joint training and expert meetings. Whenever appropriate, we will foster cooperation with the private sector.

We will seek early consultations when new policy developments may affect the other partner. We highlight our common commitment to work together in international fora towards full implementation of multilateral obligations and work cooperatively where issues of common interest arise. We will endeavour to enhance transatlantic dialogue with and between our legislative bodies and support the expansion of their discussions on justice and home affairs issues in the context of the Transatlantic Legislators' Dialogue, among others.

Scientific and technological cooperation is indispensable to enhance the security of our societies. We will therefore further deepen our cooperation in the area of civil security research, in particular via our newly extended and amended Agreement for Scientific and Technological Cooperation.

Together we will translate these commitments into concrete actions illustrating the value of our partnership to the American and European people.

Facilitating mobility in a secure environment

We are committed to the **facilitation of legitimate travel and trade in a secure environment** which is essential for maintaining close ties between the citizens and businesses of the United States and the European Union. We have cooperated to enhance travel document security and to establish biometric passports as the international standard. We recall our agreement on airline passenger data to enhance air travel security including our commitment to undertake joint reviews of the agreement in order to assure the effective operation and privacy and personal data protection of our respective systems for collecting and analyzing such data. We remain committed to addressing the challenge of terrorist and criminal mobility while providing a welcoming travel experience for legitimate travellers while safeguarding their personal data, including through registered traveller systems.

We acknowledge the social and economic benefits to EU and U.S. citizens from **visa-free travel** in a secure environment between our two continents. We will work together to complete visa-free travel between the US and the EU as soon as possible and increase security for travellers.

We will develop our working relationship on **mobility and security** matters, including border, readmission and travel document security policies. We look forward to close cooperation and the exchange of best practices, as we develop and implement technical border entry and exit systems. We will work closely to implement the Working Arrangement between the U.S. Department of Homeland Security and Frontex.

We intend to improve our common understanding of the global phenomena of **migration and refugee** issues and look for joint responses in areas where we are both affected. To this end we commit to expand our dialogue.

Strengthening law enforcement

We re-affirm our commitment to protect our people from the common threats of **serious transnational crime**. We seek to expand and intensify our cooperation notably in the areas of:

- trafficking in human beings
- smuggling of migrants
- sexual exploitation of children, including depictions of such abuse of children on the Internet
- drug trafficking
- trafficking of other illicit goods
- financial crime
- cyber crime
- corruption
- tracing and confiscating the proceeds and instrumentalities of criminal activity

We recognize that the **fight against terrorism** requires coherent and coordinated action. We recall our joint statement on the closure of the Guantanamo Bay detention facility and to future more expansive counter-terrorism cooperation. The prevention of violent radicalisation and recruitment is critical to enhancing citizens' safety from the threat of terrorism. The misuse of the Internet for disseminating violent and radicalizing messages is a worrisome phenomenon that we need to consider within the context of legal restraints and operational needs.

We support compliance with international standards to combat the financing of terrorism, including the Special Recommendations of the Financial Action Task Force. We recall our continuing dialogue and practitioners' workshops on terrorist financing and reducing the vulnerability of non-profit organisations for financial crimes. We recognize that terrorist sanctions in support of the United Nations Security Council designations have greatest effect when implemented internationally and will continue our efforts to strengthen legal protection of individuals in listing and delisting procedures. We will also continue to cooperate in tracking the misuse of the financial system for terrorist purposes.

We will continue to conduct seminars and workshops on the threats posed by the malicious use of explosives and chemical, biological, radiological or nuclear materials and will continue to encourage the ongoing beneficial relationships that these seminars and workshops foster.

We recall our close **law enforcement cooperation**, including coordinated operations, joint training, cooperation among our law enforcement training institutions, cooperation on threat analyses, identification of best practices and research. We commit to strengthen and deepen cooperation between the United States, Europol and Eurojust. Annual crime specific meetings between relevant U.S. prosecutors and law enforcement officers and representatives of Eurojust and Europol will serve to increase the effectiveness of our cooperation. We will look for ways to take the profit out of crime through freezing and confiscating ill-gotten assets and instrumentalities of crime.

