

OVERVIEW OF SECURITY ISSUES IN EUROPE AND EURASIA

HEARING BEFORE THE SUBCOMMITTEE ON EUROPE AND EURASIA OF THE COMMITTEE ON FOREIGN AFFAIRS HOUSE OF REPRESENTATIVES ONE HUNDRED TWELFTH CONGRESS FIRST SESSION

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MAY 5, 2011
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OVERVIEW OF SECURITY ISSUES IN EUROPE AND EURASIA

THURSDAY, MAY 5, 2011

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON EUROPE AND EURASIA,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:30 p.m., in room 2200, Rayburn House Office Building, Hon. Dan Burton (chairman of the subcommittee) presiding.

Mr. BURTON. First of all, welcome to everybody. We are going to be starting here pretty close to on time. I think some of my Democrat colleagues found out that we were getting out early today, and I think they have all hit the airports. So I hope they show up, and we may have a few more of my Republican colleagues be here.

The purpose of today's hearing is to provide subcommittee members with a broad overview of security issues in Europe and Eurasia. Terrorism remains the biggest threat to the collective security of the transatlantic community. As a result, the goal of this hearing is to assess the status of cooperation between the United States and the countries and organizations within the jurisdiction of this subcommittee in regards to counterterrorism.

Last Sunday night, the world learned that an elite American unit had killed Osama bin Laden. This is a strategic victory for the United States, our European allies, and the rest of the free world. I would like to personally congratulate the Bush and Obama administrations, including the witnesses here before us, today, as well as the intelligence community, our diplomats and law enforcement; but most importantly, I would like to thank all of our men and women in uniform, especially those in the Unit 6 that did such a great job under great stress.

Great risk and relentless resolve on their part produced this great victory.

The events of last Sunday inevitably remind us of the tragedy of September the 11th, 2001. Those we lost that day remain in our hearts and our minds. However, we must also recognize that due to the vigilance of the American troops, law enforcement officers, and ordinary citizens, the mass murderer behind the attacks of 9/11 was unable to strike the United States again before we got him.

We may never know all of the details about the operation which led to the death of bin Laden. We do know that civilian and military elements of the United States Government worked with international partners, for years, to track him down. We are here to

learn more about, and to encourage, such counterterrorism cooperation. Specifically, we seek to strengthen ongoing efforts with our European and Eurasian allies, including the sharing of information, resources and successful practices.

Counterterrorism cooperation is working in Afghanistan. Our European allies have made and continue to make significant contributions to the International Security and Assistance Force. Our Eurasian and Central Asian partners also assist, either by deploying troops or allowing the transport of essential supplies through their territory, as part of the Northern Distribution Network.

I was pleased to read this week that Kazakhstan ratified an agreement that formalizes the arrangements, under which thousands of flights have crossed Kazakh airspace since 2001. Such contributions are essential and must continue. Our mission in Afghanistan is not yet complete.

Counterterrorism cooperation with our European and Eurasian allies must be global in scope. Today, I am interested in hearing how the United States is working with European and Eurasian allies to address the threat posed by al-Qaeda in the Arabian Peninsula, former Al Shahaab on the Horn of Africa, as well as other groups that may be operating within this subcommittee's jurisdiction, including the Caucasus and Central Asia.

The United States can learn from the approaches taken by our European allies. I am particularly interested in how our allies approach counterterrorism and share successful practices. For instance, the United Kingdom and the Netherlands have implemented programs that work with communities to counter radicalization. It would be helpful to understand how officials from the Department of Homeland Security, posted at our Embassies in capitals throughout Europe and Eurasia, can bring such innovative practices here, to Washington. So I am hoping you will address that when we hear your testimony.

Terrorism threatens not only our lives but our way of life. I hope that our witnesses will describe the administration's efforts and the efforts of our European and Eurasian partners to balance security concerns with the need of robust transatlantic trade and tourism. Trade with Europe and Eurasia is vital to the American economy and supports hundreds of thousands of American jobs across all 50 States. This trade must continue. Thus, I look forward to hearing about initiatives such as the Visa Waiver Program that seek to provide access to the United States and American markets in return for commonsense precautions.

I am in favor of expanding this program to include additional qualifying European partners as well as historic allies such as Taiwan. And I was just in Taipei recently, and they made the case that we ought to recognize them for this program.

To foster trade, the United States has assigned our hopes to several additional elements with our European and Eurasian partners. For example, negotiations continue with the European Union on a renewed passenger name record agreement. It is my hope that such an agreement will deepen mutual trust and bolster confidence across the Atlantic. Our common security and prosperity depend on us working together.

And finally, we must look at terrorism in the context of events that are taking place in the Middle East, North Africa, which some have called the “Arab Spring.” Al-Qaeda’s role in these uprisings has been nominal so far. Instead, the American ideals of freedom, democracy, and opportunity have inspired many.

However, I am concerned that these uprisings could create an opening—and I hope you’ll address this—an opening for radical groups such as Hamas and the Muslim Brotherhood to increase influence or even acquire a base in the region, a country from which they could threaten the United States, Israel, and our European allies across the Mediterranean.

It is important to understand that these radical groups do not have to convert people to their twisted version of Islam in order to gain support. Instead, Hamas and the Muslim Brotherhood have a record of mobilizing resources collected abroad to provide goods and services, food aid, and medical care to those who would otherwise not have access to such necessities.

The United States and our European allies must take action against such a strategy. We have a tendency to think of this Arab Spring as one event; however, the situation in each of these countries is different. The events in Libya have not mirrored those in Egypt, and Syria presents different challenges than Yemen.

I am interested in the witnesses’ assessment of what we are doing to support moderate democratic forces in each country. I am also interested in how these uprisings, each individually, impact the United States counterterrorism strategy and cooperation with European and Eurasian allies.

The death of Osama bin Laden marked a major victory. But let us be clear: The fight is far from over. The United States and our allies must stay committed to the counterterrorism mission in Afghanistan and around the world. This subcommittee will do what it can to help. We will continue to focus on terrorism, and we will examine it from all angles. And we will be traveling extensively throughout Europe to find out what our allies feel about all of these issues.

I want to thank our witnesses and members for participating in this hearing, and I look forward to a productive discussion.

[The prepared statement of Mr. Burton follows:]

**Remarks of the Honorable Dan Burton, Chairman
Subcommittee on Europe and Eurasia
Committee on Foreign Affairs
U.S. House of Representatives**

Hearing on: "Overview of Security Issues in Europe and Eurasia"

May 5, 2011

The purpose of today's hearing is to provide subcommittee members with a broad overview of security issues in Europe and Eurasia. Terrorism remains the biggest threat to the collective security of the transatlantic community. As a result, the goal of this hearing is to assess the status of cooperation between the United States and the countries and organizations within the jurisdiction of this Subcommittee in regard to Counterterrorism.

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The events of last Sunday inevitably remind us of the tragedy of September 11th 2001. Those we lost that day remain in our hearts and minds. However, we must also recognize that due to the vigilance of the American troops, law enforcement officers and ordinary citizens, the mass murderer behind the attacks of September 11th was unable to strike the United States again before we got him.

We may never know all of the details of the operation which led to the death of bin Laden. We do know that civilian and military elements of the United States Government worked with international partners, for years, to track bin Laden down. We are here to learn more about—and to encourage—such counterterrorism cooperation. Specifically, we seek to strengthen ongoing efforts with our European and Eurasian allies, including the sharing of information, resources and successful practices.

Counterterrorism cooperation is working in Afghanistan. Our European allies have made and continue to make significant contributions to the International Security and Assistance Force. Our Eurasian and Central Asian partners also assist, either by deploying troops or allowing the transport of essential supplies through their territory as part of the Northern Distribution Network. I was pleased to read this week that Kazakhstan ratified an agreement that formalizes the arrangements under which thousands of flights have crossed Kazakh airspace since 2001. Such contributions are essential and must continue. Our mission in Afghanistan is not yet complete.

Counterterrorism cooperation with our European and Eurasian allies must be global in scope. Today, I am interested to hear how the United States is working with European and Eurasian allies to address the threat posed by al Qaida in the Arabian Peninsula, from al Shabaab in the Horn of Africa as well as from other groups that may be operating within this Subcommittee's jurisdiction including in the Caucasus and Central Asia.

The United States can learn from the approaches taken by our European partners. I am particularly interested in how our allies approach counterterrorism and share successful practices. For

instance, the United Kingdom and the Netherlands have implemented programs that work with communities to counter radicalization. It would be helpful to understand how officials from the Department of Homeland Security posted at our embassies in capitals throughout Europe and Eurasia can bring such innovative practices back to Washington.

Terrorism threatens not only our lives but our *way* of life. I hope that our witnesses will describe the Administration's efforts and the efforts of our European and Eurasian partners to balance security concerns with the need for robust transatlantic trade and tourism. Trade with Europe and Eurasia is vital to the American economy and supports hundreds of thousands of American jobs across all fifty states. This trade must continue. Thus, I look forward to hearing about initiatives such as the Visa Waiver Program that seek to provide access to the United States and American markets in return for common sense precautions. I am in favor of expanding this program to include additional qualifying European partners as well as historic allies such as Taiwan.

To foster trade, the United States has signed or hopes to sign several additional agreements with our European and Eurasian partners. For example, negotiations continue with the European Union on a renewed Passenger Name Record agreement. It is my hope that such an agreement will deepen mutual trust and bolster confidence across the Atlantic. Our common security—and prosperity—depend on working together.

Finally, we must look at terrorism in the context of the events taking place in the Middle East and North Africa that some have called the “Arab Spring.” Al Qaida's role in these uprisings has been nominal so far. Instead, the American ideals of freedom, democracy, and opportunity have inspired many.

However, I am concerned that these uprisings could create an opening for radical groups such as Hamas and the Muslim Brotherhood to increase influence or even acquire a base in the region—a country from which they could threaten the United States, Israel and our European allies across the Mediterranean. It is important to understand that these radical groups do not have to convert people to their twisted version of Islam in order to gain support. Instead, Hamas and the Muslim Brotherhood have a record of mobilizing resources collected abroad to provide goods and services—food aid and medical care—to those who would otherwise not have access to such necessities. The United States and our European allies must take action against such a strategy.

We have a tendency to think of this “Arab Spring” as one event. However, the situation in each of these countries is different. The events in Libya have not mirrored those in Egypt, and Syria presents different challenges than Yemen. I am interested in the witnesses' assessment of what we are doing to support moderate, democratic forces in each country. I am also interested in how these uprisings each, individually impact the United States' counterterrorism strategy and cooperation with European and Eurasian allies.

The death of Osama bin Laden marked a major victory—but let us be clear: the fight is not over. The United States and her allies must stay committed to the counterterrorism mission in Afghanistan and around the world. This Subcommittee will do what it can to help. We will continue to focus on terrorism and will examine it from all angles. I want to thank our witnesses and Members for participating in this hearing and I look forward to a productive discussion.

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Mr. BURTON. Now, my minority member is not here, so I will recognize Mr. Poe of Texas for his remarks.

Mr. POE. Thank you, Mr. Chairman.

Like many Americans, I am worried that Pakistan is not as good a friend as we think they are, at least as much as they claim they are a friend of the United States. Capturing Osama bin Laden was a great moment in not only our history, but world history. But it also revealed how unstable our relationship is with Pakistan.

I, too, want to commend those that were involved in this operation, the President, for making the decision to go and take out Osama bin Laden in his compound, all of the intelligence agencies, and especially, the Navy SEALs. Osama bin Laden has met his maker, and I appreciate the Navy SEALs for arranging the meeting.

Let's look at the facts. Bin Laden was hiding in a city just miles from the capital city of Pakistan. His house was a massive million dollar compound, eight times the size of surrounding houses, had 15-foot high walls, had barbed wire. Once in, we can now see that the compound had been built especially for Osama bin Laden and his hideaway or hideout.

And perhaps the worst thing of all, the compound was just a stone's throw away from the West Point of Pakistan. It would be like John Dillinger living across the street from the FBI building down the street, and the FBI not knowing about it. It is very perplexing that Pakistan claims they were unaware. Even the administration shares those suspicions. The CIA Director, Leon Panetta, asserted that Pakistan had not done enough to bring Osama bin Laden to justice; now saying that "There is total mistrust between the United States and Pakistan." Those are strong words from the person who is the CIA director.

John Brennan, the Deputy National Security Adviser for Homeland Security and Counterterrorism, said it is inconceivable that Osama bin Laden had not a support system to help him inside of Pakistan.

And, also, a year ago, U.S. Secretary of State Hillary Clinton, following a trip to Pakistan, said in an interview with Fox News that elements within the Pakistani State know the whereabouts of the al-Qaeda chief.

So it seems to me that Pakistan was totally incompetent in their security operations, or they knew of the location of Osama bin Laden and hid him out. If Pakistan was active in helping Osama bin Laden hide from us, I certainly don't think that we should be giving them \$3 billion of American aid. It doesn't seem to make us any safer to give American money to a country that may be playing both sides of the field.

I have introduced the Pakistan Foreign Aid Accountability Act which freezes any foreign aid to Pakistan until the Secretary of State can certify to Congress that Pakistan was not aware of bin Laden's location. In other words, did Pakistan give bin Laden sanctuary? They have the opportunity to make their case or not make it before we give them any more money.

America just wants some answers. Where do we stand, where does Pakistan stand with the United States? President Bush stated in his joint session to Congress after 9/11, to our allies, that you are either with us or you are with the terrorists. And I would like to know where Pakistan is in that group. There is no middle ground.

I would also like to know what is going on with the MEK Foreign Terrorist Organization (FTO) designation. Over 230 days ago, a Federal court ruled the State Department did not give the MEK due process when it decided to keep the MEK on the FTO list. The law states that reviews are to take place within 180 days should

a group appeal its designation. It has been past 120 days. It is now 230 days.

During this time, the MEK has been attacked by the Iraqi military. UNAMI has confirmed that the Iraqi soldiers killed 34 residents at Camp Ashraf—34 residents, I might add, that have yet to be buried—yet to be buried because the Iraqis refuse to allow them to be buried. High-ranking public officials in the Iraqi regime repeatedly cite the U.S. terrorist designation as their justification for treating the residents of Camp Ashraf so harshly.

Two battalions that invaded on April 8th are still in Camp Ashraf. Iraqi troops will not let residents bury the dead, as I mentioned. They also won't let anyone come in for regular visits. U.S. representatives have not instigated an investigation. The U.N. has not instigated an investigation. And, of course, Iraq has not. Of course we wouldn't expect those people responsible for the action to instigate an investigation.

And, all of this to me, seems to be compounded and made more difficult because the State Department just won't take a position on the MEK. It is like we say in Texas, it is time to fish or cut bait. Either keep them on the list or take them off the list, but make a decision. Of course, I think the evidence points to the fact that they should be taken off the list. But this delay, delay, delay, not being able to make a decision for whatever reasons, is, I think, a problem that the State Department can resolve, and it is within the State Department's power to resolve that matter.

So those are some questions and concerns that I have, and I would hope that these can be answered. I have introduced H. Res. 60, which urges the Secretary of State to take the MEK off the FTO list. We have 65 bipartisan colleagues, who agree with that, and who have signed on as cosponsors. I would hope the State Department can make a decision before this bill gets before this committee and on the House floor.

Thank you, Mr. Chairman. I yield back the rest of my time.

