



**COUNCIL OF
THE EUROPEAN UNION**

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LIMITE

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NOTE

from : Council secretariat

Subject : Outcome of the EU-US Ministerial Troika on Justice and Home Affairs held in Vienna on 3 May 2006

Delegations in the meeting were led by :

on EU side :

Austria : Liese Prokop (Minister of Interior) and Karin Gastinger (Minister of Justice)
Finland : Kari Rajamäki (Minister of Interior) and Leena Luhtanen (Minister of Justice)
European Commission : Franco Frattini (Vice-President, Commissioner)
Council Secretariat : Ivan Bizjak (General Director)

on US side :

Alberto Gonzales (Attorney General) and Michael Jackson (Deputy Secretary of Homeland Security)

1 Visa reciprocity

The EU Presidency emphasised that the issue of Visa reciprocity has become a crucial element in the relations between the EU and the US. The Commission recalled that the EU is to be considered as an entity which means that the interests of the new Member states should be safeguarded as well without delay.

The Vice-President of the Commission recalled that he is expected to report to the Council in June on the progress achieved so far, in particular in implementing the commitment made by US President George W. Bush according to which a road map will be set to describe the process towards a visa-free situation for the new Member States. The Commission called for expert talks, which should take into account the huge efforts made by all EU Member States to enhance document security. Also, it was suggested that the US side may envisage facilitating transitional measures for those (new) Member States, which do not right away receive the visa-free status.

The US side confirmed that it is indeed ready to cooperate on a roadmap towards visa freedom; however it does not want to commit itself to a concrete timetable given the fact that the process of assessing new Member States is an individual one, on the one hand, and that even inside the EU the process of Schengen evaluation with regards to visa issuance and a border-free regime is not completed. The US agreed to hold at short notice expert talks with the Commission services in order to review the progress achieved in individual Member States.

2. Document security

- e-passports

The EU side has sketched the technical and financial efforts made by the EU Member States to reach a high level of document security, thus complying by 26 August 2006 with the requirements set by the US. It further emphasised the importance of interoperability of systems, such as to ensure a full working access to all parties.

The US expressed satisfaction about the progress reached so far and invited the EU to assess how the access for verification into e-passports databases will be organised.

Both parties agreed that these systems should be made compatible with Data protection requirements.

- Lost and stolen passports

The US underlined that the reporting on lost and stolen passports to Interpol has been strengthened by the common commitment of both the US and the EU, which has led to a substantial feeding of the system with information. However the number of queries into the system seems still not to be satisfactory.

The EU was encouraged to envisage a direct access to the system, as it has proven successful during a pilot project in the US. There is the example of the "Swiss solution", where the Interpol STD database is queried systematically.

3. Counter terrorism

- Radicalisation and Recruitment

The EU has sketched the key elements of the EU CT strategy adopted by the European Council in December 2005 and the subsequent Action Plan. The EU Counter-Terrorism coordinator emphasised several aspects among which the specific issue of Radicalisation and Recruitment, in particular the promotion of the inter-religious dialogue, the role of moderate voices in the Islamic community, the condemnation of hate speeches and the need for a coordinated international effort. The Commission referred to its efforts in the field of Radicalisation, i.a. by running a permanent expert group and the possibility to propose amendments to the legislation on incitement. The experts on both sides could possibly work together in studying these issues.

The US list of priorities is more or less similar to the EU's one in this field, keeping in mind that on the issue of hate speech, the US has always to balance with the fundamental right of the freedom of speech; The US sees avenues of cooperation on Cybercrime, Radicalisation and Recruitment (in particular with respect to returning Jihadists) and in an enhanced cooperation between prosecutors. Finland underlined the negative role of internet in promoting radical ideas among religious communities, as well as the role of prisons, which call for an enhanced fight against radicalism in the religious communities.

The US could take the initiative, possibly together with France, to organise a conference for prosecutors in the near future. The EU Counter-terrorism coordinator, who underlined that the fight against Radicalisation and Recruitment is at the forefront of the political agenda in Europe, recommended to attribute a role to Eurojust in case cooperation between prosecutors is further being developed.

- Critical infrastructure

The Presidency has sketched the efforts of the EU, starting from the EPCIP programme adopted in December 2005, both in the field of the protection of critical infrastructure and with respect to consequence management

The Commission has foreseen substantial financial means to fund research on Security issues, linked i.a. with the protection of critical infrastructure, in the field of aviation, health, energy, local transportation, etc. The ARGUS system will link all EU emergency services to each other.