Strengthening judicial cooperation

We have worked to improve **judicial cooperation** to help detect, investigate and prosecute transnational criminals and terrorists. We look forward to the entry into force in early 2010 of the EU-U.S. agreements on extradition and mutual legal assistance and the conforming bilateral instruments. These agreements will provide for new tools for cooperation between U.S. police authorities and prosecutors and the EU Member States and Eurojust, such as the setting up of joint investigation teams (JITs), using video tele-conferencing technology to take testimony and providing prompt response to requests on suspects' banking and other financial services records. Together with the updated extradition and mutual legal assistance agreements between the U.S. and individual EU Member States, these agreements will facilitate and expedite assistance. An EU-U.S. working group will promote implementation of the agreements, and seminars are planned to help practitioners employ the agreements to their fullest and monitor implementation.

We note the benefits of enhancing our dialogue on judicial cooperation in civil law matters. We will deepen our policy exchange between relevant experts on civil law matters and share information on new legislation and initiatives.

Safeguarding human rights and fundamental freedoms, including civil liberties

The fight against transnational crime and terrorism often requires the sharing of personal data for law enforcement and public security purposes, which compels us to protect the human rights, fundamental freedoms and civil liberties in all fields of transatlantic cooperation.

We recognise the critical importance of providing a high level of effective **protection of personal data**. Our common values and attention in this area are borne out by our history of effective cooperation with scrupulous attention to protecting personally identifiable information. Furthermore, we strive to increase confidence in our respective legal frameworks.

We acknowledge the completion of the High Level Contact Group's more than two years of work to foster mutual understanding and identify a core set of **common principles** that unite our approaches to protecting personal data while processing and exchanging information for law enforcement purposes. We have important commonalities and a deeply rooted commitment to the protection of personal data and privacy albeit there are differences in our approaches. The negotiation of a binding international EU-U.S. agreement should serve as a solid basis for our law enforcement authorities for even further enhanced cooperation, while ensuring the availability of full protection for our citizens.

We share the conviction that the EU-U.S. cooperation to increase public security in general needs to be linked to increased joint efforts to strengthen freedom and justice in the transatlantic space.

Fostering preparedness and resilience

Given the damage to our **critical infrastructure** that would result in the event of a man-made attack or natural disaster, and the consequent impacts on public health and safety, and economic and national security, we commit to enhance our capabilities, *e.g.*, to identify fundamental interdependencies, assess risks and protect critical infrastructure, key resources and vital supply chains. We will undertake efforts that foster resilience to prevent the disruption of critical infrastructure functions thereby ensuring that our people and economies recover as quickly as possible.

Recent cyber attacks are a reminder of the urgent need for action. We are resolved to prevent **attacks against our information systems** and develop means to swiftly respond to threats of an increasingly global nature. We will work cooperatively to recover from major critical information and communication system failures.

Working together internationally

We are inspired by the principles of liberty, democracy and justice and are committed to **working together internationally** to foster these principles around the world. We have achieved a great deal in our cooperation on the ground in third countries and international fora such as the United Nations.

Cooperation between liaison officers and delegations has proved to be fruitful, *e.g.*, in the Western Balkans, Afghanistan and Pakistan. In order to help us ensure that our actions are complementary and also to increase the impact of our work with third countries, we will engage in close consultation and coordinate technical assistance. We will continue donor and operational cooperation, particularly in Latin America and West Africa, to help tackle drug trafficking and other challenges.

We will build upon our strong partnership and work together to strengthen global and regional institutions, to ensure they play a vital role. Also, we will continue to cooperate in promoting and implementing key international instruments, in particular the UN Convention on Transnational Organised Crime and its supplementing Protocols, and the UN Convention against Corruption. We will work closely together to build a strong review mechanism that will allow for effective monitoring of the implementation of the Convention against Corruption. We will also promote the accession to and effective implementation of the Council of Europe Convention on Cybercrime. We fully support the ratification and implementation of the UN conventions and protocols against terrorism.

Recalling the general principles of good cooperation, we undertake to make our dialogue as effective as possible. We seek to foster in-depth discussion and frank exchange, meeting as often as necessary, and promptly following up after meetings. To this end, we will examine and adapt the structure and format of our dialogue to include intensified consultations and regular joint meetings at Ministerial and senior officials' levels and more operational contact and exchanges at the expert level, using videoconferencing whenever suitable.

This statement pays tribute to our past accomplishments and points the way for further strengthening transatlantic cooperation in the areas of freedom, security and justice. We strive to make our people secure against the challenges of transnational crime and terrorism while safeguarding freedom and justice, building on a foundation of shared values, ideals and objectives. Finding practical solutions will guide our action as we continue to make our partnership more operational in maintaining security, facilitating legitimate movement, and protecting human rights and fundamental freedoms.