Mr. BURTON. Let me state to my witnesses before I yield to my colleague from Arkansas, I know that you are here to talk about Europe and Eurasia, and Pakistan and the issues that were just raised by my colleague are under the Middle East Subcommittee's purview. But, I hope you will address those issues, because I share his concern about everything he said, and I agree with all of them. So as much as is humanly possible, I hope that you will include those in your thoughts and remarks when we get to the questions.

With that, I will yield to Mr. Griffin, my old buddy from Arkansas.

Mr. GRIFFIN. Thank you, Mr. Chairman.

First of all, I want to say thank you for holding this hearing, and thank you to the witnesses for coming.

I think that this topic is as relevant, or more relevant than ever, in the wake of the killing of Osama bin Laden.

What I am particularly interested in—and maybe I can get to follow up with some questions, but I want to throw this out there so the witnesses will maybe be able to address this in the context of the other questions—is the impact that a leaderless al-Qaeda has on the disparate terror cells that are spread throughout the Euro-

pean continent and what, if any, changes we might see in terms of an increased threat or decreased threat.

I could make the case, in the absence of one leader, that there could be an increased threat and increased independence of the disparate groups that are on the European continent. So I just ask you to keep that in mind. And, if you could address that, I would appreciate it.

Thank you. I look forward to hearing your testimony.

Thank you, Mr. Chairman.

Mr. BURTON. Now we will hear from my colleague from Ohio, Ms. Schmidt.

Mrs. SCHMIDT. In the interest of time, I am going to pass.

Mr. BURTON. She yields back her time. Let me introduce our witnesses here today.

I want to thank you both for being here and thank you for your patience.

Daniel Benjamin was sworn in as Coordinator for Counterterrorism at the Department of State with the rank of Ambassador at Large on May 28, 2009. From 1994 to 1999, Mr. Benjamin served on the National Security Council staff, and in 1994 to 1997 he served as foreign policy speechwriter and special assistant to President Clinton. Before entering the government, Mr. Benjamin was a foreign correspondent for Time Magazine and the Wall Street Journal.

That must have been an interesting switch when you went from Time Magazine to the Wall Street Journal. Someday, I would like to talk to you about that.

Mark Koumans is Deputy Assistant Secretary for International Affairs at the Department of Homeland Security. Mr. Koumans is responsible for coordinating the department's international programs and policy to achieve the Secretary's international strategic objectives. Mr. Koumans has previously served as director for European and multilateral affairs in the Department of Homeland Security, Office of International Affairs, from June 2007 to August 2008. Prior to joining DHS in June 2007, Mr. Koumans served for 17 years in the U.S. Foreign Service.

So welcome to you both, and we will recognize you, Ambassador Benjamin. If your statement is going to be excessively long, we will accept it for the record but we will give you as much time as we think is reasonable.

STATEMENT OF THE HONORABLE DANIEL BENJAMIN, COORDINATOR FOR COUNTERTERRORISM, U.S. DEPARTMENT OF STATE

Ambassador BENJAMIN. Thank you very much, Chairman Burton and distinguished members of the committee. I have submitted testimony for the record that provides additional detail of the U.S. counterterrorism cooperation with Europe and Eurasia.

I want to thank you for the opportunity to appear before you today. And, I must say, it is a great pleasure to testify during the week when the United States has achieved a historic success against al-Qaeda. Osama bin Laden's death is a victory for the United States and for all human beings who seek to live in peace, security and dignity.

And, sir, you mentioned my service on the National Security Council for the last 2 years of that time. I was director for transnational threats and was there when bin Laden issued his famous fatwa calling for the deaths of Americans everywhere, and when our Embassies were blown up. So, for me, this has great personal significance.

I should underscore, though, that this is by no means the end of our effort against al-Qaeda. While we have dealt a blow to al-Qaeda's leadership, much of its activity has devolved to its affiliates and much more work remains to be done.

But as we approach the 10th anniversary of the 9/11 attacks, we should recognize that one of the unsung success stories of the period since that dark day has been the creation of an extraordinary global alliance against terror, one that operates out of the headlines, but reliably, closely, and effectively to protect our citizens and innocents around the world.

In the critical areas of intelligence and law enforcement, governments have joined together time and again, and prevented real attacks, including ones planned against planes crossing the Atlantic and public transportation systems worldwide.

Our European allies have responded extremely positively to this week's development. And, in a public statement, the European Union paid tribute to our determination and underlined the close cooperation between the EU and the U.S. in counterterrorism efforts.

But various statements by European governments also noted that al-Qaeda remains a serious threat. Europe very much remains a focus of terrorist plots. And, over the past year, we saw several attempted attacks by al-Qaeda and affiliated extremists in Denmark, a first-ever suicide bombing in Scandinavia, and separatists group bombings on the Moscow metro and in the Russian North Caucasus.

Our counterterrorism work with Europe spans the globe. We work with our NATO partners and ISAF on stability operations in support of the Government of Afghanistan. We have been working with our European allies, and others, in the Friends of Yemen process, and we are increasing our coordination with France and other European partners to constrain the environment, in which al-Qaeda in the Islamic Maghreb operates, by strengthening governance in northern Mali and the capabilities of other regional partners. Such work helps us deny safe haven to terrorists, which is absolutely vital.

To deal with the terrorist threat and identify individuals, who are preparing to commit violence, information sharing is absolutely essential. The United States and the EU are committed to fostering information sharing in cooperation in the prevention, investigation, and prosecution of terrorism-related offenses. We work on these issues through the United States Treasury's Terrorist Finance Tracking Program, the Department of Homeland Security's Passenger Name Record program, and Homeland Security Presidential Directive 6, known as HSPD-6.

There have been some concerns raised in Europe about these programs. But we know that our approaches to protecting privacy have more similarities than differences, and, we share a strong

commitment to protecting civil liberties. I am confident that with goodwill on both sides and the common sense of resolve, we can achieve the common goals we seek.

Another crucial aspect of our CT cooperation is our bilateral work with key partners to build CT capacity of other nations around the world. Our European allies from Russia in the east to the United Kingdom in the west, and from Italy in the south to the Netherlands and Denmark in the north, share our views on implementing strategic counterterrorism policies that focus on building the capacity of foreign partners and countering violent extremism to stem terrorist recruitment.

While al-Qaeda and its affiliates are our highest priority in our CT diplomatic engagement, Hamas and Hezbollah also remain a major focus. We have been and will continue to work through bilateral channels to press our European allies to take more aggressive action to crack down on Hamas and Hezbollah's fundraising at both the EU and member state levels, and I have made this a personal priority.

In conclusion, the magnitude and breadth of the terrorist challenge makes clear that no country or organization can defeat it alone and the United States will, indeed we must, continue to work closely with our partners around the world, especially our capable and willing European allies, to identify areas where further work remains to be done and how we can further collaborate ever more effectively. Only through such cooperation can we succeed.

Thank you. And I look forward to your questions.

[The prepared statement of Ambassador Benjamin follows:]

STATEMENT FOR THE RECORD
AMBASSADOR DANIEL BENJAMIN
COORDINATOR FOR COUNTERTERRORISM
COUNTERTERRORISM COOPERATION WITH EUROPE AND
EURASIA
HOUSE FOREIGN AFFAIRS COMMITTEE
SUBCOMMITTEE ON EUROPE AND EURASIA
Thursday, May 5, 2011
2:30 pm

Chairman Burton, Ranking Member Meeks, and Distinguished Members of the Committee:

Thank you for the opportunity to appear before this Committee today. It is a pleasure to testify during a week when the United States has achieved a historic success against al-Qa'ida (AQ). This was an American operation, and those who performed it were Americans who deserve our greatest admiration for their bravery and their professionalism. Bin Laden's defeat is a victory for the United States and for all human beings who seek to live in peace, security, and dignity. He dedicated his life to destroying innocent lives and human progress. His demise will ultimately make the American people safer, and empower those around the world who seek to build- not destroy. As Secretary Clinton said, "History will record that bin Laden's death came at a time of great movements toward freedom and democracy, at a time when the people across the Middle East and North Africa are rejecting the extremist narratives and charting a path of peaceful progress based on universal rights and aspirations."

This is by no means the end of our effort against AQ. While we have dealt a blow to AQ's leadership, much of its activity has devolved to its affiliates and much more work remains to be done. But as we approach the tenth anniversary of the 9/11 attacks, we should recognize that one of the unsung success stories of the period since that dark day has been the creation of an extraordinary global alliance against terror – one that operates out of the headlines but reliably, closely, and effectively, to protect our citizens and innocents around the world. Cooperation around the world has been remarkable, particularly with our European partners, including NATO and the EU. In the critical areas of intelligence and law

enforcement, governments have joined together time and again and prevented real attacks – including ones planned against planes crossing the Atlantic and on public transport systems worldwide. When it comes to confronting terrorism in particular, we understand the centrality of our partnership with Europe, where we work with democratic allies who share our values and our interests.

We do so not just on the European continent, but in many areas of the globe. We work with our NATO partners in International Security Assistance Force stability operations in support of the Government of Afghanistan. These efforts help degrade the insurgency, build the capability of the Afghan National Security Forces, and facilitate improvements in governance and socio-economic development for sustainable stability. We have been working with our European allies and others in the Friends of Yemen process. And we are increasing our coordination with France and other European partners to constrain the environment in which al-Qa'ida in the Islamic Maghreb (AQIM) operates by strengthening governance in Northern Mali. Such work helps us deny safe havens to terrorists, which is vital.

The United States and EU are also committed to fostering information sharing and cooperation in the prevention, investigation, and prosecution of terrorism related offenses. European countries are making vital contributions in the effort to combat terrorism by sharing key information, arresting members of terrorist cells, interdicting terrorist financing and logistics, and contributing to efforts in Afghanistan and other key places around the world.

European nations are active participants in several multilateral organizations that have played an important role in countering terrorism, including NATO, the OSCE, the EU, and the G8. All of these organizations have worked with the United States to establish and implement counterterrorism best practices, build weak-but-willing states' counterterrorism capabilities, and institutionalize counterterrorism measures globally.

The EU is increasingly emerging as a critical player in European counterterrorism policy and can do much to build capacity in Europe and elsewhere. For this reason, the United States encourages EU efforts to develop and implement effective laws to address militant radicals or terrorist associates who may be planning attacks to be carried out in other countries. We support the continuing development of best practices to improve the efficacy of counterterrorism efforts. We also look to cooperate with the EU on cybersecurity and combating violent extremism as agreed at the most recent U.S.-EU Summit.

One example of the U.S. commitment to build and deepen partnerships is the 2010 adoption by the United States and the European Union of a Declaration on Counterterrorism, in which the United States and the EU reiterated our joint commitment to forge a durable framework to counter terrorism within the rule of law. The 2010 Declaration, which Spain advocated for during its presidency, emphasized cooperation in border security, countering terrorist financing, enhancing the global non-proliferation regime, and promoting the counterterrorism work of the UN. The 2010 Declaration also stressed that an effective and comprehensive approach to diminish the longterm threat of violent extremism is a vital component of U.S. and EU efforts to combat terrorism. In this respect, the 2010 Declaration acknowledged the important role of civil society to help isolate terrorism, as well as the importance of addressing legitimate concerns of minorities and individuals regarding civil rights and civil liberties.

At the same time that we improve our collaboration with the EU, we also work bilaterally with key partners – from Russia in the East to the UK in the West; from Italy in the South to the Netherlands and the Scandinavian countries in the North – to build the capability of other nations around the world to take effective action against terrorists. In this regard, our European allies very much share our views on implementing strategic counterterrorism policies that focus on building the capacity of our foreign partners and countering radicalization that leads to violence and violent extremism to stem terrorist recruitment.

Of course, European countries remain a focus of terrorist plots. The past year was one marked by several attempted attacks by al-Qa'ida and affiliated violent extremists in Denmark, a first-ever suicide bombing in Scandinavia, and separatist group bombings on the Moscow metro and in the Russian North Caucasus. A variety of groups inspired by numerous ideologies also remained active; anarchists in Greece struck repeatedly at government offices, foreign missions, and symbols of the state in both Greece and other European capitals. Long-active terrorist groups like the Kurdistan Workers Party in Turkey, and dissident Republican groups in Northern Ireland, continued their campaigns of violence, as did Basque Fatherland and Liberty (ETA), but we note continuing successes by the Government of Spain against ETA.

Concerns about potential terrorist activities prompted countries ranging from the UK to Germany to raise their terrorism threat alert levels at various times during the past year. The recent shooting of four U.S. airmen at the Frankfurt International Airport illustrates how serious the threat remains. For the most part,

however, the year was marked by counterterrorism successes. European countries from Spain to Sweden attempted to strengthen counterterrorism legislation by criminalizing training in terrorist camps and terrorist recruitment. The continuing effectiveness of European security services, close cooperation between and among European countries, and the sheer technical capabilities available to most partner countries enabled authorities to prevent any major terrorist plots from coming to fruition in 2010.

Sometimes less than strict immigration laws and very strong protections of privacy and civil liberties in some member states can complicate counterterrorism efforts. Differing perspectives on the dividing line between legitimate political or charitable activity and support for terrorist groups further clouds the picture. All of our nations put a high priority on our freedoms, so naturally we need to work carefully to bridge our differences when it comes to sensitive subjects in the realm of information sharing and terrorist finance. I am confident that with good will on both sides and a common sense of resolve, we can achieve the common goals we seek.

Information Sharing: U.S. Treasury's Terrorist Finance Tracking Program (TFTP) and the U.S. Department of Homeland Security's Passenger Name Records Program (PNR)

To deal with the terrorist threat and identify individuals who are preparing to commit violence, information sharing is not just helpful, it is essential. Two critically important tools that have proven instrumental in protecting the security of both Americans and Europeans are the U.S. Treasury's Terrorist Finance Tracking Program or TFTP, and the U.S. Department of Homeland Security's Passenger Name Record (PNR) program. We should be clear: Dangerous conspiracies aimed at the U.S. and Europe have been disrupted because of precisely this type of information sharing.

Leads generated by TFTP have aided numerous investigations, including many in Europe, by providing law enforcement and counterterrorism officials information that helps them follow the money to the violent extremists who are determined to do us harm. We are pleased that we were able to work with our partners in the EU to reach agreement on a new TFTP agreement last summer (2010) that enables this valuable program to continue.

As DHS can tell you in greater detail, the PNR Program has also played a critical role in a number of the most significant terrorist cases over the past several years.

including the investigation into David Headley, who pled guilty to charges of plotting an attack in Europe against the Mohammed cartoonist in Denmark. Headley, of course, also pled guilty to conducting surveillance for Lashkar-e-Tayyiba in Mumbai, in advance of the devastating 2008 attacks in that city. PNR was also crucial in the case against Najibullah Zazi, who pled guilty to plotting to bomb New York subways – and in helping the USG apprehend Times Square bombing suspect Faisal Shahzad.

There have been some concerns raised in Europe about these programs, but it's important to emphasize that Europe and the United States have a longstanding partnership to protect both the security of our citizens and their privacy interests.

The United States is committed to ensuring that personal information shared for law enforcement and security purposes is given strong protections. The U.S. commitment to protect privacy and civil liberties, including within the context of law enforcement and security activities, is ingrained in American culture and legal tradition. So too is the proper use of personal information for effective public administration.

