



# Homeland Security

September 15, 2008

The Honorable Jacques Barrot  
Vice President  
European Commission  
BERL 12/225  
1049 Brussels, Belgium

Dear Vice President Barrot,

Thank you for your September 8, 2008 letter regarding the Electronic System for Travel Authorization (ESTA). The ability to reassure the European and American public that their privacy is being protected while traveling is an important objective for both of our departments. While the data we gather under U.S. law from those seeking to enter the United States is not subject to negotiation, the Department of Homeland Security is committed to protecting the individual privacy of all persons traveling to the United States. We have been extremely transparent about ESTA's privacy protections through public announcements. Nonetheless, I am aware that, during your meetings with them, the Members of the European Parliament and the data protection authorities may apply as much, if not more, scrutiny to the use of data by the United States as they do within the European Union (EU).

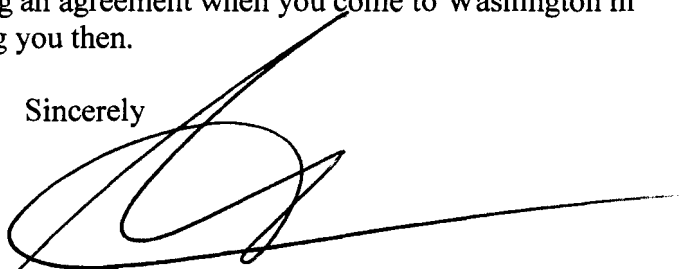
You will recall that your predecessor, Franco Frattini, and I recognized the sensitivity of privacy issues in law enforcement and public security operations with a transatlantic nature and created the High Level Contact Group (HLCG) to develop a framework through which questions and concerns could be addressed in an equitable and reciprocal manner. To the extent that you seek detailed answers to detailed questions, I will ask my staff to address your questions through this context, which will also help us to finally agree on the HLCG framework. While the HLCG framework will never be a panacea, its conclusion is essential for the kind of discussion your department requested.

Broadly speaking, however, the answers will not surprise you. The function of border inspectors is nearly universal, and I suspect if submitted to the same scrutiny similar questions could and perhaps should be asked of many European border management and law enforcement laws and programs. In fact, the ESTA questions are drawn from the forms that passengers currently fill out on the plane when traveling to the U.S. Many European police forces use hotel registration forms to keep track of foreign travelers in a similar way. Indeed, European systems operate without the transparency of System of Records Notices and Privacy Impact Assessments, a fact that constrains U.S. authorities' and citizens' ability to know their rights and how their data is being processed in Europe. My Chief Privacy

Officer had asked for information about how this data is handled in Europe without receiving a satisfactory answer, and I would appreciate any help you can provide in obtaining that information for him.

I agree we should be able to resolve this matter quickly. I am confident that with an appropriate framework in place we can reciprocally take steps to reassure each other that our border management and law enforcement programs have the best privacy interests of the data subject in mind. As the key principals for this work within our departments, Director General Faull and Assistant Secretary Baker should discuss this issue as soon as possible and resolve it in time for our signing an agreement when you come to Washington in December. I look forward to seeing you then.

Sincerely



Michael Chertoff

Dear Jacques -  
Serm for the delay - 2  
hurricanes in 2 weeks!

Stewart Baker has the  
data that will respond to your questions  
and is ready to come to Europe to discuss  
this on soon on convenient for you.

Best regards  