The US side cannot but support every effort to cooperate in this field; an example of this is common investments in explosive detection, be it in the research phase, on certification and on the deployment of means.

- Counter-terrorism and Human Rights

The EU side stated that our response to terrorism should always be based on and legitimated by our commitment to essential values like democracy and respect of fundamental rights. There is growing concern in the EU (and in the Council of Europe) who want to be properly informed about possible CIA flights. The EU wants to pursue the dialogue on these issues with the US, as was the case these days with the State Department' legal advisor who visited Brussels.

The US side replied that it is fully committed to respecting the rule of law and is ready to explain so in every contact it has in Europe. It emphasised however that it finds itself brought into a military campaign against terrorism, which requires to apply the rules of war. The American legal system is in a way more limited than the European ones, which allow preventive arrest, phone taping, etc. There will be several further opportunities to pursue the dialogue on these issues, including the likely visit of a MEP delegation to Washington.

4. EU-US MLA and Extradition Agreements

Delegations reviewed the state of signature of the bilateral instruments and ratification of the MLA and Extradition agreements as sketched in the Council secretariat's overview. It was envisaged that after the signature of the last bilateral instruments, a public event could launch the period of ratification that will follow.

5. EU-US operational cooperation

- OCTA and operational cooperation with Europol

The EU presented the new Organised Crime Threat Assessment which for the first times gives a forward-looking analysis of organised crime. The OCTA reports distinguishes four categories of OC groups and distinguishes several criminal "markets". Europol is grateful for the input provided by the US, together with a broad consultation of both the public and the private sector.

The US would welcome a deepening of the operational cooperation, starting from sharing threat assessments, towards organising joint training.

Access to the Europol Analytical Work File would certainly contribute to intensifying the cooperation. However, all necessary Data protection rules should be satisfied. The entry into force of the three recent protocols would be a considerable help. Furthermore, it is considered necessary by Europol that the FBI would start exchanging pure intelligence with Europol.

- Negotiation of a cooperation agreement with Eurojust

Both sides reiterated their will to reach an agreement between Eurojust and its US counterparts.

However, Eurojust notes that the necessary requirements in the field of Data protection are not met, whereas the US side considers that it should be possible to conclude an agreement based on the same Data protection criteria as the agreement, which was signed with Europol. A new proposal has been floated, which is based on the OECD requirements on data protection.

In the meantime, both sides welcomed the suggestion made by the Commission to substantially develop cooperation in the fight against child pornography.

- Eventually cooperation in the field of law enforcement training

The EU and the US side welcomed efforts made on both sides to promote cooperation in the field of law enforcement training. It was referred to a new training module in the US and to contacts between CEPOL and the FBI training department.

6. Proposal for a Framework Decision on the Protection of Personal Data in Police and Judicial cooperation matters

On-going work on a Framework Decision on Data protection in the third pillar was sketched. This topic is considered to be very important by the European Parliament. The EU side is not sure that it will be possible to finalise the Framework Decision in 2006. The US is concerned that some of these new rules (for instance Art. 15 on the transfer of Data to third parties) might weaken the current cooperation based on the existing agreements.

7. International Cooperation concerning Pandemic Influenza

The US have devoted considerable means and efforts to be prepared to manage the consequences of an outbreak of pandemic influenza. It would welcome international cooperation in the field of early warning, identification of problems, the availability of medical teams, etc.

The EU side is ready to pursue the international efforts going on, for instance the international conference scheduled for 6/7 June in Vienna and to which the United States, as well as China, are invited. The EU would be grateful to receive any key document reflecting the US strategy in this field.

8. EU-Strategy for the External Dimension of JHA : Global Freedom, Security and Justice

The EU introduced the JHA External relations strategy it adopted last year and sketched the implementation efforts made, for instance by preparing Action Oriented Papers with respect to the Western Balkans and to Afghanistan (and drugs).

The Vienna Conference to which the United States will participate as well, together with 53 countries and 15 international organisations, is a concrete way of implementing the EU strategy. The purpose of the conference is to create a partnership for security, since this is an issue of common and crucial interest. The Commission states that the conference will further materialise the concept of political conditionality.