We know our two approaches to protecting privacy have more similarities than differences and we both share a strong commitment to protecting civil liberties. Our institutional arrangements for protecting privacy are different from Europe's, but they are comprehensive, provide ample means of redress, and there is an outstanding record of protecting data exchanged for law enforcement purposes. Continuing this cooperation is vital for all of our security.

Moving Forward on Homeland Security Presidential Directive 6 (HSPD-6) and Preventing and Combating Serious Crime (PCSC)

In addition to our extensive engagement with the EU to facilitate critically important terrorism-related information sharing, we are also continuing to work bilaterally with individual European member states on HSPD-6 and Preventing and Combating Serious Crime (PCSC) initiatives. The State Department and the Terrorist Screening Center have successfully concluded 15 HSPD-6 agreements with European governments; DHS and DOJ have now signed 17 PCSC agreements with European countries. Negotiations to develop additional information sharing relationships are ongoing with a number of other countries.

As background, Homeland Security Presidential Directive - 6 (HSPD-6), was issued in 2003, and directed the U.S. government to consolidate its approach to terrorism screening, and to enhance cooperation with foreign governments to establish appropriate access to terrorism screening information (TSI), beginning with countries in the Visa Waiver Program (VWP).

Through HSPD-6 initiatives, the U.S. government seeks to conclude agreements and arrangements with foreign governments for the reciprocal exchange of terrorism screening information (TSI - biographic identifiers) and the subsequent management of information sharing should a terrorist be encountered. These initiatives enhance bilateral relationships between law enforcement and public security agencies.

PCSC agreements, like HSPD-6, are designed to increase law enforcement cooperation between the USG and its foreign partners, and also authorize the spontaneous sharing of information for the purpose of detecting and preventing terrorist and criminal activity.

Aviation Security

While the PNR program and broader information sharing efforts with our European allies are critical to protecting civil aviation from terrorists, there are also many other steps we are taking in partnership with the Europeans to strengthen the security of global aviation. Given how committed terrorists remain to targeting international aviation and air cargo, we must do everything we can to prevent them from succeeding.

In addition to strengthening air passenger security, we also face the challenge of air cargo security, as demonstrated by the U.S.-bound package bombs from Yemen that were intercepted in the UK and the UAE last October. Since then, the State Department has been working closely with the Department of Homeland Security (DHS), including its components the Transportation Security Administration (TSA) and U.S. Customs and Border Protection, the U.S. Postal Service (USPS), and the air cargo industry to craft new air cargo security procedures that will ensure the security of aircraft and passengers and promote the free flow of international mail and commerce. As part of that process, the State Department, CBP, and TSA have also worked closely with the Universal Postal Union (UPU) in Bern, Switzerland, as well as several national postal services, to improve the security screening for international mail that is transported on airplanes. TSA Administrator Pistole and UPU Director General Edouard Dayan met in March to

discuss security measures for international mail destined for the United States. Representatives from DHS and TSA are joining officials from the USPS and State on the U.S. delegation to the UPU's Postal Operations Council, currently taking place in Bern.

We have also worked with our European and other international partners to update successfully the 1970 Hague Convention for the Suppression of Unlawful Seizure of Aircraft and the 1971 Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation to address new and emerging aviation security threats. The 2010 Beijing Convention and Protocol will significantly strengthen the existing international counterterrorism legal framework and facilitate the prosecution and extradition of those who seek to commit acts of terrorism. They will criminalize the use of civilian aircraft as a weapon. They will also criminalize efforts by terrorists and other criminals to use civil aviation to transport extraordinarily dangerous materials, such as biological, chemical, and nuclear weapons.

The United States was pleased to sign both instruments at the conclusion of the diplomatic conference last September in Beijing. The State Department intends to transmit both instruments to our Senate for advice and consent, as well as seek any necessary implementing legislation, with an aim of ratifying both instruments as expeditiously as possible.

Working to Block Hamas and Hizballah assets

While AQ and its affiliates are our highest priority in our diplomatic engagement on terrorism-related issues, Hamas and Hizballah remain a major focus as well. On terrorism finance, the EU and its member states need to take more aggressive action to crack down on Hamas and Hizballah fundraising and other activities taking place in their territory. Both are capable and dangerous terrorist organizations that continue to play destabilizing roles in the Middle East. Both are aggressively building their stockpile of weapons and these organizations are increasing their lethal capabilities, which pose a serious threat to broader regional stability.

In 2003, the EU designated Hamas as a terrorist organization, which obligated member states to take certain actions to crack down on Hamas activity in their territory. In spite of this designation, there are still a number of Hamas-affiliated NGOs operating in Europe where they are primarily engaged in fundraising activity. A number of these NGOs have been designated by the USG for their ties

to Hamas, but the EU and most European member states have not taken comparable action against these organizations. The EU and its member states could be more assertive in implementing the EU designation, which would cut off a source of funding for the group and send an important message that Hamas can no longer raise money in Europe with impunity.

Through bilateral channels, over the past year we have been pressing our European allies to crack down on Hamas fundraising, since Europe remains an important source of funds for the group. We've asked the Europeans to take action, particularly against Hamas fundraising fronts, at both the EU and member state levels. We will remain focused on this issue, and will continue to encourage the Europeans to take action against HAMAS as well as against Hizballah, which has not been subjected to uniform financial sanctions across the EU.

It should be noted that the EU and its member states' ability to designate terrorists—a key tool for governments in their efforts to crack down on terrorist financing—is under duress. The European General Court (EGC) recently ruled against the EU in the Yassin al Kadi case, whom the EU had designated after he was added to the UN's al-Qa'ida/Taliban sanctions list. If the European Court of Justice (ECJ) upholds the EGC's ruling on appeal, it would limit the ability of EU member states to implement the UN's al-Qa'ida/Taliban sanctions list and comply with their international obligations, and potentially undermine the viability of all UN smart sanctions regimes. The USG is extremely concerned about this situation, which could impact not only the Europeans' ability to crack down on terrorist financing, but their sanctions efforts targeting other national security threats as well. We have been in close and regular dialogue with our European partners about these issues, and know that they are working hard to determine what steps need to be taken to ensure that their sanctions regime remains strong and survives current and future legal scrutiny.

Kidnapping for Ransom

Another issue we have been discussing with our European allies is paying ransom to terrorists. In recent years the al-Qa'ida network has found new deep pockets, not among rich radical sheikhs in the Persian Gulf, but through the exploitation of wealthy Western countries and their allies. By turning the kidnapping of Europeans, East Asians, and North Americans into big business, these terrorist organizations have found a reliable funding stream that runs directly from the coffers of countries that are dedicated to defeating AQ. It is time to block this funding stream before it swells and strengthens AQ. Widespread adherence to a

no-concessions pledge alone will not eliminate the problem of kidnapping-for-ransom: private companies and NGOs will likely continue to pay ransoms to get their people back. But if at least governments stop paying, it would help undermine the operations of terrorist organizations that depend upon ransom revenues. Governments need to get out of the business of paying ransoms or they will face many more kidnappings, and this is a point that we stress in our consultations with European allies.

Countering Violent Extremism

Our work to Counter Violent Extremism (CVE) focuses on three main lines of effort that will reduce terrorist recruitment: delegitimizing the violent extremist narrative in order to diminish its “pull”; developing positive alternatives for youth who are targeted for radicalization to violence to diminish the “push” effect of grievances and unmet expectations; and building partner capacity to carry out these activities. The key goals of CVE programming are to diminish the drivers of radicalization that leads to violence and demonstrably reduce the effectiveness of terrorist propaganda, thus leading to lowered numbers in recruitment.

We are working closely with our European partners, notably the EU, on ways to coordinate outreach to diasporas targeted for terrorist recruitment across Europe. As in the United States, our European partners are concerned about radicalization to violence within Somali communities, for example, with new recruits returning to Somalia to join al-Shabaab. We have met with officials in London, the Hague, Brussels, Stockholm, Oslo, and Copenhagen over the last two years.

We have organized three international workshops on the topic of Countering Violent Extremism (CVE), the last of which – in November 2010 – was hosted by the Dutch. The participants included senior officials from more than a dozen countries – primarily NATO Allies – and several international organizations, and have laid the foundations for a CVE network. We are also in the process of forming a network to share best practices, and are working to translate some of the gains from these events into cooperative, on-the-ground-efforts with our European partners in places like Yemen, for example.

Furthermore, my office is working closely with the Dutch government and the Dutch NGO the International Center for Counterterrorism to undertake a project focusing on terrorist rehabilitation and disengagement. The project will be launched in May and will be based at the UN’s Interregional Crime and Justice Research Institute (UNICRI) in Italy, on a one-year pilot basis. The aim is to

provide a multilateral platform for policymakers and practitioners from countries that have created - or are considering developing - rehabilitation or disengagement programs for violent extremists to compare lessons learned and best practices.

Given the large ambit of your committee, I'd like to end by addressing our counterterrorism work in both Russia and Central Asia.

Russia

Counterterrorism is one of the enduring strong points of the Russia-U.S. bilateral relationship and one the United States believes is important to continue to improve on. The Russia-U.S. relationship has had many twists and turns and many ups and downs, but one constant has been our counterterrorism cooperation. The main vehicle for our dialogue is the Counterterrorism Working Group (CTWG), which I co-chair with my Russian counterpart, Presidential Representative Anatoliy Safonov.

Recent activities of the CTWG include coordinating U.S., UK and Russian investigations of the financial infrastructure that supports drug trafficking from Afghanistan, and support of the Global Initiative to Combat Nuclear Terrorism. The Global Initiative was announced by Russia and the United States in 2006 and now includes 75 partner nations that cooperate in a variety of ways, including safeguarding radioactive and nuclear materials, preventing nuclear smuggling, and sharing information.

A highlight of the U.S.-Russian CT partnership last year included the issuance of a U.S.-Russia Joint Statement on Counterterrorism Cooperation at last year's U.S.-Russia Summit; which notably included a reference to the Secretary of State's designation of Caucasus Emirates leader Doku Umarov under Executive Order 13224. Working together with Russia we were also able to internationalize this designation by adding Umarov to the United Nations' 1267 al-Qa'ida and Taliban Sanctions Committee Consolidated List. We also work closely with Russia on CT issues in other multilateral and regional fora such as the G8 Roma-Lyon Group, OSCE, and the Asia Pacific Economic Cooperation (APEC) Forum.

We plan to take further steps to enhance transportation security and, in partnership with DHS, we hope to conclude several arrangements with Russia concerning cooperation in the areas of aviation and multi-modal transportation security.

Central Asia

Central Asia is also a critical counterterrorism nexus, particularly important for its support of supply routes to Afghanistan – both via the Manas Transit Center in Kyrgyzstan, and via the Northern Distribution Network that runs through the region. Their support for our efforts in Afghanistan could increase the risk of terrorist attacks against them. Central Asia has bred a number of terrorist groups, including the Islamic Jihad Union and the Islamic Movement of Uzbekistan, which are actively fighting against U.S. forces in Afghanistan. We are concerned that fighters returning to their home countries could expand the terrorist threat to Central Asia. We are also mindful of the potential terrorist threat to the emerging energy infrastructure around the Caspian Sea.

Our Anti-Terrorism Assistance Program is active in the region, mostly in Kyrgyzstan and Tajikistan, with Kazakhstan not far behind. Through our Regional Strategic Initiative grant program, we seek to build partner countries' ability to rapidly detect, respond, and repel potential incursions by terrorist groups and to enhance the capabilities of local law-enforcement bodies to detect, deter, respond to, and investigate terrorist threats, in a manner that is respectful of human rights and civil liberties. In partnership with the Central Asian countries, our programs have addressed issues of border control, crisis management, fraudulent document detection, terrorist finance, and general forensics, which will make it more difficult for terrorists to travel and carry out terrorist acts in these countries.

We have other partners with whom we are working in Central Asia, including the OSCE and the UN, to build Central Asian counterterrorism capacity. Working through these organizations, we can also assist the Central Asian nations with regard to best practices to counter violent extremism, thereby drying up the pool of future recruits into terrorist organizations.

Conclusion

The magnitude and breadth of the terrorist challenge makes clear that no one country or organization can defeat it alone. The global threat we face requires a global strategy and a global response and must impel us to devise collaborative strategies, action plans, and policy recommendations that use all the tools of statecraft, nationally, bilaterally, regionally and multilaterally. We have no alternative.

We have come a long way since 2001. Together, we have moved, and are moving, to overcome some of the impediments to pursuing terrorists that existed before

9/11. And the United States will – we must – continue to work closely with our partners around the world, especially our capable and willing European allies to identify areas where further work remains to be done and how we can further collaborate even more effectively. Only through such cooperation can we succeed.

Thank you for the opportunity to share these ideas and thoughts with you.

Mr. BURTON. And now we will hear from Secretary Koumans.

STATEMENT OF MR. MARK KOUMANS, DEPUTY ASSISTANT SECRETARY-INTERNATIONAL AFFAIRS, U.S. DEPARTMENT OF HOMELAND SECURITY

Mr. KOUMANS. Good afternoon, Chairman Burton and distinguished members of the subcommittee. Thank you for the opportunity to testify on the Department of Homeland Security's cooperation with Europe.

First, like you, I would like to acknowledge the achievement of this past week. As Secretary Napolitano said, the death of Osama bin Laden is an important success not only for the United States but for the entire world.

I would like to recognize the statements of support from Europe, including the EU Commission President Barroso and counterterrorism coordinator de Kerchove.

But we all agree, as we have all said this afternoon, that bin Laden's death is not the end of our security efforts. Al-Qaeda and other organizations will continue to plan attacks here and abroad, and so we must remain vigilant. Security is more of a shared responsibility than ever before.

Preventing terrorism is DHS' core mission and one that forms part of its other key missions of securing borders, enforcing immigration laws, safeguarding cyberspace, and ensuring resilience to disasters. In order to succeed, the Department must work with its international partners. The attempted terrorist attacks on Christmas Day in 2009 and the printer bombs in October 2010 underscored the interdependence of our homeland security with international security.

Terrorists and criminals look for vulnerabilities in international networks to carry out their attacks.

I would like to highlight three points.

The first is that DHS works with our European allies to prevent terrorist attacks.

Second, DHS and its European partners cooperate in particular to prevent terrorist travel.

Third, the Visa Waiver Program provides incentives to maintain high security standards and deepen cooperation with the United States.

My first point concerns how DHS works with our European partners to secure the flow of travel and trade. To that end, DHS has nearly 400 employees in Europe, working daily with governments, the traveling public, the aviation industry, cargo shippers and others. It is DHS' goal to expedite legitimate travel and trade, both of which are critical to the U.S. economy, while preventing the flow of illicit goods and people and investigating illegal activity.

Much of this DHS cooperation takes place at the operational level, investigating transnational crimes, combating human and drug trafficking, screening U.S.-bound maritime cargo containers, conducting maritime port assessments, assessing airports and air carriers, conducting passenger screening, enforcing U.S. customs and immigration regulations, and investigating cybercrimes.

On my second point, terrorist travel represents one of the greatest threats to European and U.S. security, and therefore, detection

and disruption are key goals. Every week, there are more than 2,500 flights between Europe and the United States. DHS analyzes travel and passenger data and shares information with our European partners in order to identify both known and unknown potential terrorists. DHS has a number of programs to address this threat.

Under the immigration advisory program, DHS posts officers at foreign airports to work with airlines and foreign officials to identify high-risk and improperly documented travelers before they board aircraft bound for the U.S.

