



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 17 March 2008

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LIMITE

JAI	120
RELEX	157
USA	13

OUTCOME OF PROCEEDINGS

from : General Secretariat of the Council

to : Delegations

Subject : Outcome of proceedings of the EU-US Ministerial Troika Meeting on Justice and Home Affairs, March 12-13, 2008 - Bled/Brdo pri Kranju, Slovenia

1. Immigration and Border Security

a. Visa Reciprocity including US Visa Waiver Program reform

The US side outlined recent developments in its Visa Waiver Program. President Bush announced in November 2006 his intention to seek modifications to the VWP and signed into law in August 2007 the law under which the VWP is now being revised, including by the introduction of ESTA (Electronic System of Travel Authorisation).

The EU side recalled how important it was for the citizens of all Member States to be able to participate in the VWP and to be treated equally. Given the initiatives that had already been taken, the EU suggested that a twin-track approach be pursued, distinguishing between (a) measures within the responsibility of Member States and (b) measures within the responsibility of the EU.

It was agreed to start discussions between the US and the EU in the near future on issues under (b), in particular on the details of ESTA. Those discussions are to be completed by June 2008. ESTA will be applied consistently to all EU Member States and will be coordinated with the EU's future system (see attached Common press statement).

The EU emphasised that the views expressed in this meeting reflected also the positions of Iceland and Norway, which are members of Schengen but not of the EU.

b. Reporting of lost and stolen passports to the Interpol database

The EU underlined the progress achieved so far by Member States in the use of the Interpol database. They contribute to 2/3 of the entries in the database and about 50 % of the queries. The Commission would soon report on the implementation of Common Position of 24 January 2005 on exchanging certain data with Interpol. The EU offered to explore the possibility of launching a joint initiative with the US with regard to Interpol, with a view to further enhancing the use of the system, possibly by introducing benchmarks.

The United States welcomed the proposal for benchmarks but noted that the individual states retained competence for their contributions to the database. Moreover, the US attached particular importance to following up a hit quickly, since passengers have to wait in the airport in the meantime.

c. Enhancing border management systems

The EU outlined the main conclusions of the Ministerial Conference on the Challenges of the EU External Border Management held the day before. The discussion on the evaluation and future development of the Frontex agency, on the European Border Surveillance System (EUROSUR) and on future challenges for EU external border management had been positive and the matter would be further examined by the relevant instances of the Council.

The United States welcomed the proposal for discussion among experts of current projects and trends with respect to border management, for instance the Entry-Exit system and ESTA.

d. Other issues related to visa policy

The United States explained that it was facing several problems in relation to the readmission of asylum seekers whose requests for refugee status have been turned down. There are often difficulties in having people readmitted by their country of origin. Similar problems arise with the readmission of illegals. Some third countries, among which China and India were mentioned, often prove reluctant to assist in readmission procedures.

The EU is faced with similar problems and tries to cope by developing “political packages” in order to ensure loyal support by the countries of origin. The EU side stressed that Eurodac had already proven useful in countering the temptation of asylum shopping. The EU noted further that certain developments with, *inter alia*, Chechens may require more frequent use of Airport Transit Visa than is currently the case. Moreover, the EU suggested that common work be undertaken to map the extent of the problem with regard to non-readmissions. This would allow the EU and the US to focus more on several countries of concern and possibly to launch twinning programmes together.

Finally, the EU described the process of visa liberalisation with regard to the Western Balkan countries, both in the format of the existing visa facilitation and as a visa dialogue aiming at envisaging a visa-free regime as a long-term prospect.

2. Data Protection and Information Exchange: High Level Contact Group

The EU side reported on the discussion within the Council on data protection principles with the United States. There is a common will to continue working on the principles, to identify options for future work and to report on any outstanding issues. That reporting could take place prior to the EU-US Summit in June 2008.

The US encouraged experts to speed up their work with a view to reaching, possibly before the Summit, an understanding which would allow both sides to declare themselves mutually in compliance with adequate and sufficient requirements.

3. EU-US Mutual Legal Assistance and Extradition Agreements: status and next steps

Both sides reviewed the ratification status of the two Agreements in the EU, three member states still have to go through a constitutional procedure with regard to the EU-US agreements, eight member states still need to finalise the constitutional procedures with regard to bilateral instruments. In the United States, the hearing in the Senate is now planned for May.

