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Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.

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**NOTE**

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From : General Secretariat of the Council  
To : Delegations  
Subject : Summary of the EU-US Ministerial Meeting, 13-14 June 2013, Dublin

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**1. Opening Statements**

The EU side referred to the high degree of concern in the EU over media reports of US surveillance systems. Transparency on these matters was important and this question needed to be discussed in depth (see item 4 of the agenda), beside all other important items on the agenda.

The US highlighted a recent major address by President Obama in which he stressed the importance of cooperation with third countries in combating terrorism. The US President had also renewed his pledge to close Guantanamo.

**2. Dialogue on Victims' Right**

A separate event was held at the end of the Ministerial meeting with victim support groups from civil society. That event was preceded by a discussion on the tools available on both sides.

The EU mentioned the Directive adopted in October 2012 on the rights, support and protection of victims of crime. The Directive which, when implemented, will provide a Europe-wide protection framework, includes provisions on medical and psychological assistance and on the role of witnesses.

The US detailed the measures it had adopted, starting with the Victims of Crime Act of 1984 and the Attorney General's guidelines of 1985. A comprehensive set of measures was in place, ensuring that victims would receive information on a criminal's arrest, sentencing, parole and release. Rules were established on prohibiting contacts and harassment of victims. A substantial fund was available for shelters, hospitals, transportation, medical support, longer-term treatment, funerals and support by federal staff. All these expenses were financed by seizures of criminal assets. Specific legislation was also in place, such as the Violence Against Women Act of 1994 (VAWA). Nowadays, one should consider more complex structures of crime, such as those involving more than one perpetrator or than one victim. In the case of trafficking in human beings, a policy on victims should also address the immigration aspects, to ensure that victims can stay and work while the crime is being investigated.

The US gladly accepted the EU's invitation to attend an experts' meeting later this year in Brussels to exchange best practices in this area.

### **3. Mobility, Borders and Migration issues**

- Visa waiver programme, Electronic System for Travel Authorisation ESTA, reciprocity

The EU reiterated its concerns over the four Member States that are still not part of the Visa Waiver Programme. It was following with great interest the legislative proposals under discussion in Congress and Senate, which might lead to more flexibility on the US side. The EU also stated that the European Parliament remained critical of non-reciprocity. Discussions are ongoing in co-decision about the degree of automaticity that would be triggered in cases of non-reciprocity. That discussion was not directed at one or another country; it was country-neutral.

The US recalled that decisions to allow a country to join the Visa Waiver Programme were made on a country-by-country basis. Recently, Taiwan had met the criteria and joined. The legislation under consideration is supported by President Obama. If certain new criteria were introduced, it would probably increase the number of countries enjoying visa-free entry to Poland. The US were concerned that EU automaticity in visa reciprocity would affect tourism and businesses.

On the final ESTA rules, the US said it had no news to report, adding that the rules were under review and that there was no target date for their adoption.

- US Immigration reform and recent EU developments

The EU briefed the US on recent developments and proposals, including the Common European Asylum System, the smart-borders proposals, intra-corporate transferees, students and researchers as well as Eurosur.

The US informed partners of the far-reaching proposal to reform immigration legislation, which could affect an estimated 11 million irregular migrants. The proposal had bipartisan support. The full path from registration to citizenship would take applicants up to 13 years, assuming they were not convicted of a crime. The immigration reform might also address students, who would be encouraged to stay on after completing their studies. The possibility of moving towards an entry-exit system remained an issue of concern for the US because the necessary infrastructure and technology would be so expensive.

- High Level Dialogue on Migration and Development, (New York, October 2013)

The EU mentioned the recent Commission Communication "Maximising the Development Impact of Migration" and said it hoped that the High Level Dialogue would deliver on immigration, mobility, trafficking in human beings, visa, asylum etc. However, it feared that there was not sufficient agreement at this moment for any substantive outcome from dialogue.

The US expressed similar concerns, in particular that the UN was focusing too much on governance of migration issues rather than on content. Therefore, coordination with the EU on values and perspectives, rather than on processes, continued to be much needed.

