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U.S. Measures Implementing the 2004 U.S.-EU Declaration on Combating Terrorism

Bureau of European and Eurasian Affairs
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The June 2004 U.S.-EU Summit Declaration on Combating Terrorism renewed the Transatlantic commitment to cooperate closely and continue to work together to develop measures to maximize capacities to detect, investigate and prosecute terrorists and prevent terrorist attacks, prevent access by terrorists to financial and other economic resources, enhance information sharing and cooperation among law enforcement agencies, and improve the effectiveness of their border information systems. The following statement is keyed to the points of the Declaration:

1. We will work together to deepen the international consensus and enhance international efforts to combat terrorism.

The U.S. has worked with EU Member States to improve UN counterterrorism measures through: UN Security Council Resolution 1526 strengthening sanctions against al-Qaida and the Taliban; UNSCR 1535 establishing the Counterterrorism Executive Directorate to improve implementation of UNSCR 1373; UNSCR 1540, requiring states to take steps to prevent proliferation of weapons of mass destruction; UNSCR 1566 reaffirming that there is no justification for terrorist acts; and in the General Assembly's 6th Committee negotiations on the Nuclear Terrorism Convention, which opens for signature in September 2005. The U.S. provided funding to the Terrorism Prevention Branch (TPB) of the UN Office on Drugs and Crime (UNODC) in fiscal year 2004, and will continue contributing to TPB in fiscal 2005. The TPB has helped provide legislative drafting assistance to almost 100 countries, helping over 600 law-makers, law enforcement and other officials learn about the requirements of UNSCR 1373.

The U.S. and the European Commission have worked together in the Counterterrorism Action Group (CTAG) to facilitate universal adherence to the international counterterrorism conventions and protocols by encouraging nearly 100 countries to approve UN instruments and to meet their counterterrorism obligations under UNSCR 1373 and other UN resolutions. The U.S. and EU have also collaborated on related work in the G8 and FATF.

2. We reaffirm our total commitment to prevent access by terrorists to financial and other economic resources.

The U.S. regards itself as in full compliance with the FATF Special Recommendations on Terrorist Financing (SRs), including SR IX which took effect in October 2004. SR IX calls on countries to set cross-border currency reporting requirements and confiscate funds transported in violation of such requirements, including funds related to terrorist financing and money laundering. To implement SR IX, U.S. authorities developed a list of 'red flag' indicators to aid border control authorities in detecting cash couriers, and will provide training on using the list through bilateral and multilateral workshops. The U.S. will undergo a FATF mutual evaluation at the end of 2005.

Presidential Executive Order 13224 (E.O. 13224) issued September 23, 2001, and actions taken under its authority, fulfill U.S. obligations to establish financial sanctions against terrorists, terrorist organizations, and terrorist supporters in accordance with UNSCR 1373 and the UNSCRs related to 1267. In the year since the 2004 Declaration, the United States made 20 new designations, bringing the U.S. total to 404 (172 individuals, 232 entities), of which 301 were also designated by the UN 1267 committee.

The U.S. designated four charities in the past year because of their support for terrorist activity. This brings the number of charities designated to forty-one as of June 18, 2005. Additionally, in the past year, the U.S. blocked the assets of a charity operating in the U.S. as a branch of an international charity, convicted the leader of a U.S.-based charity for terrorist financing-related offenses, and investigated other charities suspected of terrorist financing activity. The U.S. Treasury is engaged in an ongoing dialogue with the charitable sector, including charity watchdog groups, to promote use of Treasury guidelines to prevent the threat of terrorist abuse of non-profits.

The U.S. maintains a list of entities registered as Money Services Businesses (MSBs) pursuant to U.S. Bank Secrecy Act (BSA) rules. This list is updated periodically, and contains data on 23,481 registered MSBs as of April 15, 2005.

Over the past year, the U.S. participated in FATF's on-going discussions on implementation of Special Recommendation VII on wire transfers. The U.S. has required the inclusion of wire transfer originator information on electronic funds transfers in the amount of \$3,000 or more since 1996, and U.S. financial institutions are subject by regulation to certain record keeping requirements with respect to these transfers.