All delegations welcomed the suggestion that Eurojust organise a seminar to familiarise practitioners with the new possibilities offered by the two Agreements, in particular the Mutual Legal Assistance Agreement. That seminar could take place ahead of the remaining ratifications.

4. Law enforcement cooperation in the Western Balkans including SECI centre and south-eastern European organised crime threat assessment

The EU has made the fight against organised crime in the Western Balkans one of its priorities. It has undertaken numerous efforts to enhance cooperation with law enforcement agencies, to foster regional cooperation and, in more general terms, to create trust towards and among the Western Balkan states. The prospect of EU membership is an important tool, as are various instruments such as the SECI Centre and the Vienna 2006 Police Cooperation Convention. With regard to the SECI Centre, contacts between the EU and the US Mission in Brussels have led to the suggestion of a two-step approach for data protection systems at SELEC:

- common standards for general SECI data protection rules (e.g. those applying with regard to joint actions) ensuring adequate protection of data and allowing for the necessary cooperation in joint police actions whilst ensuring the protection of fundamental rights and freedoms of individuals;
- for aspects of information sharing with Europol, more ambitious data protection rules which would meet the requirements set by Europol for cooperation and information exchange.

The EU also presented its work on SEE OCTA aiming at identifying common priorities in the fight against organised crime in the region. This regional threat assessment would be based on the same methodology that is used for Organised Crime Threat Assessment (OCTA) prepared by Europol in cooperation with the Member States. The SECI centre would be an important contributor to this report.

In the context of the extraordinary session of the Joint Cooperative Committee meeting of SECI which will discuss the future of that body, the US supported the EU scheme of creating a two-fold level of data protection according to the intended use of the data.

The US also supported the joint review with the EU of projects and programmes running in the Western Balkan area, with a view to avoiding duplication of effort.

5. Preventing terrorist recruitment and radicalisation
6. CBRN (chemical, biological, radiological and nuclear) risk reduction

Items 5 and 6 were addressed in the informal part of the meeting.

On radicalisation and recruitment, both sides described the various efforts they make to prevent terrorist recruitment and radicalisation. Both sides agreed to enhance their current level of cooperation on these issues by giving the exchange of experience and best practices in this context a permanent character.

On CBRN risk reduction, the importance of cooperating in an open and frank manner was highlighted. The proposal by the Commission to the US to join in an exercise would be submitted for consideration to the FBI. The Counter-terrorism coordinator suggested carrying out a joint analysis, which would serve as a useful contribution to the future Communication of the Commission.

The US welcomed these initiatives and proposed an exchange of CBRN protection plans. Under this item, Europol also mentioned the persistent problem of exchange of classified information with US agencies and offered several solutions to solve this problem.

7. Presentation by France on their future EU Council Presidency

The incoming French Presidency highlighted its priorities in the field of Justice and Home Affairs, *inter alia* on judicial cooperation and on migration (both legal and illegal). France would suggest that the next EU-US Ministerial takes place in December, preceded by a high level meeting of senior officials in July.

List of participants

EU PRESIDENCY

Ministry of Justice

Lovro Šturm	Minister of Justice
Robert Marolt	State Secretary
Janko Koren	Chief of Staff
Katja Rejec Longar	Director General of the Directorate for International Cooperation and International Legal Assistance
Miha Movrin	EU Affairs Spokesman
Luka Kremžar	Advisor of the Minister
Helena Jaklitch	Minister's Office

Ministry of Interior

Dragutin Mate	Minister of the Interior
David Brozina	Diplomatic Adviser to the Minister
Helena Jagodic	Secretary, Head of International Cooperation Office
Nina Gregori	Secretary, Head of SCIFA
Anton Travner	Senior Police Superintendent, Head of CATS
Andrej Grošelj	Head of Unit, JHA Counsellor
Suzana Ivanovic	JHA Counsellor
Jana Kulevska	JHA External Relations Counsellor
Drago Menegalija	Presidency Spokesman of Ministry of the Interior
Ana Kosor Volk	Senior Adviser

Ministry of Foreign Affairs of the Republic of Slovenia

Roman Kirn	Ambassador - Head of Division for North and Latin America and the Caribbean
Barbara Sušnik	Minister plenipotentiary