- New avenues for cooperation in the area of mobility and migration ((*Registered Traveller Programme* v Global Entry, possible seminar on Syria under the EU-US Platform on Migration, Transatlantic Trade and Investment Partnership (TTIP) v Transatlantic mobility)

The US suggested that the EU-US Platform could discuss the Trusted Travellers programmes and the like since trial runs in the United States with Netherlands, German, British and Belgian citizens had proved encouraging. The Platform could review the application process for these programmes, as well as their privacy aspects, the technology used etc.

The EU said it would welcome such discussions which it thought would be particularly useful in the context of facilitating trade, promoting growth and creating jobs. One long-term objective could be to promote world-wide standards and schemes.

The US wondered whether these issues should be discussed in ICAO, prompting the EU to suggest that mutual recognition between the EU and the US should also be considered.

Finally, the Platform could also address the issue of refugees from Syria. However, the situation in the region was constantly changing and UNHCR could convene a conference at short notice.

#### **4. Data Protection**

The meeting assessed the state of play with regard to the negotiations on a data protection umbrella agreement and the ongoing work in the EU on a new set of instruments (Data Protection Regulation and Directive). Discussions also turned to the recent media reports on data gathering by the US government through its PRISM programme and the Verizon case, which had caused substantial concern in the EU.

Clarifications had been sought on a number of questions relating to these surveillance programmes. The EU has asked the US about the extent of surveillance, respect for the privacy rights of EU citizens, their rights to remedies on an equal footing with US citizens and the review mechanisms. While acknowledging the need to safeguard national security, the EU stressed the need for a balanced and proportionate approach, calling for transparency and respect for privacy.

The US considered several press disclosures to be inaccurate and/or damaging. It stated that the surveillance programmes are meant to protect citizens and states (including allies like the EU) from terrorist attacks and cybercrime. Looking in more detail at the two programmes, the US side stated that the Verizon programme dealt only with data located in the United States, or data used in communications to and from the United States, and involved registering the length of calls, and the call recipients but not the content. This information could then be used to search for connections with terrorist acts, as had happened recently in the aftermath of the Boston bombings. In these cases, the search and analysis would target individuals. They said there was no global sweep of these data, adding that investigations are based on an independent judicial order under the Foreign Intelligence Surveillance Act. The US stated that this programme was in a way comparable to a system of data retention. Court orders were reviewed every 90 days and were anyway subject to Federal and Congressional review.

In the case of PRISM, the programme was about intelligence and the US wondered if the EU Member States didn't have similar working methods. The programme addresses data located in the US and which are linked to interests outside the US. The programme was not especially targeting individuals, but rather organisations with a connection to terrorism, cybercrime or organised crime. This programme too was under Federal and Congressional review. Remedies such as the right to access or delete personal data were not applicable in cases of Intelligence under the same conditions as in law enforcement; this is not different compared to the way Member States too exclude intelligence from ordinary data protection rules. In order to explain the state of play, the US offered to set up a transatlantic dialogue between intelligence and data protection experts, in light of intelligence activities on both sides.

The US did not want to give an answer to the EU request to give (by way of indication) figures on the amount of data concerned. US legislation prohibits publication of such statistics.

On the Data protection umbrella agreement, note was taken of the progress in the negotiations, despite the fact that the most difficult issues, such as the EU's wish to grant equal rights (of redress) to EU and US citizens, were still outstanding.

The EU also reported on progress in the data protection package in the Council. The US reiterated its concerns about the Directive.

## **5. Judgement Project – Hague Convention**

The EU recalled the importance of this project that has the potential to facilitate transactions at a time when transatlantic free trade in general is being promoted. The EU is in favour of widening the Judgement project to include not only recognition and enforcement but also jurisdiction. Otherwise, the risk of duplications, and possibly of contradictions, remains. Major third countries, such as Australia, Brazil, China and Russia share the EU's point of view.