Another example is DHS collection and analysis of passenger name records, or PNR data. In recent years PNR data has been pivotal in cracking the cases of Mumbai plotter David Headley, New York City subway bomb plotter Najibullah, and Time Square bomber Faisal Shahzad. I just note in passing that we just passed the 1-year anniversary May 1st, coincidentally the same day of Osama bin Laden's demise.

Last year approximately one quarter of those individuals denied entry to the United States for having ties to terrorism were initially identified through the analysis of PNR. Presently, we are negotiating a new agreement with the EU to govern DHS' use of PNR to avoid a potential conflict with the European privacy law.

I should emphasize that DHS is not negotiating for the collection of PNR, which is required by U.S. law, but to ensure a stable and secure legal environment under which it is transferred. Our goal is to improve security while reassuring our allies of our commitment to protect individual privacy. Since December, we have held six negotiating sessions. And we hope to conclude these talks in the coming weeks or months.

I will now turn to my third topic, the Visa Waiver Program. Since 1986, this program has allowed eligible citizens to travel to the U.S. for business or tourism without first obtaining a visa. The 36 current visa waiver countries are among our closest international partners. Thirty visa waiver countries are in Europe. By statute, these countries develop a security partnership with the U.S., and DHS conducts regular detailed reviews of each country. These reviews focus on U.S. law enforcement, national security, and immigration interests, and incentivize these countries to continue to share information vital to our national security.

Chairman Burton and distinguished members of the subcommittee, I look forward to working with you as we continue to explore opportunities to advance our cooperation with European partners. I will submit longer testimony officially for the record. I thank you again for this opportunity to testify.

I look forward to answering your questions.

Mr. BURTON. Thank you very much.

[The prepared statement of Mr. Koumans follows:]



**Statement of Mark Koumans
Deputy Assistant Secretary for International Affairs
Department of Homeland Security**

**Overview of Security Issues in Europe and Eurasia
Before the House Committee on Foreign Affairs
Subcommittee on Europe and Eurasia
May 5, 2011**

Good afternoon, Chairman Burton, Ranking Member Meeks and Distinguished Members of the Subcommittee. Thank you for the opportunity to testify on the Department of Homeland Security's counterterrorism cooperation with Europe, including Russia and the Caucasus.

Since the Department's inception in 2003, as stipulated in the Homeland Security Act, preventing terrorist attacks against the United States and the American people and enhancing security have been and continues to be the foremost missions of the Department of Homeland Security (DHS). The Department's first Quadrennial Homeland Security Review (QHSR), released on February 1, 2010, reiterates that preventing terrorist attacks in the United States is the first of DHS's five primary missions. DHS also integrates preventing terrorism into its four other primary missions—securing and managing our borders, enforcing and administering our immigration laws, safeguarding and securing cyberspace, and ensuring resilience to disasters of all kinds.

In order to prevent threats and reduce risk, we work with our international partners to identify, detect, and ultimately prevent threats from materializing, and to mitigate and respond to them when they do. Both the December 2009 and October 2010 attempted terrorist attacks on international aviation underscore the interdependence of our homeland security and the security of other nations. Even as we improve security at home, terrorists and criminals look for vulnerabilities abroad to carry out their attacks. To this end, we work with foreign partners to respond operationally to this threat and to share knowledge and expertise that will ultimately improve both our capabilities and those of our allies. As set out in the Homeland Security Act of 2002, the DHS Office of International Affairs is charged with “promoting information and education exchange with nations friendly to the United States in order to promote sharing of best practices and technologies related to homeland security.”

I would like to highlight three points. The first is that DHS is actively working with our European allies strategically and operationally to prevent terrorist attacks on the United States. Second, DHS and its European partners cooperate closely in a variety of ways to try to prevent terrorist travel. Third, the Visa Waiver Program provides incentives for currently designated countries and those desiring designation to maintain high security standards and deepen their cooperation with the United States on security-related issues.

On the first point, DHS works to prevent terrorism by working with our European partners both to secure and to facilitate the flow of travel and trade between Europe and the United States. At present, DHS has nearly 400 employees in Europe working daily with European governments, the traveling public, cargo shippers and others involved in international travel and trade to help make the United States safe, secure, and resilient against terrorism and other hazards. To do this, we engage in robust cooperation with Europe to secure the more than 30,000 passengers arriving daily from Europe at U.S. ports of entry, the more than 3,000 containers arriving daily from Europe, and \$1 billion of investment between our continents every day, not to mention the protection of our shared cyberspace. It is DHS's goal to facilitate legitimate transatlantic travel, trade and exchange, all of which are critical to the U.S. economy, while preventing the flow of illicit goods and people and investigating illegal activity.

All nations have the right to set their own security standards. At the same time, DHS works with foreign partners to improve the overall security of global transportation and exchange systems, including through the development of compatible standards and approaches. Europe is a key partner in this work to establish and enhance standards for global aviation security, global supply chain security, and other security challenges. The United States' shared democratic values with Europe often mean that we can develop strong and effective methods for enhancing security together. When it comes to working within the World Customs Organization (WCO), the International Civil Aviation Organization (ICAO), or other multilateral institutions to strengthen global rules to prevent terrorism, the United States has no more vocal, vital partners than those in Europe.

Every week, there are more than 2,500 flights between the United States and Europe, and DHS statistics show that suspected terrorists on U.S. watch lists have tried to use European airports as a point of departure for the United States. DHS has a multi-layered approach to transatlantic aviation security, many parts of which require cooperation with European governments and the European Union. This cooperation includes agreements to allow Federal Air Marshals on board transatlantic flights, assessments of last point of departure airports, and the implementation of enhanced security screening requirements for last point of departure flights to the United States.

Following the attempted attack on December 25, 2009 on a flight from Amsterdam to Detroit, DHS has worked with European and other governments and with ICAO to enhance aviation security standards around the world. The Toledo Declaration on Aviation Security, released jointly by the European Union and the U.S. on January 21, 2010, was a significant benchmark in efforts to gain international support and commitment to enhanced aviation security standards globally. DHS has worked with European and other partners to come to a common understanding of advanced imaging technology to detect explosives and other dangerous objects. Several European countries are currently either using or pilot testing these machines.

The Customs and Border Protection (CBP) Immigration Advisory Program (IAP) posts CBP officers at foreign airports to work with airlines and foreign officials to identify high-risk and improperly documented travelers before they board aircraft bound for the United States. At the invitation of foreign partners, IAP officers make "no-board" recommendations to airlines on the basis of passenger data analysis, and a review of individual travel documents. The IAP is currently active at seven airports in Europe, and has recommended a total of 1,323 no-boards from European airports so far in fiscal year 2011.

Both the United States and Europe continue to face a variety of terrorist threats from groups outside our regions, lone offenders, and homegrown violent extremists. Recent attacks or attempted terrorist attacks in Europe—most recently in Denmark, Germany, and Sweden—demonstrate the reality of the threat to Europe. Because terrorists target travel and trade between Europe and the United States, it is critical that we continue to work closely with our European allies. In many cases, sharing information between governments is the best way to protect the American people and to help our allies protect themselves. DHS continues to work with our partners in the U.S. government to improve information sharing with European governments in

order to curtail terrorist travel and disrupt terrorist funding, while simultaneously protecting the privacy and civil liberties of the millions of legitimate travelers between our countries each year.

DHS has pioneered international screening programs to improve the ability of DHS and its foreign partners to identify terrorist and illicit activity. Successful partnerships include:

- After the 2006 terrorist plot to destroy aircraft flying from the United Kingdom (UK) to the United States, DHS's National Targeting Center now works regularly with its British equivalent, the National Border Targeting Centre, to collaborate and exchange information on high-risk flights between the two countries.
- Since September 2009, DHS and the UK have cooperated to screen visa applications jointly for persons in the United States seeking to travel to the UK, already identifying nearly 40 suspect applications.
- DHS worked with Canada and the UK to compare the fingerprints of a sample of asylum seekers and identified over 200 cases of fraud. These three countries, joined by Australia and New Zealand, intend to adopt compatible practices through an initiative called the Five Country Conference, which my office coordinates for DHS.

Through these efforts, DHS seeks to innovate and raise the standards for international cooperation to prevent terrorism and transnational crime.

In another effort to prevent terrorist exploitation of the global system to move cargo by land, sea, and air, DHS and the WCO announced new collaboration to strengthen the security and resiliency of the global supply chain earlier this year. The initiative will enlist sovereign nations, including our European allies, international organizations, and the private sector. Our focus throughout 2011 will be on working collaboratively to outline new measures that will make the system stronger, smarter, and better able to recover from the shocks of any disruptions. It is vital that as an international community with shared values and mutual interests, we act together to strengthen supply chain security. DHS is now working with the WCO, as well as ICAO, the International Maritime Organization, and the Universal Postal Union, to enhance international security standards to protect the global supply chain.

For some of these efforts, modern technology will be vital. Like the United States, Europe is at the forefront of technological innovation and has the capacity to develop solutions for homeland security challenges cooperatively with the United States. This is why the DHS Science and Technology Directorate (S&T) has engaged in several joint research and development projects with European partners to develop homeland security technologies whose real-world applications could enhance our ability to detect, mitigate, and respond to terrorist threats. S&T has so far concluded research and technology sharing agreements with the European Union, France, Germany, the Netherlands, Sweden, and the UK, and has engaged in a number of successful homeland security research projects with European partners, including efforts to improve the detection of explosives and the identification of biological and chemical threats.

Now let me address the second point. The travel of terrorists and potential terrorists represents one of the greatest threats to European and U.S. security. Disrupting terrorist travel is therefore a key goal in our overall efforts against terrorism. The United States and European countries,

along with other partners around the world, continue to work together to limit terrorists' ability to carry out their plots by exploiting the international aviation system. This cooperation has underscored the value of analyzing travel data and sharing information with our European partners in order to identify both known and unknown individuals traveling for purposes of terrorist training or committing acts of terrorism. Quite simply, we cannot always know who the terrorists are, so we and our European allies must work together to identify those who pose a risk but have not, until now, come to the attention of law enforcement or intelligence agencies. Every month, CBP refuses entry to individuals arriving in the United States from Europe on terrorism-related grounds.

To illustrate two particularly close partnerships, DHS works with our counterparts in Germany and the UK on how to prevent and respond to terrorist attacks. DHS's Joint Contact Group with the UK and the Security Cooperation Group with Germany are bilateral dialogues that have enabled DHS and our partners to exchange threat assessments, best practices on both the detection of violent extremism and on transportation security, information about terrorist travel trends, risk assessment methodologies, and emergency management best practices.

DHS also keeps in close touch with our allies, in particular our European allies, on the problems of radicalization and countering violent extremism. Europe's experience with violent extremism may be different from ours, but we have both noticed the efforts by terrorist groups to try to recruit operatives who are previously unknown, do not have to travel, or who can potentially blend in more easily before carrying out terrorist attacks.

With the entry into force of the Lisbon Treaty in 2009, the European Union is becoming an increasingly important actor in homeland security, and DHS engages with the EU in a variety of exchanges that support DHS's counterterrorism mission. At the U.S.-EU Summit in November 2010, President Obama and his EU counterparts established a U.S.-EU cybersecurity working group to counter the growing threat of cybercrime. Secretary Napolitano participated in the Summit, which focused on discussion regarding cybersecurity and terrorist travel. Working under guidance of the White House and with other departments and agencies, DHS provides subject matter leadership to this effort and we intend to hold a joint cybersecurity exercise with the EU to test our abilities to work together during a major incident. The work of the working group augments collaboration already underway with many member states.

The U.S. and the EU also maintain regular dialogues on more tactical matters regarding the prevention of terrorism. DHS is involved in a series of exchanges with the EU and its member states on explosives security, including most recently an exchange on best practices to limit the misuse of explosives precursors and the detection of explosives and threats to air cargo. In 2009, DHS concluded a Cooperative Work Arrangement with FRONTEX, the EU's border management agency, to share best practices on integrated border management, information sharing, risk analysis, training, and research and development. We also reciprocally observe operations and exchange professional experts. TSA regularly engages with the European Commission on transportation security through the Transportation Security Cooperation Group, along with the U.S. Coast Guard on maritime security issues. In addition, CBP engages on customs issues with the European Commission through the Joint Customs Coordination Council.

These exchanges allow for interaction on the operational immigration, transportation security, and customs measures DHS and EU member states implement to prevent terrorist attacks.

As I have made clear today, DHS and its European partners maintain an effective partnership. However, that partnership is increasingly facing challenges stemming from growing concern in Europe about the sharing of personal data, and continued misconceptions concerning the strong U.S. commitment to individual privacy and civil liberties. Fighting terrorism and crime in the modern world requires robust information sharing, which was one of the recommendations of *The 9/11 Commission Report*. However, various European entities, including the European Union, have increasingly asserted that data collected by DHS relating to flights to and from Europe must adhere to EU-style privacy protections. Let me be clear that both DHS and the United States government as a whole share a strong commitment to protecting individual privacy and civil liberties, including in the context of homeland security programs. Both U.S. and European privacy law are in fact based on the Fair Information Practice Principles which were originally developed in the United States in the 1970s. In the intervening years, the laws, regulations, and systems that exist to implement these principles have developed differently on the two sides of the Atlantic, but the two systems have much in common. Since 2006, the Department of Justice, the State Department, and DHS have been working together to demonstrate that the U.S. system of privacy and civil liberties protections, while different, is nonetheless very strong and the equal of protections in place in the EU, and to come to an agreement with the EU on common data privacy principles for information sharing in the law enforcement and public security context.

Presently, we are in negotiations with the EU on a new agreement governing DHS's use of passenger name records (PNR) for flights between the United States and the EU, to avoid a potential conflict between European privacy law and U.S. aviation security law. The United States and many of our European allies agree that PNR is vital to fight terrorism and serious transnational crime effectively. I should emphasize that DHS is not negotiating for the collection of PNR, which is required by U.S. law, but to ensure a stable and secure legal environment under which it is transferred. PNR is critical to the United States' ability to identify both known and as yet unknown threats for further examination either before the departure of aircraft to the United States or at a U.S. port of entry. In fiscal year 2010, approximately one quarter of those individuals denied entry to the United States for having ties to terrorism were initially identified through the analysis of PNR. Because of the vital importance of this program, DHS has entered these negotiations with the goal of improving security while reassuring our allies about our ability and commitment to protect individual privacy. To date, we have held negotiating sessions, and hope to conclude these talks in the coming weeks or months.

I will now turn to my third topic, the Visa Waiver Program (VWP). Since 1986, the VWP has allowed eligible citizens of member countries to travel to the United States for business or tourism without first obtaining a visa. The 36 countries currently participating in the VWP are among our closest international partners in the fight against terrorism. Thirty VWP countries are European countries, and include 23 of the 27 Member States of the European Union. By Congressional mandate, DHS conducts a detailed review on at least a biennial basis of each VWP country. These reviews focus on the effects of continuing designation on the law enforcement, national security, immigration and enforcement interests of the United States.

The *Implementing Recommendations of the 9/11 Commission Act* of 2007 made even more explicit the connection between security cooperation and the VWP. Designation as a VWP member country provides tremendous incentives for countries to maintain high security standards and deepen their cooperation with the United States on security-related issues. The cooperation that the VWP engenders—entry into agreements to share lost and stolen passport data with the United States through INTERPOL; sharing security and law enforcement information with the United States; cooperation on repatriation matters; the strengthening of document security standards; and airport and aviation security—helps secure the United States and prevent terrorist and criminal activities within VWP member nations.

