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Introductory remarks by

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**European Parliament Committee on the alleged use of European countries
by the CIA for the transportation and illegal detention of prisoners**

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I am pleased to be at the hearing of this Temporary Committee. The subject matter of your investigation is obviously of great importance to European citizens. I therefore welcome that the Council and various Council bodies, such as the SATCEN, have already demonstrated their willingness to co-operate fully with on-going enquiries, including yours.

Let me underline that I am happy to contribute to your Report. And to provide answers to your questions to the best of my ability on matters falling within the limits of my mandate as High Representative for the CFSP. It will be for others to answer questions on issues that fall outside my area of competence.

I would like to begin by stressing that of the many threats that Europe faces, terrorism stands out. This is probably because terrorists target the essence of our democratic systems, namely that political conflicts must be resolved through peaceful means. Terrorists have no respect for the most fundamental human right of all: the right to life.

In recent years, terrorists have killed many innocent people. From New York to Madrid to London, from Bali to Istanbul to Dahab, we know what terrorists are willing to do. So the threat is real and there can be no mistake: we have a moral and political duty to tackle terrorism.

I am sure that because of the actions we have taken at the level of the European Union, and because of the intensified co-operation we have with international partners, our member-states are better-placed today to deal with the terrorist threat. Our citizens are right to expect nothing less.

At the same time those citizens insist, again rightly, that we should not jeopardise the essence of our free societies, of human rights protection and the rule of law.

Because terrorism is a global threat, we work together with many countries around the world, including, of course, the United States, whose co-operation we value a lot. Since 2001, we have dramatically stepped up our joint work with the US on counter-terrorism, including with an agreement on faster extradition.

With the US we share a conviction that terrorism is an urgent threat; and that tough action is needed to address it. With the US we also share a political system, where democracy, the rule of law and human rights protection are paramount. The 2004 EU-US joint declaration makes it very clear that the fight against terrorism must be waged while respecting international law and treaty commitments.

Media reports and some allegations regarding US behaviour in this context have caused concern in Europe, at the level of public opinion and political leaders. The detainee issue, "Guantanamo", so-called extraordinary renditions or the alleged existence of secret detention facilities are certainly not marginal issues for the transatlantic relationship, which has common values at its heart.

It is not for me to establish the facts in each of these cases. What I can say - and what the Union has said to the US - is that for us to succeed in the fight against terrorism, we should uphold our core values. And we should be seen as doing so.

I will come back later to this point. But one central EU message in the dialogue with third countries, including the US, has always been that values are our greatest asset. It is what gives us legitimacy. And legitimacy is what gives us strength. Effectiveness and morality point in the same direction.

Let me elaborate a bit on how the fight against terrorism relates to certain legal standards and safeguards.

The position of the European Union is clear: states must ensure that any measures they take to combat terrorism complies with their obligations under international law, in particular international human rights, refugee and humanitarian law.

Some rights and freedoms lie at the heart of our legal system which makes them non-negotiable. These include, but are not limited to, the right to human dignity and physical integrity; the rule of law and the prohibition of torture and other cruel, inhuman and degrading treatment.

Our stance against torture and other cruel, inhuman and degrading treatment is clear. It is always wrong and illegal. There are no ifs or buts. All European Union member states are a party to the UN Convention against Torture, which sets out that no one should be extradited if there is a serious risk of torture.

The reasons for this stance are simple. The use of torture or cruel, inhuman and degrading treatment is abhorrent and shatters your legitimacy. It is counter-productive, precisely because it is immoral. It also produces unreliable intelligence. And statements obtained in this way cannot be used in criminal trials.

I believe that we can tackle terrorism effectively within the existing international legal framework of human rights and humanitarian law. That framework should guide our actions and set clear limits.

It is our policy that detainees captured on battlefields are protected by international humanitarian law, which must be applied in a comprehensive fashion. Detainees captured outside conflict zones must be moved into the criminal justice system, tried and convicted.

With respect to so-called secret or incommunicado detention centres, the EU's position is equally clear: if these exist or have existed, in Europe or elsewhere, they would violate international human rights and humanitarian law.

I do recognise a dilemma. Governments sometimes have good reason to believe that someone is a dangerous terrorist. But they may not yet have evidence that will stand up in court. Letting such a person free could put many lives at risk, while locking him up indefinitely would be against all our traditions of justice.

Handling this dilemma, and others like it, is difficult. We need to discuss this among friends and allies. But our objective must always be to ensure adequate judicial oversight and to preserve our core legal principles.

Europeans feel strongly about this. Many of us have a long history of tackling terrorism. One important lesson we learned is that any shortcut around human rights makes you weaker. Respecting human rights in the fight against terrorism is first and foremost a moral and legal obligation. But it is also a practical necessity.

One basic argument that extremists use is that the West is guilty of double standards. That somehow we don't apply our human rights principles to Muslims. To defeat the extremists, we need to win the battle for hearts and minds, including of Muslims around the world. To do that, we must stress that this is a joint fight, together with Muslims, on the basis of common values.

And to get that message across, we must be able to prove that we mean what we say about human rights. It is hard to promote democracy, freedom, human rights and the rule of law abroad if the West is seen as applying double standards.

Finally, let me end with some more comments on the question of international co-operation, particularly with the US.

The member-states of the Union have urged the US on several occasions to grant full access to Guantanamo Bay to the Human Rights Rapporteurs of the United Nations. EU Foreign Ministers have stated that the facilities at Guantanamo remain a source of 'serious concern'. Some European leaders have called for Guantanamo to be closed down.

On 21 November 2005, Foreign Ministers discussed reports on two issues. First that the US was operating secret detention facilities in Europe. And second that the US had used aircrafts to transfer terrorist suspects between countries to interrogate them using torture and ill-treatment. As a result, the Presidency, Jack Straw, wrote to the US Secretary of State, Condoleezza Rice seeking clarification of the US position on these allegations.

In response, Secretary Rice made a detailed statement on 5 December. In that statement she underlined, amongst others, that

- the US respects the sovereignty of other countries.
- the US does not transport, and has not transported, detainees from one country to another for the purpose of interrogation using torture
- nor has the US transported anyone to a country when the US believes he will be tortured.

The issue was discussed further by EU Foreign Ministers and Secretary Rice during her visit to Brussels. Many EU foreign ministers welcomed her clarifications, including the statement that whatever category a detainee belongs to, torture or other inhuman treatment must never be used.

At the end of 2005, the US Congress passed, by very large majorities, a ban not only on torture, but also on cruel, inhuman and degrading treatment. That decision too has been welcomed by various European leaders. Some Europeans, myself included, would welcome similar assurances on the US position regarding incommunicado detention.

Since the beginning of this year, the EU has at different levels and in different formats, intensified its dialogue with the US on these questions.

The EU, including the Council, fully supports the ongoing investigations by the rapporteur of the Council of Europe's Parliamentary Assembly, Mr Marty; by the Secretary-General of the Council of Europe, Mr Davis; and indeed by this Committee.

Let me conclude by saying that the terrorists want us to over-react, at home and abroad. We must not fall into their trap. The reason we are ultimately strong - and they are fundamentally weak - is that we have legitimacy, due process and respect for the sanctity of life on our side.

I welcome this opportunity to speak on this important subject. And I look forward to your questions insofar as they relate to activities that fall under the competence of the Union, or my role as High Representative for the CFSP.