



Council of the
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LIMITE

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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 Senior Officials Meeting (Rovinj, 5-6 March 2020)

Welcome remarks

The Presidency welcomed all participants and gave a brief overview of the items covered in the agenda of the Senior Officials Meeting (SOM), with a view to preparing the next Ministerial meeting. The US delegation thanked Croatia, as Presidency of the Council of the EU, for the organisation and agreed that the issues on the agenda represent the key challenges that bring together the two sides of the Atlantic in the search for adequate solutions.

Session I

1. Justice in Cyberspace

a) Cross border access to electronic evidence

Delegations discussed relevant legislative development on both sides, in particular the progress in the negotiation of an EU-US agreement on cross-border access to electronic evidence. They both acknowledge the positive dynamic of the negotiation rounds held so far and look forward to continuing the process towards a mutually satisfying agreement, in full compliance with their legal frameworks.

Both delegations shared their concern with the recently approved Resolution of the UN General Assembly that paves the way to a new international treaty on cybercrime. They exchanged views on the possibility of coordinating positions regarding this new UN process.

b) Challenges related to encryption

Delegations discussed recent developments related to the use of encrypted data by a growing number of internet companies and the challenges that the wide use of encryption may represent for law enforcement actors. They underlined the need for a fair balance between the right to privacy and the lawful access by law enforcement agencies to encrypted data. The EU delegation informed of recent contacts with the industry, namely through the Internet Forum, to promote a dialogue on how we can achieve a balanced approach that caters for the concerns of all involved parties. The US delegation also provided an overview of the debate on encryption in the United States, namely in the US Congress, and asked for EU engagement in promoting an international consensus on the use of encryption.

2. Implementation of existing EU-U.S. judicial cooperation Agreements

a) Implementation of the EU-US Umbrella Agreement

Delegations discussed the modalities and the calendar for the first joint review exercise.

b) Implementation of the EU-US Agreement on Extradition and c) Implementation of the EU-US Agreement on Mutual Legal Assistance

Delegations discussed some of the challenges related to the implementation of the two agreements. The EU delegation provided an overview of recent discussion in the Council on the matter and informed of Member States' availability to set up a dedicated expert-level group to look at implementation challenges and discuss possible remedies. The US delegation agreed with the set up of such an experts' group, the details of which should be discussed in the coming months.

3. Resilience of electoral systems

The EU delegation presented the highlights of the recent report on the 2019 European Parliament elections and informed of recent EU-level initiatives to counter disinformation campaigns. The US delegation briefed on recent convictions by US courts of foreign individuals for interference in the 2016 US Presidential election, as well as on measures being put in place for the 2020 Presidential election, namely for the protection of critical infrastructure.

4. Ethical and liability aspects of artificial intelligence

The EU delegation briefed on the recently published White Paper on Artificial Intelligence (AI), with a particular focus on the issues that may have implications for the Justice and Home Affairs domain. The US delegation concurred on the importance of exchanging information on relevant aspects of AI, for example in what concerns investigative data handling or surveillance techniques. Both delegations agreed that the matter of AI should be a feature of their JHA dialogue.

Session II

1. Counterterrorism cooperation

a) Exchange of battlefield information

Both delegations praised the excellent level of operational cooperation on information exchange, including through the relevant agencies. They also concurred that the recent workshops promoted by the US with some EU Member States have been instrumental in understanding the possibilities and challenges for the systematic use of battlefield information by law enforcement and judicial authorities. Both delegations also agreed to organise in the near future a follow up to the EU-US workshop on battlefield information that took place in Brussels in July 2019.

b) PNR

Delegations had a detailed discussion on the outcome of the recent joint evaluation exercise, whose final report will soon be issued by the European Commission. The US delegation gave an account of its objectives for the ongoing review of standards and practices for PNR under the aegis of the International Civil Aviation Organisation (ICAO). The EU delegation agreed that those objectives are largely shared by the EU and that both sides should continue to coordinate for a successful conclusion of the review process.

c) Racially-motivated violent extremism

Both sides agreed that racially-motivated violent extremism is a rising phenomenon on both sides of the Atlantic, with proven international links between groups. Delegations agreed that it deserves a more intense cooperation between law enforcement authorities. Such cooperation could include a seminar in the coming months to discuss possible measures. The US delegation underlined the fact that one of the greatest challenges for combatting this form of extremism is ensuring that actions perpetrated by right-wing/supremacist groups are designated as terrorist crimes.

2. Cybersecurity and critical infrastructure

Delegations had an exchange that focused mainly on the cybersecurity of critical infrastructure, namely in the context of the roll out of 5G technology. The EU delegation gave an overview of the conclusions of the "EU risk assessment on 5G cybersecurity", including its recommendations for measures to be taken by Member States. The US delegation called for continued close consultations among the two sides on this issue, in particular in what concerns the security of supply chains.

3. Border management, migration and visa policies

The EU delegation informed of recent developments regarding migration flows into Europe, with a particular emphasis on the situation along the so-called Eastern Mediterranean route and in the Western Balkans. The US delegation informed of recent operational measures of its migration policy, namely in what concerns border security and cooperation with third countries on return and readmission.

Regarding visa policy, the two delegations reiterated their well known positions. The EU delegation underlined the need to seize the positive dynamic created by the designation of Poland to the Visa Waiver Programme and called on the US to ensure the full transparency and predictability of the system as a guiding tool for those Member States that do not yet benefit from visa-free travel to the United States.

4. Preparation of the EU – US JHA Ministerial Meeting

Delegations exchanged views on the topics to be discussed at the next Ministerial meeting.

5. Presentation of the work plan of the incoming German Presidency of the Council of the European Union for the second semester of 2020

The incoming German Presidency briefly presented the priorities it intends to pursue during the next semester in the JHA area. It announced its plan for holding the next SOM in Germany in September 2020.