Due to these security requirements, all VWP countries now report lost and stolen passports to INTERPOL. This achievement, which contributes to the decreasing use of fraudulently-obtained passports, is a milestone and has contributed to the overall decline of fraudulent document intercepts at the border from VWP countries, from 712 in FY2004 to 36 in FY2010. In addition, 17 European countries have signed Preventing and Combating Serious Crime Agreements with the United States to share information about serious crime and terrorism, and negotiations with several other countries are in the final stages. These agreements enable each side to query the fingerprint databases of the other side for law enforcement purposes and otherwise enable each side voluntarily to provide data about criminals and terrorists. Also, VWP countries are required to enter into agreements under Homeland Security Presidential Directive/HSPD-6 with the United States regarding the systematic exchange of identifying information on known or suspected terrorists and encounter management procedures. The Department of State and the Terrorist Screening Center have negotiated 15 of these agreements with European countries, and others are currently being negotiated.

As an additional security measure under the VWP, visitors to the United States must also have an approved Electronic System for Travel Authorization application in advance of travel by air or sea to the United States.

Before concluding, I would also like to mention some of the work DHS does elsewhere in Europe.

Turkey is a source and transit point of high volumes of international travel and trade, and so it is an important partner in building trade and travel security. Turkey faces a variety of terrorist threats from the Kurdistan Workers' Party, more commonly known as the PKK, and Sunni extremists, including al-Qa'ida affiliated individuals. DHS is exploring further opportunities for increased cooperation with Turkey, including training and technical assistance programs. CBP has also engaged with Turkish authorities on the use of new tools for Turkish border management and to prevent the use of fraudulent documents. As we look to the future, DHS would like to extend and broaden our counterterrorism cooperation with the Government of Turkey.

DHS is actively engaged in training and technical assistance efforts to strengthen border security and law enforcement institutions in Southern and Eastern Europe in coordination and consultation with the Department of State. CBP and ICE officers provide training in the Western

Balkans under the State Department's Export Control and Border Security Assistance program, which aims to control the movement of dangerous materials across borders. Moreover, the U.S. Coast Guard has provided maritime law enforcement training and equipment to its counterparts in Albania, Georgia, and Montenegro. Several DHS components provide support to the International Law Enforcement Academies – for regional law enforcement officers – in Hungary as part of a broader effort to empower local authorities to tackle criminal activity. TSA, in partnership with the European Civil Aviation Conference, provided technical assistance to Georgia under its Aviation Security Sustainable International Standards Team project. In addition, DHS's Federal Law Enforcement Training Center (FLETC) assists the Ukraine State Border Guard with developing its training program and will provide critical infrastructure protection and other training for Poland and Ukraine to support their preparations for the Euro 2012 championships.

I would also like to describe some of DHS's work with Russia. Russia has been a victim of numerous terrorist acts over the past decade, most recently the attack on Moscow's Domodedovo Airport in January. Like the United States, Russia faces threats from a number of terrorist organizations. To expand U.S.-Russia cooperation in diverse areas, DHS supports the U.S.-Russia Bilateral Presidential Commission, established by Presidents Obama and Medvedev in July 2009. DHS participates in working groups which focus on issues related to emergency management and to migration, and is currently working with Russia to conclude arrangements on aviation security and multi-modal transportation security. DHS has also engaged Russia in discussions on deterring to threats to aviation and mass transit.

DHS has 394 employees posted across Europe, including 296 U.S. government direct hires, and 98 locally employed staff. Of the 394, CBP has 133 employees, ICE has 82, TSA has 25, USSS has 57, USCG has 45 and USCIS has 43. In addition, the DHS Office of Policy has four employees, FEMA has two, and FLETC, NPPD, and S&T each have one employee posted in Europe. Most of these personnel serve under the authority of our Ambassadors and Chiefs of Mission in Europe, and in general, they work within U.S. embassies, although some report for duty at ports and airports in Europe.

Among their various responsibilities, DHS personnel support the operation of the Container Security Initiative, which screens U.S.-bound maritime containers for high-risk cargo at 23 ports in Europe. DHS personnel investigate transnational crimes, including cybercrime; combat human and drug trafficking; conduct maritime port assessments, assess airports and air carriers; advise airlines through IAP; work with host governments, passengers, and the trade industry to comply with U.S. customs and immigration regulations; and oversee the deployment of Federal Air Marshals among many other essential tasks.

Chairman Burton, Ranking Member Meeks, and Distinguished Members of the Subcommittee, I look forward to working with you as we explore opportunities to advance our cooperation with European partners to counter terrorism. Thank you again for this opportunity to testify. I would be happy to answer your questions.

Mr. BURTON. Before I get to my questions, I would like to just once again stress that I just got back from Taipei, Taiwan, and they have been a great ally for a long time and they should be a top candidate, I would hope, for the Visa Waiver Program. And I hope you and the Department will look seriously at that.

The first question I have is after bin Laden's death there may be some changes in attitudes around the world. And with our continued commitment to freedom in the Middle East, Afghanistan and elsewhere, and stopping al-Qaeda and the Taliban, do you think that the attitudes of our allies that have been working with us in those areas in those endeavors will change? Will they remain as committed as they have been, or do we expect any change, or have we seen any change?

Ambassador BENJAMIN. Thank you for that question, Mr. Chairman.

I think that our expectation is that our allies will retain the same sense of urgency, the same sense of mission that has characterized the cooperation we have had for many years now.

If you look at the statements from any number of different European leaders, they were quite clear that this is a milestone achievement, but it is by no means the end of the threat. They all experienced the heightened threat environment in the fall. Germany arrested three terrorists in the midst of a conspiracy just a few days ago. I think there is a widely shared understanding among the governments of Europe that this threat is by no means over.

Mr. BURTON. So you anticipate the commitment to Afghanistan will remain just as strong as ever?

Ambassador BENJAMIN. As you know, there have been a number of different statements about troop levels and things like that in Afghanistan in particular, but overall, we note that our European allies have supplied a large number of troops, a large number of teams for training police and other parts of the Afghan Government. And we certainly hope that they will continue to do so. I don't think that this event is going to, in itself, trigger any kind of sea change.

Mr. BURTON. Thank you.

One of the concerns I have involves the Middle East. I was senior Republican on the Middle East the previous 2 years. And as my colleague from Texas was alluding to a few minutes ago, we are concerned about what is going on in the Middle East. And what I would like to ask both of you is, our allies in Europe, Europe and Eurasia, what is their attitude and what are they going to be doing from your perspective to help us make sure that the entire northern tier of Africa, as well as the Persian Gulf, doesn't go up in smoke.

In particular, I am very concerned and I would like to know the attitude of our European and Eurasian allies—I am very concerned who is going to take over in Egypt, who is going to take over in Libya should Muammar Gaddafi be gone, what is going to happen in Syria? All of these areas that will affect the entire world are in the Middle East, and they are supplying energy in large part for many of the countries in Europe and Eurasia.

So I know this is a pretty broad question, but I would like to know what your assessment is, both of your assessment is, about

what is going to happen in those countries and what you project in the future.

I mean, if Egypt goes to the radical elements, like the Muslim Brotherhood, if Syria goes from Assad to a radical element governing that country, if Muammar Ghaddafi leaves and radical elements connected to al-Qaeda—and we know they are there—were to be able to take over that country, what would that mean, and what are we doing to stop it, and what are our allies trying to do to help us in that endeavor?

Ambassador BENJAMIN. As you said, Mr. Chairman, it is a very broad question, but let me take a quick stab at it.

Our allies are every bit as concerned as we are about the fate of the region. We are all, of course, stunned by the rapidity with which we have seen change come to the region. There is a broadly shared desire to see Egypt, Tunisia, and such other countries as hang in the balance, evolve in a democratic way that meets the aspirations of their people.

As you know, we have very close cooperation with the Europeans on what is going on in Libya. We have coordinated closely in terms of our assistance and our messaging to Tunisia and Egypt, and we have also coordinated closely, for example, on our outrage at the intolerable crackdown that has occurred in Syria. And this is just a sampling of our coordination. It is by no means meant to be exhaustive.

I would say that we are working together to ensure that we do see the kind of Middle East emerge that we would like to see. We are, of course, all concerned that terrorists will try to exploit this moment because, although the Arab Spring, as you mentioned, has been in its own way a strategic blow to al-Qaeda and its adherents because it showed they were not part of the revolutionary movement, they were not part of the story there, and in fact, the events themselves demonstrated the falseness of one of their core beliefs, which is that only violence would change these countries, we view these as being very, very positive developments.

But that said, terrorists will try to insert themselves wherever they see an opportunity. And as there are some distracted security services in the region, and border security may not be what it once was, they may see this as a moment of opportunity.

As you can imagine, we are working closely through diplomatic, intelligence, law enforcement and military channels to do what we can to ensure that the region maintains its security and to ensure that terrorists do not have an opportunity to exploit this moment.

It is still very early days, but I think we are still optimistic about the trajectory of the region.

Mr. BURTON. I am about to yield to my colleague from Texas because I have used a lot of time already, but I would just like to urge Homeland Security and the State Department to do everything, along with our allies, as humanly possible to make sure that we don't have radical elements take over in Egypt, Syria, or some of those other countries.

I understand and I think we all acknowledge that we have had some repressive administrations over there. Mubarak was very difficult in Egypt; in Syria, Assad, there has been a lot of repression there. Throughout the entire northern tier of Africa and even in

the Persian Gulf we have had those problems. But the one thing I don't think the world can tolerate or live with is several more Irans popping up on the northern tier of Africa and in the Persian Gulf, because we might not be able to get enough energy, since we are not drilling here in America, we might not be able to get enough energy to turn the lights on. So this is a very important issue, and I would just like to urge you to make this a top priority.

And with that, I will yield to my colleague from Texas.

Mr. POE. Thank you, Mr. Chairman. I will follow up on my opening comments.

Now that Osama bin Laden is dead, who would you rank as the number one terrorist group in the world opposing the United States?

Ambassador BENJAMIN. Well, sir, undoubtedly al-Qaeda remains the foremost terrorist threat we face, operating either from the al-Qaeda core base in the Pakistan/Afghanistan region or through its affiliates in Yemen, in northeastern Africa and then northwestern Africa. So as the President has said, as many others have said, this is a historic achievement, but this is by no means the end of the story. If anything, I think it demonstrates our determination to continue to remove al-Qaeda threats that we face.

Mr. POE. I agree that the death of Osama bin Laden shows other terrorists that the United States is resilient and will do whatever we can, for as long as it takes, to make sure we are safe.

CIA Director Panetta made the comment that there is a mutual distrust between Pakistan and the United States now that we have found him harbored in the country for so long. Do you share that opinion, Mr. Ambassador?

Ambassador BENJAMIN. Well, the late Ambassador Richard Holbrooke, the Secretary of State, the President, have all said on numerous occasions that there has been a trust deficit between our countries that we are working hard to overcome. As John Brennan said, we are also going to look at the question of what systems there were to support Osama bin Laden in Abbottabad, and to make it possible for him to live there unmolested for such a long time.

Do think, though, that it is important to emphasize, as the Secretary said this morning, that our relationship with Pakistan, while it occasionally has its challenges, is a productive one; that more terrorists have been apprehended or killed in Pakistan than anywhere else, and that this collaboration between our countries has been absolutely vital to degrading the al-Qaeda threat over quite a number of years. So it is a complicated picture, but it is a vital relationship and we need to keep working on it.

Mr. POE. I understand it is complicated but my question is do you believe that the Pakistani Government knew that Osama bin Laden was in their country? That is just a simple yes or no.

Ambassador BENJAMIN. I believe that they thought there was a good chance that he was somewhere in Pakistan. I can't imagine, given all of the focus on fighting extremism, especially in the Federally Administered Tribal Areas, that they didn't think, or that they were certain he was not in their country. Whether or not they knew he was in Abbottabad, I think that probably came as a much greater surprise to them.

Mr. POE. Of course, the United States didn't notify Pakistan that we were coming in to take him out, and they have now objected and said that strained our relationship. So my own opinion, they knew or they are totally incompetent in their intelligence field.

Let me switch gears a minute and ask you a couple of questions about MEK. Every time we get together I ask you about the MEK, and I hope that we get some answers someday.

Is the State Department going to take them off the list and if they are, when? And if not, when? When are you all going to make a decision?

Ambassador BENJAMIN. Sir, I am afraid the answer is the same one as when we saw each other a couple of weeks ago. We are working as expeditiously as possible to complete the review that the U.S. Court of Appeals ordered. As recently as April 6th we received new material from MEK counsel, and we are reviewing it, and just as fast as we can, we are going to get a recommendation package to the Secretary and have a decision made.

Mr. POE. 6 months? A year? Do you have any idea?

Ambassador BENJAMIN. I can't give you a certain date, but I can tell you it will be less than 6 months, considerably less, I hope.

Mr. POE. As a follow-up, I have attended, as many members have, all of the classified briefings that I am aware of on this issue. Has any new information come to surface in the last 2 months that would help Members of Congress on this issue, classified or not?

Ambassador BENJAMIN. As I mentioned, sir, we have received new information as recently as last month from the MEK itself. And so we are reviewing that information and seeing if it helps in our deliberations.

Mr. POE. All right. I will yield back the remainder of my time. Thank you, Mr. Chairman.

Mr. BURTON. I apologize, I missed part of your question, Mr. Poe. Did you ask about what our State Department is doing to urge that those people who have not been buried would be dealt with? Are you aware of what he asked earlier on? I mean, if those people were killed some time ago and for whatever reason they are not being taken care of properly, it seems since we are a strong supporter of Iraq and the Iraqi Government, we ought to be doing everything we can to make sure that is taken care of immediately.

Ambassador BENJAMIN. I fully agree, and as soon as I get back to the Department I will check with my various colleagues.

Mr. BURTON. Would you let me and Mr. Poe and others on the subcommittee know about that?

Ambassador BENJAMIN. Certainly.

Mr. BURTON. I yield to my colleague from Arkansas, Mr. Griffin.

Mr. GRIFFIN. I want to shift gears and talk about Russia some.

On the Judiciary Committee, we have looked into the issue of piracy, and a lot of that, it seems, stems from illegal activities in Russia, some by organized crime. And when I look at some of the official cooperation with European countries on terrorism and law enforcement and the many different areas that we cooperate with our European allies, I often see Russia included in some of those agreements and relationships. That sends a signal that Russia is helpful and a partner on a lot of these issues.

I would just like to get your take on—both of you—on the issue of Russia; how reliable are they on issues like piracy and have they cooperated with us? And then, I would like you to also address the role of organized crime in Russia. We are not hearing as much about it as we did maybe 5 years ago, I think it is fair to say, just in terms of press coverage. I don't know if that is because it has become so routine or maybe it has decreased.

If you could comment on the role of organized crime in Russian society today, and how that impacts, if at all, the official Russian Government's cooperation with us on counterterrorism and things like piracy. I would welcome your comments on that.

Ambassador BENJAMIN. Thank you very much, sir.

I confess that within the Counterterrorism Office we have limited engagement on the issue of piracy and the issue of organized crime. I would be happy to get a response to you on that and to have the appropriate officials brief you on that.

