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OUTCOME OF PROCEEDINGS

From: General Secretariat of the Council

To: Delegations

Subject: Outcome of proceedings of the EU-US Justice and Home Affairs Ministerial Meeting (Sofia, 22-23 May 2018)

Summary: An open and comprehensive discussion of topics of mutual interest for the EU and the US, which underlined the engagement of the two sides to pursue and develop further their cooperation, both at political and operational level. While reviewing a number of joint activities in areas such as counterterrorism and fighting organised crime and migrant smuggling, the meeting also paved the way to pursue further bilateral consultations on the prevention of terrorist use of the internet, cross-border access to electronic evidence (e-evidence) and visa reciprocity.

The US delegation was headed by Attorney General Jeff Sessions and Under Secretary for Homeland Security Claire Grady. The EU was represented by Ministers Valentin Radev and Tsetska Tsacheva (Bulgarian Presidency), Ministers Herbert Kickl and Josef Moser (incoming Austrian Presidency) and by Commissioners Dimitris Avramopoulos, Vera Jourová and Julian King.

At the end of the meeting, a joint press statement was issued (**Annex**).

1. Counterterrorism

a) Information sharing, including battlefield information, PNR and aviation security

Both delegations concurred on their assessment that information sharing among partners is key to address the terrorist threat and in that respect, transatlantic cooperation is an example of a very successful and mutually beneficial partnership. They highlighted the excellent level of operational cooperation on counterterrorism matters and the concrete results of information sharing, namely in what concerns the identification of Foreign Terrorist Fighters from battlefield data. They discussed ways to expand and improve such cooperation, including through continuing the good practice of exchanging liaison officers from their respective law enforcement agencies.

On PNR, the EU delegation provided an update on the implementation by Member States of the PNR Directive, as well as on the contacts with Canadian authorities for the revision of the EU-Canada PNR agreement. The US delegation underlined the importance they attach to this instrument of information sharing and stated its positive expectation for the renewal of the EU-US PNR agreement. Both sides agreed to come back to this matter at future meetings, including in light of the evolution of negotiations between the EU and Canada.

The discussion on aviation security was an opportunity for both sides to express satisfaction with their technical cooperation for improving their own aviation security, but also for raising the security bar at the global level, in particular next to key third countries.

b) Prevention of radicalisation and terrorist use of the Internet

The EU delegation provided detailed information on the different strands of action next to service providers to ensure their commitment to a more effective removal of online propaganda, namely in the context of the Internet Forum and the Commission's Recommendation on measures to effectively tackle illegal content online. The US stressed the benefits of working in partnership with the private sector to use new technology in order to eliminate terrorist propaganda on the internet and restated its conviction that voluntary efforts by the industry are preferable to introducing legislation. Both sides agreed on the advantage of taking concerted action with regard to service providers.

c) Further cooperation on CBRN in view of evolving chemical threats

The US delegation reported on recent institutional changes to better respond to the evolving CBRN threat. Both sides expressed their intention to step up cooperation, including in the NATO framework, to counter possible weapons of mass destruction (WMD) attacks.

2. Security and judicial cooperation in cyberspace

a) Cross-border access to electronic evidence and related issues

The two sides took the opportunity to brief each other on recent legislative initiatives to regulate cross-border access to electronic evidence, namely the US CLOUD Act and the Commission's proposals for a Regulation on European Production and Preservation Orders for electronic evidence in criminal matters and a Directive laying down harmonised rules on the appointment of legal representatives for the purpose of gathering evidence in criminal proceedings. Since legislation on each side of the Atlantic is at different stages (the Commission proposals have only started being discussed at Council level, while the CLOUD Act was already adopted in March), the two sides could only confirm their willingness to ensure compatibility between the two sets of legislations. However, there are different interpretations as to the appropriate procedures and instruments to ensure direct access by law enforcement authorities to service providers, and therefore the matter will require further clarification and discussions.

The two sides also exchanged views on the coming into force of the General Data Protection Regulation (GDPR) and its potential impact on transatlantic data exchange.

b) Cooperation on cybersecurity/cybercrime

The two delegations provided brief overviews of the implementation of their respective cybersecurity strategies, with a particular emphasis on areas of common interest and where there is already a considerable level of EU-US cooperation. One issue that deserved particular attention was that of the vulnerability of electoral systems to cyber interference, in the wake of the Cambridge Analytica scandal, and how to improve their resilience. Both sides agreed to explore this issue in the near future at technical level.