EUROPEAN COMMISSION

Franco Frattini	Vice President of the European Commission and Commissioner responsible for Justice, Freedom and Sec.
Jonathan Faull	Director-General Justice, Freedom and Security
Heike Buss	Deputy Head of Unit "External Relations and Enlargement"
Carlo Presenti	Head of Cabinet of Vice President Franco Frattini
Friso Roscam Abbing	Spokesperson of Vice President Frattini
Andrej Beloglavec	Deputy Head of Representation
Frank Paul	Head of Unit
Tina Voncina	Press Officer

GENERAL SECRETARIAT OF THE COUNCIL OF THE EU

Ivan Bizjak	Director General
Bent Mejbom	Head of Unit
Wouter van de Rijt	Principal Administrator
Jesus Carmona	Principal Administrator

EU Counter-terrorism Coordinator

Gilles de Kerchove	EU Counter-terrorism Coordinator
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FRANCE

Ministry of immigration, integration, national identity and codevelopment

Brice Hortefeux	Minister of immigration, integration, national identity and codevelopment
Corinne Breuzé	Diplomatic Counsellor

Ministère de l'Interieur - Mission de la Présidence Française de l'Union Européenne, Paris

Nicolas Quillet	Préfet, Chef de la Mission de la Présidence Française de l'Union Européenne
Michel Ipas	Conseiller
Muriel Sylvan	Conseillère
Fabien Barthez	Attaché de sécurité intérieure

Ministère de la Justice - Service des affaires européennes et internationales

Emmanuel Barbe	Director of European and international affairs
Xavier Giguet	French Embassy attaché
Daniel Lecrubier	Head Counsellor JHA
Philippe Rio	Counsellor
Laurent Pic	Secrétaire général adjoint au SGAE
Chantal de Bourmont	Ambassador of France

FRONTEX

Ilkka Laitinen	Executive director
Richard Ares	Strategic Development Officer
Baumgartner	

EUROJUST

Jose Luis Lopes da Mota	President of the College of Eurojust
Malci Gabrijelcic	National Member for Slovenia

EUROPOL

Max-Peter Ratzel	Director
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DELEGATION OF THE UNITED STATES OF AMERICA

United States Department of Justice

Michael Mukasey	Attorney General of the United States
Mary Lee Warren	Senior Counsel for the U.S. Mission to the European Union
Matthew Friedrich	Deputy Chief of Staff, Office of the Attorney General
Bruce Swartz	Deputy Assistant Attorney General, Criminal Division
Brian Roehrkasse	Director, Office of Public Affairs
Lindsay Sweetin	Director of Scheduling and Advance, Office of the Attorney General
Michael Beck	Special Assistant to the Attorney General
Alice Fisher	Assistant Attorney General, Criminal Division
Kenneth Mortensen	Acting Chief privacy an civil liberties officer4
Brett Gerry	Chief of Staff
Thomas Burrows	Associate Director, Office of International Affairs
Kenneth Wainstein	Assistant Attorney General, National Security Division

United States Department of Homeland Security

Michael Chertoff	Secretary of Homeland Security
Stewart Baker	Assistant Secretary for Policy
Andy Blomme	Military Aide to the Secretary
Caroline Dierker	Advance Representative
Ed Fox	Assistant Secretary for Public Affairs
Adam Isles	Deputy Chief of Staff
Arthur Lutz	Executive Telecommunication Team
Paul Rosenzweig	Deputy Assistant Secretary for Policy
Mark Koumans	Director of European Affairs
Jackie Bednarz	Department of Homeland Security Attaché to the U.S. Mission to the EU
John Siu	Executive Telecommunications Team

American Embassy in Slovenia

Maryruth Coleman	Charge d'Affaires - Head of Delegation
Grace Shelton	Acting Deputy Chief of Mission
Paul Schultz	Consul
Christine Rosenquist	Assistant Attaché

Common Press statement of EU and US representatives meeting in Brdo on 13 March 2008

EU and US representatives agreed to pursue discussion on visa waiver issues on the following basis:

Common goal

Their common goal is to achieve secure visa-free travel, in full compliance with applicable laws, between the Member States of the EU and the USA as soon as possible.

Twin Track approach

In the process of concluding Memoranda of Understanding and implementing arrangements concerning the Visa Waiver Programme, it was agreed to follow a twin track approach.

Those matters that fall within national responsibilities will be discussed with national authorities while those that fall within EU responsibility will be discussed with EU authorities.

Electronic system for travel authorisation (ESTA)

USA will share further details with the EU on ESTA implementation. These discussions are to be completed by June 2008. ESTA will be applied consistently to all EU Member States and will be coordinated with the EU's future system.