I will say that we have not detected any impact in our cooperation on counterterrorism from those issues. And in the course of what is a very close relationship with the Russians on counterterrorism, I think that we would certainly be able to discern. I will say that the counterterrorism cooperation was a bright spot in the U.S.-Russian relationship before the administration came into office and it has continued to be. And I think we have actually deepened our cooperation with the Russians on counterterrorism as Deputy Assistant Secretary Koumans can discuss as well. We have done a lot of work with them on aviation security and we are developing some agreements in that area,0 which we hope will come to fruition soon.

And we cooperated closely on issues such as designating either al-Qaeda members or al-Qaeda-related terrorists and Taliban members at the U.N. under the 1267 regime. And we have also had a vigorous exchange of information on a wide range of important subjects of mutual interest, including radicalization, for example, in Central Asia. So I think it is a very good relationship and one where we are continually looking for ways to deepen it to the benefit of all of our citizens.

Mr. GRIFFIN. Have you seen any identifiable limits on Russia's willingness to cooperate on counterterrorism? Is there any threat to the United States, where they have been unwilling to show the cooperation that they have shown, for example, on al-Qaeda? Or have they been a partner in a sense that we have gotten to know other European allies as partners? Is there an asterisk by Russia?

Ambassador BENJAMIN. No. I certainly wouldn't say there is an asterisk. I have to say that I have an excellent relationship with my counterpart in Russia, Presidential Envoy Anatoly Dobrynin, who is a first-class leader in this area and widely recognized as such.

I wouldn't say there is an asterisk, but I would just reiterate that some of our relationships in Western Europe go back many, many decades, and obviously in a historical perspective we are still building the relationship with the Russian Republic, day by day. But I am quite pleased with the progress and I have every hope for a continued success in this. Let me put it this way: I haven't come up against any hard walls.

Mr. GRIFFIN. Do we have time for the Secretary to answer?

Mr. KOUMANS. Thank you, Congressman Griffin.

I will echo everything that Ambassador Benjamin said, both with respect to not having encountered any brick walls, and also the great depth of our partnerships in Western Europe vis-à-vis the obviously more recent partnership with Russia.

But that said, we have made some significant strides. We have put some additional ideas in front of the Russians. I can mention one of them in this setting and two additional ones I could mention in a classified setting.

But the one I can mention here, it concerns multimodal transportation. The others concern transportation as well. Obviously, an important part of the Department's mandate having to do with securing the supply chain, securing aviation, securing airports, but also bridges, tunnels—it is a multimodal agreement—and sharing lessons learned and doing what we can to work more closely together in that field.

Mr. GRIFFIN. Right. Thank you, Mr. Chairman.

Mr. BURTON. One thing that you might want to comment—I am getting ready to yield to Mr. Bilirakis and then I will go to Mr. Deutch—is Georgia. I met with the Georgian Ambassador just a couple of days ago. And there are Russian troops, as you know, on Georgian soil. They are building barracks and they are bringing their families in. And you might consider giving us an update on that and what the long-term prognosis is, because the people in Georgia are very concerned about that in the future.

With that, I will yield to Mr. Bilirakis.

Mr. BILIRAKIS. Thank you, Mr. Chairman. I appreciate it.

Secretary Koumans, thank you of course for your service. In your testimony you noted that every week there are more than 2,500 flights between the United States and Europe, and that DHS data show that the suspected terrorists on U.S. watchlists have tried to use European airports as a point of departure for the United States. And I apologize if you already covered this.

Additionally, you note that DHS and its European partners maintain an effective partnership in terms of sharing information between governments.

What alarms me is the pushback we seem to be getting from the EU regarding the sharing of personal data.

Clearly the U.S. leads the world in its commitment to protecting individual privacy and civil liberties. Why does the EU believe that the sharing of data regarding suspected terrorists is a breach of privacy rights? And why will it take weeks or months to reach an agreement on passenger name records? Seems like a long time to me. If you can answer that question, I'd appreciate it.

Mr. KOUMANS. I will try my best, Mr. Congressman. And as someone who has been involved in these negotiations in the previous iterations in 2006, 2007, I can share some of the sentiment.

But it is important to recognize that we are dealing with the two different legal regimes, two different governmental structures, parliamentary structure, our three parts of government. They have privacy laws that differ from ours in some respects, despite the fact that the underlying foundation, as you said, is quite similar and there is much more that unites us than divides us.

But there are distinctions. There are differences that are very important to them. And so they would like to go through and consider every aspect of the agreement carefully: How long the data is retained; what sort of data we collect; what it is used for; for what sort of crimes. It is a very detailed discussion and one that we look forward to concluding. And we are confident that we are quite close to an agreement. And I think that in the coming, as I say, months we will resolve it.

Mr. BILIRAKIS. Mr. Ambassador, would you like to comment?

Ambassador BENJAMIN. I think that really covers it. I would note that we have a new set of players, in a sense. We are not directly negotiating with the European Parliament but nonetheless, we are dealing with a new EU that is—in some ways has to explore all of these different issues and satisfy itself in a way that the pre-Lisbon EU did not. So it is an important period of mutual education, if you will.

And I share Secretary Koumans' optimism that we will get there soon. I really do think that a lot of this is about learning how we do much the same thing in very different ways. And so I don't see this as a subject of great friction, but rather as an inevitable process to very large political unions working their way through some challenges.

Mr. BILIRAKIS. Thank you.

My next question is for Secretary Koumans.

I am heartened to know that DHS keeps in close touch with the EU regarding countering radicalization and extremism, especially as it relates to the Balkans, particularly Albania. As you know, Albania is a hub of narcotrafficking, arms trafficking and human trafficking. Even Albania's Deputy Foreign Minister recently stated that Tirana, Albania, is close to being the most corrupt capital of the world.

What has DHS done specifically within Albania to make it less of a haven for nefarious activities that could affect the security of the rest of Europe and the United States?

Mr. KOUMANS. Thank you, Congressman Bilirakis.

With respect to Albania—well, I should preface my remarks by saying that everywhere the Department of Homeland Security operates internationally, we work in partnership with the Department of State and under Chief of Mission authority if we are not under combatant commander authority, which—and Chief of Mission authority being the case in about 99 percent of our postings overseas.

Countries such as Albania that do not have nonstop flights to the United States, where we do not have a large volume of trade, we are particularly dependent on the Department of State for our engagement. All of our training and technical assistance and capacity building we would do would be in concert with and funded by either the Department of State or the Department of Defense. And it has been—the engagement in Albania has been through the International Law Enforcement Academy, ILEA, in Bucharest. There has been a certain amount of training and capacity building that has taken place. I don't have the statistics at my fingertips but I am happy to take that question and provide that.

Mr. BILIRAKIS. Please provide that information to me.

Thank you, Mr. Chairman. I appreciate it.

Mr. BURTON. Well, thank you very much for being here today. We appreciate your testimony and the questions you answered so forthrightly. We will probably have another hearing on this subject down the road. I looked at the map of Europe and Eurasia the other day and there are huge questions that need to be addressed. So I look forward to hearing from you again in the future. Thank you very much for being here.

We will now have our next panel of witnesses. We have Gary Schmitt.

Thank you again, gentlemen. We appreciate it.

Gary Schmitt is the director of the program on Advanced Strategic Studies at the American Enterprise Institute, and the director of AEI's program on American citizenship. Dr. Schmitt is a former staff director of the Senate Select Committee on Intelligence. He was the executive director of the President's Foreign Intelligence Advisory Board during President Ronald Reagan's second term. Dr. Schmitt's work focuses on longer-term strategic issues that will affect America's security at home and its ability to lead abroad.

And our other panelist is Sally McNamara. She is a senior policy analyst in European affairs at The Heritage Foundation's Margaret Thatcher Center for Freedom. Ms. McNamara joined Heritage in 2006 and concentrates on American relations with the European Union and European countries, with particular focus on economic reform policy, trade issues, and the war on terrorism. She also analyzes NATO's evolving role in post-Cold War Europe. And before coming to America in 2004, Ms. McNamara served as chief parliamentary aid to Roger Helmer, a member of the European Parliament in Brussels.

And maybe down the road you can give us some advice, because we are going to be going to Brussels and you will have to tell us what we can expect and what we should look for when we get there.

With that, I will yield to Dr. Schmitt for his opening comments.

**STATEMENT OF GARY J. SCHMITT, PH.D., RESIDENT SCHOLAR
AND DIRECTOR OF ADVANCED STRATEGIC STUDIES, AMERICAN ENTERPRISE INSTITUTE**

Mr. SCHMITT. If I can begin by offering my advice, you should eat the mussels.

Mr. BURTON. Eat the mussels in Brussels. Very poetic. I don't like mussels, but it is very poetic nonetheless.

Mr. SCHMITT. Thank you, Mr. Chairman, for the opportunity to testify today.

The question I will be addressing is whether there are major strategic differences between how the U.S. and its closest European allies handle the threat of Islamist terrorism.

Admittedly, this is a broad topic and so I am more than happy, after Sally and I finish, to talk about other topics in more detail as you wish. My testimony is largely derived from studies that I commissioned at AEI and which resulted in a volume published last summer entitled, "Safety, Liberty and Islamist Terrorism: American and European Approaches to Domestic Counterterrorism."

There were two principal reasons I undertook the study. First, I wanted to see if there were lessons to be learned from the way other democracies, especially those that had dealt with terrorism in the past, were handling the new jihadist threat.

My second goal was to examine the criticism that America's response to terrorism was overly militaristic, while Europe's was grounded in a more moderate paradigm, often shorthanded as the rule of law approach.

On the first, somewhat to my surprise, the value of comparing our respective approaches of our allies with the U.S. provided few lessons learned when it came to policies and practices. The reasons for this are many: Differences in legal system, different national histories, different constitutional structures and differences in the perceived threat.

With that said, two points stood out to me. The first is that in each European country I looked at, it was clear that as a threat grew, substantial adjustments were made by each government to overcome what we in the U.S. refer to as "the wall" between intelligence and law enforcement.

The second thing that stood out is that the U.S. is relatively atypical in not having a separate domestic intelligence agency.

Now on the second broader issue, whether the U.S. or European allies have widely divergent approaches to counterterrorism, I found this argument to be at best simplistic. First, there is the simple fact that each of our major allies has military forces deployed in Afghanistan with the explicit purpose to prevent that country from becoming once again a safe haven for terrorism.

In the case of France, for example, it has deployed its military in counterterrorist operations outside of France on at least three occasions over the past 1½ years. Even the Germans, perhaps the most reluctant ally to engage in offensive operations in Afghanistan, contributed special operation forces to help remove the Taliban from power in the wake of 9/11. And over the past year, Berlin has eliminated many of the caveats that it once had in place to prevent German forces from engaging in offensive operations as part of its current Afghan mission.

So while there is certainly a difference in the scale of what we do militarily compared with our allies, it is not the case that they have only a law-enforcement approach to counterterrorism.

Next, while it is certainly true that Europe has addressed the problem of terrorism principally through law enforcement, it is equally important to understand that the laws and practices that they rely on are more expansive than those often found here in the United States. In short, they don't treat terrorism as just another crime.

Without going into detail here, I would argue that when one looks at the laws related to speech, electronic surveillance, data sharing, preventive arrests, the monitoring of mosques, the overall approach of Europe is as aggressive or more aggressive than that of the United States. Even Germany, which is perhaps the least forward leaning in its counterterrorism laws, has utilized ethnic profiling and data mining.

Moreover, Spain, U.K., and France all allow detention of terror suspects for days of interrogation before being required to bring

formal charges. Indeed, in the case of Britain, suspected terrorists, if for one reason or another cannot be put on trial or sent back packing to another country, may be put under a form of house arrest for up to 2 years at a time.

Let me conclude by noting that France, arguably with Europe's most effective domestic counterterrorist effort, that system rests on France's investigative magistrates. This is an office that combines an array of powers, intelligence, investigative and prosecutorial, all in one person.

The only American office that bears some resemblance is that of an independent counsel. But unlike an independent counsel, whose mandate is tied to a particular case and hence limited in time, the investigative magistrates who handle terrorism in France stay in their position for years, building up expertise and discretionary power that few Americans would be comfortable with.

My point finally is not to suggest that these are laws, practices or institutions that the U.S. should adopt; rather, simply to note that when we think about our own response to 9/11, we should recognize that the United States is not an outlier in comparison with our Democratic allies. Indeed, since 9/11, we are all in the business of preemption.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Schmitt follows:]

“Overview of Security Issues in Europe and Eurasia”

Testimony before the House Committee on Foreign Affairs, Subcommittee on Europe and Eurasia

May 5, 2011

Gary J. Schmitt

Resident Scholar &

Director of the Program on Advanced Strategic Studies

American Enterprise Institute for Public Policy Research

Washington, DC

I want to begin by thanking Chairman Burton, Congressman Meeks, and the members of the subcommittee for this opportunity to appear before you today. The question I will be addressing—whether there is as a significant divergence between how the United States and its closest European allies deal with the Islamist terrorist threat—is one that has important implications for transatlantic relations but, unfortunately, is broadly misunderstood not only here in the United States but also by our allies abroad.

As someone who has worked both as a staff director on a Senate committee dealing with national security issues and in a senior post in the White House handling the same policy area, I am fully aware of the great value that hearings such as these can have in making our policymaking process more deliberative and more substantive. It is one of the great strengths of our constitutional system that we are known around the world not only for having a strong presidency but also the world's most powerful legislature.

Before I begin, and because this is the Subcommittee on Europe and Eurasia, I did want to note the passing of Ron Asmus this past Saturday. Ron, who served in the Clinton Administration as deputy assistant secretary of state for European Affairs, and the past several years as head of the German Marshall Fund of the United States' Brussels office and GMF's director of strategic planning, was a remarkable policymaker, scholar and colleague in transatlantic affairs. His last book, *The Little War that Shook the World*, was a tour de force on the failure of American and European statecraft leading up to the Russian invasion of Georgia in August 2008. Ron was dedicated to the proposition that the promotion of political freedom was America's moral and strategic obligation. He will be greatly missed.

I.

Turning now to the topic I was asked to address—to give context to United States counterterrorism policy by comparing it with the policies and practices of our European allies – I want to begin by noting that my comments are largely derived from a compilation of studies that I commissioned in previous years looking at how key countries in Europe (the United Kingdom, France, Germany and Spain) were addressing the threat of Islamist terrorism domestically. I then analyzed those studies and set out to compare their respective findings with the post-9/11 counterterrorism regime here in the United States.

The result was a volume published last summer by the American Enterprise Institute entitled *Safety, Liberty and Islamist Terrorism: American and European Approaches to Domestic Counterterrorism*.

There were two principal reasons I undertook the study. The first one was that I wanted to examine the policies and practices of other major democracies that had dealt with a substantial terrorism threat in the past, hence the countries chosen. [In the case of Spain, the Basque separatist group Euskadi Ta Askatasun (ETA); in the case of the United Kingdom, the Irish Republican Army (IRA); in the case of Germany, the Red Army Faction (RAF); and in the case of France, a number of separatist, Algerian and Middle Eastern terrorist groups.] I wanted to see what lessons might be learned from their respective experiences. How did they go about balancing security concerns with civil liberties? The second goal was to analyze the relevance of the criticism made both here and abroad that America's post-9/11 response to the Islamist terrorist threat—shorthand by the phrase “the war on terror”—was substantially different from that of our closest allies, a difference often described as being more moderate in practice and more constrained by a “rule of law” approach. In short, maybe our European allies had something to teach the United States both in the narrow operational sense of dealing with the threat but also in how they thought about the problem more broadly.