The U.S. endeavors to develop comprehensive identifications in connection with designation of terrorist entities to guard against attempts by designated groups to rename themselves or hide behind front organizations. The U.S. Financial Crimes Enforcement Network (FinCEN) has worked this year to further develop contacts with other FIUs to obtain additional information on specific groups and establish investigative links.

The U.S. believes private/public partnership is a key to successful implementation of national regimes to combat terrorist finance and money laundering. In the past year the U.S. and private sector partners have worked with banking associations and authorities in Tanzania and Mexico, and with the Federation of Latin American Banking Associations (FELABAN) on out reach programs to raise awareness of illicit activities and increase local expertise to address them. These activities are part of a global outreach to engage financial institutions throughout the world in "bank-to-bank" programs and training.

U.S. law contains a safe harbor provision that protects financial institutions, their directors, officers, employees, or agents from liability under U.S. federal, state or local laws or regulations, any contract or other legally enforceable

agreement (including arbitration agreement), for making a voluntary disclosure of a possible Bank Secrecy Act violation to a government agency or for failure to provide notice of disclosure to the person who is the subject of the disclosure or any person identified in the disclosure.

Once the U.S. has blocked funds belonging to a designated terrorist, the U.S. Treasury's Office of Foreign Assets Control (OFAC) has an ongoing process using blocked transaction reports for enforcement follow up. These reports may be shared within the U.S. Government, including law enforcement agencies. When additional information is needed or criminal violations appear to have occurred, OFAC may refer the case to law enforcement agencies for further investigation.

The EU and U.S. established a regular dialogue on terrorism finance in September 2004. The dialogue is coordinated through an informal U.S.-EU Troika, which met most recently in May 2005, and provides a forum for review of current issues as well as a framework for cooperation involving judicial, investigatory, designation, and technical assistance issues. The Troika will meet during each EU Presidency to assess progress and provide guidance to informal expert-level groupings of judicial, technical assistance and designation professionals. Key activities since December 2004 included two joint workshops on judicial and designation issues and a joint technical assistance mission to Tanzania. The EU welcomed the participation of U.S. representatives in an EU seminar on terrorism finance with the Gulf Cooperation Council.

3. We commit to working together to develop measures to maximize our capacities to detect, investigate, and prosecute terrorists and prevent terrorist attacks.

U.S.-EU efforts to enhance cyber security include providing technical assistance for drafting improved substantive and procedural cyber crime laws, promoting the G8 Critical Information Infrastructure Principles and G8 24/7 Computer Crime Network, building support for the Cybercrime Convention of the Council of Europe, and providing law enforcement officials with capacity-building training on investigations involving computer and electronic evidence.

The U.S. has proposed a conference with the EU and its Member States to encourage enactment of legislation to enable courts to receive intelligence information in criminal cases consistent with the need to protect sources and methods as well as the rights of the defendant. The U.S. has also coordinated with the EU on related work in the G8.

U.S. laws require internet service providers to preserve, upon request, specified log files, electronic mail, and other records for a limited period of time, and to disseminate that information upon court order or through statutory processes to investigators and prosecutors for use in criminal and/or terrorist cases.

U.S. efforts are underway to build a witness security program in the Balkans that could also assist in dealing with terrorism.

In March 2005, the U.S. and Europol reviewed the U.S.-Europol agreement and issued a report finding that their provisions, including those relating to personal data, were working well. The volume of information shared has continued to increase. The U.S. is working to gain access to Europol's analytical case files, and is optimistic that the Europol Convention will soon be amended to allow this. We are addressing issues related to the process for making inquiries of particular agencies on a case-by-case basis, and are looking for ways to make this cooperation more valuable from an operational perspective.

The U.S. has begun discussions with Eurojust on a formal arrangement to govern its interaction with U.S. law enforcement authorities. U.S. Counterterrorism Prosecutors met with Eurojust in March 2005, to share information on active terrorism cases of mutual interest. In the meantime, the U.S. will look for ways to work cooperatively with Eurojust on investigations, cases and issues of mutual concern, such as "recruitment" "pensions for families of suicide bombers," and other areas in which this new institution can provide value added to CT efforts.