3. Migration, border management and visa policy

a) Latest developments on migration policy and border management

The two sides updated each other on recent developments of their migration and border management policies, with a particular emphasis on the latter. The EU delegation focused its presentation on the variety of measures put into place in the last three years as a response to the migration crisis, which are contributing to a more effective management of migration flows. The US delegation explained the shifts at both political and operational level that have led to an approach to migration that places security concerns at the forefront.

b) Tackling migrant smuggling and trafficking of human beings

Both sides agreed that migrant smuggling and trafficking of human beings are areas of mutual concern, despite the different geographical focus. The law enforcement agencies present at the meeting gave examples of transatlantic operational cooperation to identify and dismantle migrant smuggling operators. Their joint work has allowed the identification of links between smugglers and other criminal activities, namely document forging and terrorism. Given the positive results, both delegations expressed their support to the extension of such cooperation.

c) Visa reciprocity

The meeting was an opportunity for reviewing progress by the five EU Member States not covered by the US Visa Waiver Programme (VWP) towards full access. The EU delegation once again expressed its position on the urgency of extending the Programme to all EU Member States as a matter of reciprocity. While understanding the arguments put forward by the EU delegation, the US side was only able to commit to further transparency on the specific aspects that are keeping the five Member States from entering the VWP.

4. Transnational organised crime

a) Latest developments and cooperation on counter narcotics efforts

The discussions focused on efforts by law enforcement agencies to disrupt the activities of drug trafficking networks, as well as to crack down on drug production in both the US and the EU. While drug consumption trends differ in the EU and the US, both sides agree that the exchange of best practices and concertation of positions in international fora are crucial to adapt and improve public policies on the drugs phenomenon. The US delegation underlined the need to develop more repressive international action to reduce the supply of drugs, namely through a more forceful engagement with drug producers in Colombia (cocaine) and China (opioids).

b) Anti-money laundering/Terrorist financing

The EU delegation debriefed on the recently approved Money Laundering directive. The US delegation focused its intervention on recent efforts to develop better tracking instruments globally and expressed its concern about the growing importance of crypto currencies in that context.

5. Priorities of the incoming Austrian Presidency

The incoming Austrian Presidency gave a brief presentation of its priorities in the Justice and Home Affairs area, with a particular focus on e-evidence, money laundering (Justice), migration, asylum and border management (Home).

Joint EU-U.S. statement following the EU-U.S. Justice and Home Affairs Ministerial Meeting

Sofia, 23 May 2018

On 22 and 23 May 2018, the EU-U.S. Ministerial Meeting on Justice and Home Affairs was hosted by the Bulgarian Presidency of the EU Council in Sofia, Bulgaria. The meeting reaffirmed the long-standing, fruitful cooperation between the United States of America and the European Union in the areas of justice and home affairs, as well as the importance of jointly addressing common security threats.

The United States was represented by the U.S. Attorney General, Jeff Sessions, and the Acting Deputy Secretary for Homeland Security, Claire Grady.

The European Union, hosting the meeting, was represented by the Commissioner for Migration, Home Affairs and Citizenship Dimitris Avramopoulos, the Commissioner for Justice, Consumers and Gender Equality Věra Jourová, the Commissioner for the Security Union Julian King, as well as Bulgarian Minister of Interior Valentin Radev and Minister of Justice Tsetska Tsacheva, together with Austrian Federal Minister for the Interior Herbert Kickl and Federal Minister for Constitutional Affairs, Reforms, Deregulation and Justice Josef Moser, on behalf of the current and incoming Presidencies of the Council of the European Union.

The European Union and the United States discussed their shared efforts to combat terrorism, focusing on effective information sharing, preventing radicalization, use of the internet for terrorist purposes, and vigilance with respect to aviation security, and chemical, biological, radiological and nuclear threats, and explosives, especially in relation to the evolving chemical threats to aviation and in public spaces. With regard to EU-U.S. information sharing on Passenger Name Records (PNR), participants of the meeting emphasized the importance of such sharing, and noted impending developments in the separate EU-Canada PNR discussions. The participants agreed to continue the discussion of PNR, at the next EU-U.S. Ministerial, which will take place in Washington, D.C., in the second half of 2018.

Participants also discussed security and law enforcement cooperation in cyber-space, affirming the importance of allowing swift access to electronic evidence by law enforcement and judicial authorities, while also protecting privacy and civil liberties. Similarly, they stressed the need to maintain a safe, open, and secure cyberspace for the promotion of economic and social development, and exchanged views on how to best address this growing challenge.

The European Union and the United States also exchanged information on developments in the area of migration, border management, and their respective visa policies. The European Union provided an update on migration trends in Europe and ongoing initiatives to enhance the management of its external borders; the European Union and the United States took stock of the continuing progress by the European Union and the United States, including that of the five concerned EU Member States, towards meeting the statutory requirements of the Visa Waiver Program, in order to be considered for designation. Both sides also acknowledged the need for strengthening operational cooperation to effectively prevent and eradicate migrant smuggling and trafficking in human beings, and also discussed the importance of secure and lawful immigration systems.

Finally, the United States and European Union discussed the importance of ensuring swift exchange of financial information and improving the effectiveness of financial investigations. The European Union and the United States discussed the latest developments in these areas and shared best practices in an effort to step up their common fight against anti-money laundering and terrorism financing.

Underlining the progress made in these vital areas of common interest, and re-emphasizing the fact that common solutions are necessary in order to address global security threats, the European Union and the United States committed to meet again in the second half of 2018 in Washington, D.C.