II.

Somewhat to my surprise, the value of examining and comparing our allies' respective approaches to counterterrorism provided few clear “lessons learned” when it came to actual policies and practices. The reasons for that being the case, however, are not difficult to fathom. The underlying variations among the five countries are substantial. First, there is the difference between legal systems (common law versus civil law regimes), with corresponding differences in how laws are made, how flexible they are likely to be, how cases are tried, standards of evidence, and what role judges may play.

There is also the matter that only the United States is governed under a system whose underlying constitutional principle is separation of powers. The fact that Germany, the United Kingdom, Spain, and France are parliamentary systems, or a mix of parliamentary and presidential, affects not only the discretion allotted the government but also political decisions about the balancing of security and civil liberties, including the level of oversight exercised by the legislature, the courts, and within the executive itself. Each of the five countries also differs in the degree to which authority is centralized, with the United States and Germany retaining strong federal structures. And, finally, there is the fact that Spain, France, the United Kingdom, and Germany are members of the European Union, a

constitutional body that has increasingly weighed in on counterterrorism policies and on how member states have balanced counterterrorism measures with guaranteed liberties.

Equally important is the scale of the domestic jihadist threat each country faces. Although the United States has had its recent share of “home grown” jihadists, the Muslim population in the United States is a significantly smaller percentage of the total population than that found in the United Kingdom, Germany, or France and, according to polls, is more “highly assimilated” and less prone to radicalization than in many European states. And finally, there is the matter of history, with each country having different experiences with terrorism and internal subversion, and two countries with recent memories of having lived under a dictatorship. These unique histories have undoubtedly shaped institutional arrangements, intelligence capacities, and police powers.

Obviously, the four countries analyzed in this volume—the United Kingdom, France, Spain, and Germany—are not the whole of Europe. And, as suggested above, because of the differences in history, political culture, and constitutional structures they cannot be easily collapsed into a single, distinct European approach to Islamist terrorism.

That said, I would take note of two points of comparison worth keeping in mind—one pointing to a convergence of U.S. practices with European ones and, the second, a divergence. With respect to the first, remember the considerable amount of commentary in the reviews that followed the attacks on 9/11 for the government to address “the wall” that seemed to separate law enforcement and intelligence. Examining how France, the United Kingdom, and others have tried to square this circle is instructive. In the case of France, as I note in a later chapter, a key factor has been the investigative magistrate system, in which a few long-serving officials based in Paris have the capacity to draw on intelligence, police, and judicial authorities in terrorist investigations and prosecutions. As for the British, the once relatively distinct line between intelligence collection by MI5 (the United Kingdom’s domestic intelligence service) and the collection of evidence for use in court by the police has been substantially altered: MI5 works much more closely now with the Metropolitan Police to develop usable evidence earlier in an investigation, and new units in London and elsewhere, in which police and intelligence officials work side by side, have been established to promote a more seamless investigative effort.

Neither of these models is directly applicable to the United States. The French *juge d'instruction* exercises powers, as the name suggests, that overlap the executive and judicial spheres—something our separation of powers system would not tolerate. As for the British, the closer integration of local law enforcement and intelligence efforts is not burdened by the fractionalization present in the American law enforcement community—a community consisting of over fifteen thousand separate police and sheriff departments and forty-nine state police agencies. But the fact that both countries have had to develop means to overcome the divide between intelligence and police work is an important reminder of the permanence of the issue itself.

The second point we need to keep in mind when it comes to operational matters is that the United States is the odd-man-out when it comes to having a separate domestic intelligence agency, which, in turn, raises the question of whether it would be best to take the counterintelligence and counterterrorism elements within the FBI, separate them from the Bureau, and create a new agency altogether. Certainly, there is a degree of focused professionalism that results from an agency having a singular task rather than multiple ones. And, as the recent report by the Senate Homeland Security Committee on the Fort Hood shootings appears to show, there remain problems in the Bureau's attempt to create an intelligence ethos from within.

On the other hand, American civil libertarians of both the left and the right have long worried that a separate domestic intelligence service would be more likely to abuse its powers than one tied to a law enforcement agency which operates under the general supervision of the Justice Department and which ultimately has to present its evidence in a court of law. Moreover, if a key fault line prior to 9/11 was the division between the realms of intelligence and law enforcement, and if the passing of information between the two has been a problem, there is an argument to be made that it is operationally useful to have those two functions under one roof.

III.

Now, stepping back and looking at the broader picture, conventional wisdom says that the U.S. approach to dealing with the threat of terrorism was overly militarized, while our European allies took an approach grounded more in law enforcement and the rule of law. But, at best, this view is an overstatement and a simplification of how we both approach the terrorist threat at home and abroad.

First, each of the countries examined in the volume has deployed military forces to Afghanistan with the explicit purpose of preventing that country from becoming once again a safe-haven for al Qaeda and other terrorist groups. The French government's 2005 white paper on terrorism, for example, makes it quite clear that the French military has a role to play in countering terrorists, including taking preemptive action where a "clear and established threat" is seen. And, true to the white paper, French Special Forces have also been involved in operations outside of Afghanistan, most recently in operations against Islamist militants in Niger, Mali and Mauritania. Even Germany, which until recently was perhaps the most reluctant of allies to engage in offensive operations within the ISAF mission in that country, had contributed Special Forces to the counterterrorism mission of Operation Enduring Freedom from early in 2001 until just a few years ago, consonant with former German Defense Minister Peter Struck's statement in 2003 that Germany's security would be "defended in the Hindu Kush."

The real difference between the United States and our European allies lies less with the notion that they don't think there is a military component to dealing with the Islamist terrorists than the fact that the U.S. has a much vaster set of capabilities to take the war to them: eliminating the regime supporting al Qaeda in Afghanistan, continuing to strike at its leadership in Pakistan, and attacking its various allied elements in places as dispersed as the Philippines, Indonesia, and the Horn of Africa. The United States has taken this approach in part because the threat comes in large measure from abroad, but also in part because America has the military capability to take the fight to the terrorists. Having such a capability gives Washington options other governments simply do not have—and, perhaps, I might add, a reason for our allies to let us carry the greater burden.

Nor does the "war" versus "law-enforcement" paradigm make sense when it comes to comparing the U.S. with Europe on the law-enforcement front. First, while there is considerable debate over how exactly to deal with suspected foreign terrorist detainees, after 9/11, the United States has not abandoned the use of the criminal justice system to deal with terrorist threats at home. There have been numerous trials and convictions of terrorists here.

Second, as for the countries of Europe, although it is certainly true that they address the problem of terrorism principally through the lens of law-enforcement, it is equally important to understand that in many cases the laws they rely on to combat terrorism domestically are often more hard-hitting than those tied to more typical crimes. It would be a mistake to conclude, as is often said, that because

“Europe approaches the problem of terrorism in the context of crime, not war,” it treats terrorism as just another crime. More often than not, it doesn’t.

Take, for example, France. France has had the most effective domestic counterterrorist regime of all of America’s allies and the cornerstone of this effort is France’s investigative magistrates (*juges d’instruction*). This is an office that combines the powers of intelligence, investigation, prevention, and deterrence in one person. There are some judicial checks, but they appear to be minimal. The only American office that bears even a slight resemblance to the *juges d’instruction* is that of the independent counsels. But unlike an independent counsel, whose mandate is tied to a particular case and is a temporary appointment, *juges d’instruction* often stay in their position for more than a decade. Jean-Louis Bruguière, France’s most famous *juge*, stayed on the counterterrorism beat for over a quarter of a century.

Nor have French magistrates been shy about using their powers of arrest and detention preemptively to disrupt possible terrorist plots, what they call “kicking the ant hill.” Suspects can be sequestered for days, and access to lawyers is only a right that was granted them within the past year. But once charged, they can be held without bail or even being brought to trial for several years. And, once in court, they are tried sans jury.

Moreover, the French government has considerable leeway in retaining all kinds of data and giving agencies within the French security and police services access to these data. French police and security services are also aggressive in monitoring speech, especially sermons and literature coming from Salafist mosques—with the result that dozens of Islamic fundamentalists in France, including imams, have been sent packing since 9/11. Nor is the criterion for the government to engage in electronic surveillance onerous; and independent oversight of the government’s practice is minimal. As with most French investigative methods, the criterion is pretty straightforward: is the investigative tool thought to be reasonably necessary to gather information in furtherance of national security? A specific criminal predicate for surveillance is not required.

As for the UK, the British cop on the beat is unconstrained by Fourth Amendment jurisprudence, and for counterterrorist purposes had, until last year, been authorized to “stop and search” vehicles and persons without a specific criminal predicate. (The law is being redrafted to lessen police discretion but will likely give the police similar authorities within geographical and time restraints tied to threat levels

and events such as the upcoming 2012 London Summer Olympic Games.) Rights groups have also taken notice of the British government's pervasive use of closed-circuit television cameras to monitor public spaces, its creation of the world's largest national DNA database, and the ready sharing of records and intelligence collected by the police and security services. Telephone taps and electronic surveillance are easier to authorize in Britain than in the United States; under the British system, numerous senior police officials may apply for warrants, which do not need to be approved by the judiciary but are issued by the state secretary after being judged both "proportionate" (that is, only as intrusive as the circumstances require) and "necessary" to meet "the interests of national security." All of which has led Privacy International to give the United Kingdom the lowest score among the world's major democracies in its privacy-ranking system.

And as with the French, British law makes it a criminal offense to encourage or glorify terrorism and requires Internet providers to remove any materials that do the same. The British also have instituted a system of detentions. In the case of the United Kingdom, a terrorist suspect can be held in jail, with the court's approval, for up to 14 days before being charged. And, until recently, individuals suspected of involvement in terrorist activity but who could not be tried—typically because the evidence against them was based on electronic intelligence not useable in British courts—or could not be repatriated because of concerns over their being tortured in their home country, were subjected by the home secretary to "control orders" that kept them under a form house arrest. This provision applied to citizens and noncitizens alike. The government has now modified somewhat this policy—now called Terrorism Prevention and Investigation Measures (TPIMs)—allowing suspects a bit more freedom of movement but still under 24-7 surveillance, electronically tagged, with mandatory curfews, and prohibited from visiting certain places or traveling overseas—again, all of which is done without an individual being charged with a crime.

And in Spain, terrorist suspects can be held *incommunicado* (in isolated detention) for up to thirteen days. And an individual charged with a terrorist-related crime can be held in pre-trial detention for up to four years. While being held *incommunicado*, the detainees do not have the right to their own counsel. Court-appointed attorneys are provided, but suspects are not allowed to consult with them in private and, in turn, the attorneys are not allowed to address suspects directly or provide legal advice. Further, an examining magistrate can impose a total restriction on the availability of information (*secreto de sumario*) about the investigation, the initial judicial proceedings, and the specific information

justifying an individual's detention, with that restriction applying to the defense lawyers until virtually the start of a trial. The trial itself is carried out under the jurisdiction of a special national court and without a jury. And, most recently, Spain has passed laws that allow the government to restrict the movement of individuals even after they have served their sentences if convicted of terrorist-related offenses.

Even Germany, which in many respects has been perhaps the major European ally most resistant to changing practices and laws to meet the threat of terrorism since 9/11, has employed police and intelligence techniques at times that are more aggressive than what is found here. For example, in the immediate aftermath of 9/11, when it became clear that Germany had been used as a safe-haven for those plotting the attacks, German authorities resurrected the use of computer-aided profiling programs that had been employed in the past to help dismantle the Red Army Faction to the new problem of radical Islamist cells. According to Manfred Klink, who headed the post 9/11 review in Germany, German authorities "reactivated the *Rasterfahndung*"—a system designed to connect the dots between individuals with similar backgrounds—and applied it to the new situation. As a RAND study notes, "despite the prominence of data protection as a national issue, Germany has historically relied on data processing, data mining, and the use of profiling to identify potential terrorists or their support elements." Similarly, since the 1990s, the German foreign intelligence service has been able to collect "strategic intelligence" without a warrant; the service can collect international communication traffic, sifting through it with keyword searches and grid analysis, with no specific suspect person or target in mind. And, finally, the German government is now utilizing laws enacted shortly after the end of World War II to deal with neo-Nazi groups to harass radical Muslim groups, even when those groups are not actively involved in plotting terrorist activities.

Now, the point of this brief survey is not to suggest these are laws or practices that the U.S. should employ. Rather, it is simply to point out those European laws and practices are not any less aggressive than those found in the United States. Indeed, in a number of instances, they are more forward leaning in their respective approaches to the jihadist threat. And while for reasons of history, constitutions, and the nature of the threat in each country, there are differences in how each of these democracies goes about protecting its citizens, one broad point stands out: just how much the U.S. and its liberal allies are in the business of "preemption." Admittedly, for most of Europe, this goal is carried out principally at home—but not exclusively as we have seen.

IV.

A final note: this is not your father's Europe. Any consideration of counterterrorism policies in Europe today has to factor in more than the policies of the individual states themselves. The institutions of the European Union and the Council of Europe have had, and will increasingly have, an important role in this field.

On the one hand, there is no question that in the wake of the attacks on the U.S. on 9/11, the Madrid Train bombings in March 2004, and the attacks on London's public transportation in July 2005, the EU has taken any number of steps to enhance Europe's response to the Islamist terrorist threat—a threat that was global in nature and was availing itself of both Europe's safe-haven "soft spots" and the ease within the EU of individuals moving from one country to another. Considerable effort was made to create a common front on measures to be taken to deal with the threat, including agreeing to a common definition of terrorism and creation of a list of individuals and organizations whose funds were to be frozen and access to financial institutions denied. To hasten implementation, in 2004, the EU created the post of counterterrorism coordinator and, more recently, in 2008, expanded its definition of terrorism to cover the broader offenses of public advocacy, recruitment and training. Given how the EU operates on the principle of "consensus," and we're talking about more than two dozen member states that often have to agree to these measures, it certainly can be argued that considerable progress has been made on this policy front.

Nevertheless, there have been bumps in the road, especially in the area of data-transfer arrangements with the United States. Under U.S. law, data on airline passengers traveling to the U.S. must be provided to American authorities before a plane arrives. Since an original agreement with the EU was reached in 2004, the European Parliament has consistently weighed in, forcing renewed negotiations, with new requirements, with the latest begun in January this year. Similarly, the EU Parliament has played a significant role in the use of SWIFT data, international financial transactional messages done under the umbrella of a Belgium-based banking consortium—a data set Washington believed was critical for tracking terrorist-related financing. The Parliament repeatedly balked at granting U.S. access to the data until last summer when a new agreement was crafted that included new restrictions on access to the data and new oversight of its implementation by Europol.

Prior to the so-called Lisbon Treaty coming into force in December 2009, “home and justice” affairs were considered to a policy arena reserved to the states. Under the treaty, however, that is no longer the case and, when combined with the increased powers of the European Parliament, likely means Washington will have to spend more time and effort reaching out to that body in an effort to avoid further complications in coordinating counterterrorism laws and policies.