In the past year, the U.S. has completed negotiations on bilateral instruments to implement the U.S.-EU Agreements on extradition and Mutual Legal Assistance (MLA) with nearly all of the original fifteen EU member states, and has made substantial progress towards completion with the ten new member states as well. The U.S. and the Luxembourg and UK Presidencies are committed to the completion of the protocol process during 2005 so that procedures to bring the U.S.-EU Agreements into force can proceed.

Approximately 60 U.S. Government (USG) law enforcement and criminal justice officials participated in a confidence-building seminar hosted by the EU April 6-8, 2005. The seminar familiarized U.S. practitioners and policy-makers with the nature of EU judicial cooperation mechanisms and how this cooperation impacts Member States as well as third party countries such as the U.S. This is a joint program designed to educate officials on both sides of the Atlantic to each other's law enforcement and judicial systems, and a reciprocal follow-up seminar is scheduled for EU officials to learn about U.S. systems in fall 2005. The U.S. is also working to build relationships with EU Chiefs of Police, the new Police College Center (UK), and with OLAF, the EU's anti-corruption arm.

The U.S. has worked with the EU on methods for sharing sensitive information, including how the new EU-wide index of non-EU criminals will facilitate further cooperation, either through Europol or bilaterally. U.S. Counterterrorism International Initiative Prosecutors will develop ways to work cooperatively with EU counterparts on investigations, cases and issues of mutual concern. The U.S. will establish liaison with the new EU border agency in Warsaw.

4. We will seek to further protect the security of international transport and ensure effective systems of border control.

The U.S.-EU Policy Dialogue on Border and Transport Security (PDBTS) has met three times including its inaugural session in April 2004. EU Troika and counterparts from the U.S. Departments of Homeland Security, State and Justice have discussed biometrics, border and visa issues, the joint initiative on lost and stolen passports, "flights of concern", cargo security, air marshals, cooperative efforts in research and development, use of advance passenger data, data protection, and other travel and trade security issues. The PDBTS has been a useful forum for information exchange, identifying potential problems and areas for further cooperation, and assigning follow-up tasks. It will continue to meet once per EU presidency and also on an ad hoc basis if circumstances warrant.

The number of ports participating in the Container Security Initiative (CSI) continued to grow over the past year, and now includes 20 EU ports in 9 countries accounting for over 80% of U.S.-bound containers from the EU. Following the April 2004 signing of the U.S.-EU Customs Cooperation Agreement, expert working groups were established to focus on security standards and customs-trade partnerships. The groups developed ten recommendations that were endorsed by the Joint Customs Cooperation Council (JCCC) in November 2004. The U.S. and EU Member States are implementing these recommendations on a bilateral-level, and the U.S. is coordinating with the EU to promote the recommendations internationally by securing adoption of the World Customs Organization (WCO) Framework

of Standards to Secure and Facilitate Global Trade. If adopted at the June 2005 WCO Council, the Framework will become the primary international guidance for secure, facilitative supply chains.

The U.S. and the European Commission have worked together to develop a port security information exchange program. This program will include technical visits by EC teams to U.S. ports and U.S. teams to European ports. The first such visit will begin July 5, 2005 with an EC delegation visiting Washington D.C. and New York. The U.S. plans to visit each maritime member of the EU within the next two years. The U.S. and European Commission are also partnering to coordinate port security capacity building efforts in developing regions, especially Africa, in conjunction with efforts of the Lyon/Roma group of the G8.

The U.S.-EU Transport Security Cooperation Group (TSCG) met twice in the past year to discuss transportation security issues including legislative developments, the EU Inspection Program, U.S. Foreign Repair Station Inspections, the addition of lighters to the U.S. Prohibited Items List, and EC Third Country Requirements and Mutual Recognition. Rail security was added to the agenda for the first time. The U.S. and EU established a working group to look at improving air cargo security by better aligning air cargo security requirements on both sides of the Atlantic. The goal of the working group is to achieve mutual recognition of our respective Known Shipper System and Indirect Air Carrier (Regulated Agent) participants. Additionally, the group is evaluating cooperation on inspector training and regulatory inspection methods.