The US, however, is not in favour of this approach. It takes the view that if the project's scope were narrower, it would be more likely to succeed.

## 6. Counter-terrorism and security

- Countering violent extremism (CVE): an update on initiatives
- Foreign fighters
- Explosives security

The EU referred to the issues of foreign fighters, radicalisation and recruitment, as well as recent attacks in several places, stressing the importance of information gathering and sharing.

The EU expressed support for President Obama's renewed commitment to close the Guantanamo detention centre and called for a return to the path of criminal investigations. A Commission Communication outlining specific measures to counter radicalisation and violent extremism was announced. The EU Strategy for Combating Radicalisation and Recruitment to Terrorism would also be updated.

The US praised the enhanced cooperation with Europol, which had led to joint (classified) studies and was looking forward to more analytical collaboration on CVE, training, travelling, the role of Internet, the role of communities etc. The US would attend the strategic and tactical conference on terrorism organised by Eurojust later in June. In relation to the objective of closing Guantanamo and the future of inmates who cannot return to their countries of origin, a high-ranking official would be appointed by the White House to seek cooperation from other countries.

The EU and the US agreed to continue their cooperation on combating explosives. Within the EU and on a transatlantic basis, experts exchange best practices. The US invited EU experts to a seminar to be held in November 2013 in Washington DC.

## 7. Cooperation in criminal matters - MLA follow-up on October 2012 seminar

The US expressed its satisfaction at the increased use of agreements for successful mutual legal assistance in various cases. It was noted that there had been an increase in the number of extraditions, some of which had been requested by email. The US regretted a recent case in which a Member State had refused the extradition of a Russian citizen despite the existence of substantial evidence against him.

The EU emphasised that the MLA agreements had proven to be the right tool for transatlantic assistance and should be promoted as a standard. The workshop conducted last autumn by Eurojust was considered to have made a positive contribution to enhanced cooperation among practitioners.

Eurojust indicated that it was ready to organise a follow-up seminar in the second half of 2013.

## 8. Cybersecurity/Cybercrime

- Update on EU Cyber strategy and US legislation (state of play, similarities)
- Future priorities of the EU-US Working Group on Cybersecurity and Cybercrime
- Global Alliance follow-up

The EU informed the meeting of its own activities in this field, referring to the Cybersecurity Strategy and the recent Council conclusions. It also praised the work conducted in the EU-US working group. As far as global activities are concerned, the EU reiterated its support for the Budapest Convention as the global standard, while highlighting the role of the Global Alliance against child pornography. On the latter, the EU called for the US to help promote the Global Alliance to more countries and looked forward to the next Global Alliance conference to be hosted by the United States.

The US recalled the Executive Order on Improving Critical Infrastructure Cybersecurity, the purpose of which is to develop a technology-neutral voluntary cybersecurity framework in cooperation with the private sector. The US mentioned recent attacks on financial services, the investigations of which had identified several IP addresses. The US reiterated its call for all EU Member States to ratify the Budapest Convention.

Europol highlighted the priorities it had defined for its EC3 centre, which include child abuse and botnets, adding that operational cooperation with officers from ICE, the Secret Service and the FBI had already started.

## 9. The JHA priorities of the Lithuanian Presidency

The Lithuanian delegation outlined its general objectives and methods for the Presidency. It said it would be hosting an EU-US Senior Officials meeting in Vilnius at the end of July and that preparations for the next US-EU Ministerial meeting in Washington in autumn would begin shortly.



- Home Affairs

The Lithuanian delegation listed several objectives in relation to Home Affairs, including seasonal employment, intra-corporate transfers, students, smart borders and Frontex operations. It also mentioned activities related to counter-terrorism and organised crime, the contribution of law enforcement agencies, cybercrime and cybersecurity as well as EU-PNR.

- Justice

In the Justice field, Lithuania highlighted the civil law projects to promote justice for growth, by means including sales law. It also made special mention of the account preservation order, the insolvency Regulation and the data protection package and referred to the protection of the EU's financial interests, Euro counterfeiting and the European Investigation Order.

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