In July 2004, the U.S. and the European Commission concluded an agreement for the legal transfer of EU-origin PNR data to U.S. Customs and Border Protection. As a result of this agreement, U.S. authorities are implementing an extensive set of "Undertakings" agreed by the U.S. and Commission, including issuing Privacy Notices, filtering "sensitive data," and conducting an internal implementation review. The U.S. and EU will hold the first Joint Review to examine implementation of the Agreement and Undertakings in 2005. The U.S. has also been involved in discussions in international fora such as ICAO and the G8 on use of PNR data for passenger security.

The U.S. expects to begin issuing chip-enabled biometric passports to the American public by the end of 2005. The U.S. has played a leading role in the ICAO Technical Advisory Group on Machine Readable Travel Documents, and has been a prime mover in developing guidelines and standards to assure global interoperability of this technology. The U.S. has worked to educate and encourage other governments about the benefits of biometrics.

The U.S. delivered to Interpol, a CD containing the passport numbers of approximately 306,000 U.S. passports reported lost and stolen. The data is electronically updated on a daily basis and, as of May 2005, we have provided over 590,000 records. The next step is to make access to Interpol data more easily available to officials handling passports at ports of entry and consulates. The U.S. has been working on an automated Business to Business (B2B) process as a first step toward this goal, and will test possible solutions in 2005.

The U.S. provided a proposal to the EU to develop a system of reciprocal foreign visa lookout information exchange to ensure interoperability of travel document, visa lookout information sharing and border control databases (SIS and VIS).

5. We will work together to develop further our capabilities to deal with the consequences of a terrorist attack.

The U.S. has supported discussions between NATO and the EU on four crisis management items: non-binding guidelines and minimum standards for protection of civilian populations against chemical/biological/radiological/nuclear

risks; a framework agreement on the facilitation of vital cross border transport; creation of a common data base of national points of contact; and cross participation as observers in consequence management exercises.

We are proposing to engage the EU in an information exchange on characteristics and common vulnerabilities of critical infrastructure, risk analysis techniques, and risk reduction strategies.

In December 2004, the U.S. adopted the National Response Plan, including an emergency public communications protocol for coordinating Federal planning and resources during incidents of national significance. The U.S. tested the Plan during large-scale homeland security exercises in April, 2005.

The U.S. has supplied bilateral assistance as requested in investigating terrorist incidents.

6. We will work in close cooperation to diminish the underlying conditions that terrorists can seize to recruit and exploit to their advantage. By promoting democracy, development, good governance, justice, increased trade, and freedom, we can help end dictatorship and extremism that bring millions of people to misery and bring danger to our own people.

The U.S. provided \$500,000 in fiscal year 2004 to the UN Office of Drug Control to promote acceptance and implementation of the UN Convention against Corruption (UNCAC). We have an ongoing dialogue with the EU on terrorist recruitment and related issues in our biannual meetings with the Committee on Terrorism (COTER) troika.

7. We will target our external relations actions towards priority Third Countries where counter-terrorist capacity or commitment to combating terrorism needs to be enhanced.

The U.S. has pushed the G8 Counterterrorism Action Group (CTAG) to support the UN Counterterrorism Committee's efforts to oversee implementation of UNSCR 1373 by developing into an active forum for donors to coordinate counterterrorism cooperation and assistance with third countries.

The United States and the European Commission have worked with the UN CTC and donor states in the G8 Counter-Terrorist Action Group (CTAG) to coordinate diplomatic, donor cooperation, and donor assistance efforts, in order to: promote adherence to the international counterterrorism conventions; help countries comply with the FATF special recommendations on terrorist financing; coordinate assistance for improved airport security in the Western Balkans; and promoted global implementation of travel security standards developed by the G8 and promulgated to international bodies such as the ICAO and IMO. CTAG has also promoted efforts to improve document security in conformity with ICAO standards. U.S. assistance has included \$ 2.2 million for programs managed by the International Organization for Migration in East Africa and \$400,000 for assessments in the Caribbean region.

The UN Global Programme Against Money Laundering (GPML) is currently using U.S. funding to support a full-time mentor for the Eastern and Southern Africa Financial Action Task Force-style regional body, and will provide another mentor to assist Uganda, Eritrea, and Ethiopia in developing national capacities to counter money laundering and terrorist financing. In fiscal year 2004, the U.S. provided \$2,900,000 for the GPML and will continue to provide support in 2005.



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