Europe’s transnational courts, the European Court of Justice (ECJ) and the European Court of Human Rights (ECHR) have also weighed in with rulings that touch on counterterrorism laws and practices. Of the two, the ECJ has been more modest in its review of counterterrorism laws, with the most significant rulings tied to overturning decisions by governments to freeze the assets of terror suspects. The ECHR, on the other hand, which acts as court of review in cases involving alleged violations of the civil and political rights set out in the European Convention on Human Rights, has reached decisions that have pared back somewhat individual states’ authorities in the area of deportation, detention authorities, DNA data retention, and stop and search practices. Indeed, in one recent case involving the extradition of radical cleric Abu Hamza al-Masri and three others to the United States from the UK, the court halted the agreed-upon extradition on the grounds that it wanted to review whether his possible incarceration in a maximum security prison in the U.S. and a conviction of life without parole violated Article 3 of the European Convention’s prohibition on torture.

Perhaps it is because the ECHR has been seen as overreaching in its decisions, especially in London, within the past few days the member states to the Council of Europe have issued a declaration that the court should only rule on asylum and immigration cases in “exceptional circumstances.” How the ECHR will interpret the declaration and its import for the wider array of terrorism-related cases that come before it remains to be seen. But, as we have seen with courts in the United States, judicial authorities in Europe—both at the EU and national level—have shown a greater willingness to pass judgment on national security laws and practices than in the past. The fact is, the general deference once given governments—whether in the form of the laws passed by duly-elected legislatures or judgments made by the executive—has been trimmed. No doubt, in some instances, this has been for the good, and when one looks closely at many of these cases, it can be argued the judgments are a bit more nuanced than the newspaper headlines would suggest. Yet courts do put their own reputations and legitimacy at risk when they presume to know precisely what the proper balance should be between the needs of

security and citizen liberties. In this regard, once again, Europe and the United States have something in common when it comes to counterterrorism.

Mr. BURTON. Thank you, Dr. Schmitt.
Ms. McNamara.

STATEMENT OF MS. SALLY MCNAMARA, SENIOR POLICY ANALYST, EUROPEAN AFFAIRS, MARGARET THATCHER CENTER FOR FREEDOM, THE HERITAGE FOUNDATION

Ms. MCNAMARA. Mr. Chairman, distinguished members of the committee, with your agreement, I request that my prepared testimony be entered for the record and I just make brief remarks to you today.

Mr. BURTON. Without objection.

Ms. MCNAMARA. Thank you very much.

Mr. Chairman, America needs allies to win the war on terrorism. Many of America's strongest allies in this fight are in Europe, first among them, the United Kingdom. But in addition to individual nation states, the EU is also a partner of significance to the United States.

Before 9/11, just 6 of the EU's then 15 members recognized terrorism as a special offense. After 9/11, EU member states agreed on a common definition of terrorism, which denies terrorists the sanctuary of border hopping to another member state where terrorism was not previously regarded as a special offense.

Most importantly, the EU has also produced a list of persons groups, and entities whose financial assets will be frozen and to whom financial services are denied. This has proved to be one the EU's most valuable contributions to counterterrorism to date, as it has denied terrorists the freedom to operate and to raise funds in Europe.

The EU has also constituted several new offenses in order to confront homegrown terrorism: Namely, the criminalization of the public provocation to commit a terrorist offense; recruitment for terrorism; and training of terrorists.

However, the EU has also advanced several unnecessary programs and institutions, including Europol, Eurojust, SitCen and the European Arrest Warrant. These programs divert the antiterrorism resources of EU members states away from what they really should be doing.

Furthermore, the EU has pushed a radical human rights agenda that has weakened rather than strengthened members' counterterrorism efforts. For example, British judges have refused to enforce control orders as mandated under the UK's 2000 Terrorism Act on the grounds that 18-hour curfews may breach the European convention on human rights.

The U.S. should be especially weary of the EU's radical political agenda in this regard because of the way EU spends money inside the United States for the purposes of furthering its favored political causes. The EU funds nonprofits and advocacy organizations to ad-

vance, among other things, ratification of the Rome Statute and membership on the International Criminal Court, your abolition of the death penalty, international legal norms, the closing of Guantanamo Bay, and U.S. detention and rendition policies.

After 9/11, there was an unprecedented display of transatlantic solidarity, but since then, the EU–U.S. counterterrorism relationship has been marked as much by confrontation as it has by cooperation. The EU has attempted to frustrate key U.S. counterterror policies, including the Passenger Name Records Agreement, the Terrorist Finance Tracking program, which is also known as the SWIFT agreement, and U.S. renditions policy.

In terms of the PNR agreement, the European Parliament has now forced the U.S. to enter into negotiations on a fourth iteration. My testimony today is that the European Parliament should stop its nonsense and approve the existing deal, from 2007, without modification.

With regard to SWIFT, the program, which is essentially a data-sharing program for the purposes of tracking terrorist financing, has been a major success. Spain has admitted that as a result of a SWIFT lead passed to them by the Americans, they were able to prevent a terrorist attack in Barcelona.

However, MEPs have forced concessions on this program, too, which has limited its usefulness.

The EU does understand that frustrating the flow of money is a powerful weapon against terrorism. If the EU and the U.S. list you as a Foreign Terrorist Organization, you are cut out of the world's biggest financial markets, which is why it is impossible to understand the EU's refusal to proscribe Hezbollah as a Foreign Terrorist Organization. Europe's willingness to turn a blind eye to Hezbollah's activities in Europe is unconscionable. Hezbollah's secretary general, Hassan Nasrallah, has even stated that without European support, and I quote him, "our funding, moral, political and material support would dry up."

With regard to detention and renditions policy, I am sure the honorable members here today remember the European Parliament's 2006 witch hunt investigation when Poland and Romania were threatened with an unprecedented loss of voting rights within the European Council if they were found guilty of hosting CIA facilities. No statement has been issued to clarify the EU's position on this in light of reports that these sites could have been used to find information involved in the successful operation against Osama Bin Laden this month.

All this is to say that bilateral relationships, especially in terms of intelligence sharing and conducting operations, are more important than ever. The Anglo-American relationship stands out in particular for the remarkable ease with which intelligence officers operate together, a fact that has been publicly acknowledged by successive Presidents and Prime Ministers.

To achieve a more cooperative EU–U.S. relationship on counterterrorism, therefore, I would recommend the following policies to the European Union, which you may want to bear in mind on your trip. The European Parliament should approve the 2007 EU–U.S. PNR agreement without modification. The current EU–U.S. negotiations to adopt an umbrella agreement on data sharing should

simply accept U.S. data privacy standards as adequate. I agree with the Honorable Member Bilirakis on that.

The EU should also add Hezbollah to its list of Foreign Terrorist Organizations and EU member states should exclude foreign-born individuals, who engage in any terrorist activities. Thank you very much.

[The prepared statement of Ms. McNamara follows:]



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CONGRESSIONAL TESTIMONY

**OVERVIEW OF SECURITY ISSUES IN
EUROPE AND EURASIA**

**Testimony before the
Subcommittee on Europe and Eurasia
Committee on Foreign Affairs
United States House of Representatives**

May 5, 2011

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My name is Sally McNamara. I am Senior Policy Analyst in European Affairs in the Margaret Thatcher Center for Freedom at The Heritage Foundation. The views I express in this testimony are my own and should not be construed as representing any official position of The Heritage Foundation.

Mr. Chairman, Ranking member Meeks, and distinguished Members of the House Committee on Foreign Affairs' Subcommittee on Europe and Eurasia, with your agreement I would like to request that my prepared testimony be entered as my formal statement for the record and offer brief remarks before you today.

Introduction

America needs allies to win the war on terrorism. Many of America's strongest allies in the fight against transnational terrorism are in Europe—most notably the United Kingdom. In addition to individual nation-states, the EU is also a partner of significance to the United States for purposes of counterterrorism.

Since the 9/11 terrorist attacks, the EU has become a major counterterrorist actor. Some EU policies have had a positive impact on the global war on terrorism—especially the production of a list of persons, groups, and entities whose financial assets will be frozen and to whom financial services are denied. However, many EU policies have obstructed U.S. counterterror efforts. For example, Brussels has long opposed U.S. renditions policy and has even threatened to sanction member states for hosting CIA sites in Europe. The EU also refuses to designate Hezbollah as a Foreign Terrorist Organization, which would deny the terrorist entity a primary fundraising base. And the European Parliament has legally stalled two vital data-transfer deals—the SWIFT data-sharing agreement and the EU–U.S. Passenger Name Records (PNR) Agreement.

Overall, the EU–U.S. counterterrorism relationship has been marked as much by confrontation as it has by cooperation. The U.S. must therefore continue to invest in its bilateral relationships with individual EU states, as well as formulating a new agenda for cooperation with the EU.

The Growth of EU Competency for Counterterrorism Policymaking

Before 9/11, just six of the EU's then-15 member states recognized terrorism as a special offense. In the aftermath of 9/11, EU member states began coordinating their national counterterrorism laws with one another and agreed to a common definition of terrorism. This common definition of terrorism effectively denied terrorists the sanctuary of border-hopping to another member state where terrorism was not previously regarded as a specific offense. Crucially, the European Council also produced a list of persons, groups, and entities whose financial assets would be frozen and to whom financial services would henceforth be denied. This has proved to be one of the EU's most valuable contributions

to counterterrorism to date since it has denied terrorists the freedom to operate and raise funds in Europe.

In 2004 and 2005, Europe was confronted with two major terrorist attacks on its soil. In March 2004, an al-Qaeda-affiliated group remotely detonated 10 bombs on four Madrid commuter trains at the height of rush hour, killing 191 people and injuring more than 1,800. In July 2005, “homegrown” al-Qaeda operatives acted as suicide bombers on multiple London public transportation targets, killing 52 people.

In light of these attacks, the EU implemented a number of additional counterterror measures. In 2004, EU leaders appointed a counterterrorism coordinator to audit members’ implementation of EU policies.¹ In 2005, the EU adopted a British-inspired comprehensive counterterror strategy, outlining four strategic “strands of work” to prevent, protect, pursue, and respond to terrorism.² And in 2008, the EU formally expanded its common definition of terrorism to criminalize three specific new offenses which had become necessary in light of the 3/11 and 7/7 attacks: (1) public provocation to commit a terrorist offense, (2) recruitment for terrorism, and (3) training for terrorism.³

The EU has also advanced several unnecessary programs under the guise of countering terrorism. The EU has given greater authority to, and has gradually expanded the mandates of, ineffective institutions such as the European Police Office (Europol), Eurojust, and SitCen. The EU’s flagship European Arrest Warrant (EAW) program—whereby EU member states are obliged to render citizens to another member state upon request, without *prima facie* evidence—was justified as a key counterterror measure. However, it has been used to extradite people for overwhelmingly far less serious offenses than transnational terrorism, including leaving a gas station without paying.

Complying with these measures diverts the anti-terrorism resources of EU member states away from what they should really be doing and merely seeks to advance the EU’s integrationist agenda.

The EU’s Strategic Approach to Counterterrorism: A Radical Legislative Agenda

The 7/7 attacks revealed that Europe is now facing “homegrown” terrorist attacks as well as those directed from abroad. Research carried out by The Heritage Foundation (June 2008) and the U.K.-based Change Institute (February 2008) demonstrated that foreign-born hate preachers and extremist clerics such as Abu Hamza, Tolga Duerbin, and Omar Bakri Mohammed have acted as primary recruiters of homegrown terrorists and inciters

¹“Declaration on Combating Terrorism,” March 25, 2004, at <http://www.consilium.europa.eu/uedocs/cmsUpload/DECL-25.3.pdf>.

²Council of the European Union, “The European Union Counter-Terrorism Strategy,” November 30, 2005, at <http://register.consilium.eu.int/pdf/en/05/st14/st14469-re04.en05.pdf>.

³Official Journal of the European Communities, “Council Framework Decision Amending Framework Decision 2002/475/JHA on Combating Terrorism,” December 9, 2008, Article 9, p. 2.

to terrorist acts.⁴ They have been responsible for sending European recruits to terrorist training camps—particularly in Afghanistan and Pakistan—for the purposes of further radicalization and logistical training.

This phenomenon is best addressed in two ways: (1) the exclusion of foreign-born hate preachers and extremist clerics and (2) the eradication of terrorist training camps. The EU has chosen instead, however, to focus its activism on two other issues: (1) combating the beliefs, ideologies, and narratives that underpin violent radicalization and (2) combating “Islamophobia.” In November 2008, the EU’s “Strategy for Combating Radicalization and Recruitment for Terrorism” was published, which recommended identifying and encouraging moderate foreign imams to present a counterradical case.⁵ However, this has already been tried—and has failed—in several EU member states. The previous U.K. Labour government courted foreign imams such as Sheikh Yusuf al-Qaradawi on the basis that al-Qaradawi is “a highly respected Islamic scholar.”⁶ The former government has since had cause to regret that decision after discovering that al-Qaradawi has defended suicide bombings, called for the execution of homosexuals, and advised European Muslims to create “Muslim ghettos where they can avoid cultural assimilation and introduce Shari’a law.”⁷

Member states should also be wary of attempts to legislate against “Islamophobia,” which was recommended by the Change Institute. Europe has behind it a catalog of failed public policies when it comes to promoting “equality.” German Chancellor Angela Merkel is just one European leader who has come to the conclusion that multiculturalism has failed. Crippling human rights legislation has also been pursued in pursuit of “tolerance,” including the EU’s Charter of Fundamental Rights and the Council of Europe’s European Convention on Human Rights (ECHR). These policies have weakened, not strengthened, members’ counterterrorism efforts. For example, British judges refused to make full use of control orders mandated under the U.K.’s 2000 Terrorism Act on the grounds that 18-hour curfews may breach the convention’s Article V clause on the right to liberty.⁸

⁴Sally McNamara, “Why NATO Must Win in Afghanistan: A Central Front in the War on Terrorism,” Heritage Foundation *Backgrounder* No. 2148, June 23, 2008, at <http://www.heritage.org/Research/Reports/2008/06/Why-NATO-Must-Win-in-Afghanistan-A-Central-Front-in-the-War-on-Terrorism>, and Change Institute, “Studies into Violent Radicalisation; Lot 2: The Beliefs Ideologies and Narratives,” February 2008, pp. 62–67, at http://ec.europa.eu/home-affairs/doc_centre/terrorism/docs/ec_radicalisation_study_on_ideology_and_narrative_en.pdf.

⁵Council of the European Union, “Updated version of the European Union strategy for combating radicalisation and recruitment to terrorism,” November 14, 2008. The EU Counter-Terrorism Coordinator also prepared a Strategy and Action Plan to implement this updated strategy.

⁶Sean O’Neill, “Taxpayers Fund Five-Star Trip for Extremist Cleric,” *The Times* (London), July 13, 2006, at <http://www.timesonline.co.uk/tol/news/uk/article686879.ece>.

⁷Zeyno Baran, “Countering Ideological Support for Terrorism in Europe: Muslim Brotherhood and Hizb ut-Tahrir—Allies or Enemies?” Partnership for Peace Consortium’s *The Quarterly Journal*, Vol. 5, No. 3 (Winter 2006), pp. 19–34.

⁸Richard Ford, Philip Webster, and Stewart Tendler, “We May Declare an Emergency to Quit Rights Act, Says Reid,” *The Times* (London), May 25, 2007, at <http://www.timesonline.co.uk/tol/news/politics/article1837662.ece>.

The U.S. should be wary of the EU's radical political agenda and of the way it spends money inside the United States for the purposes of furthering its favored political causes. This includes the funding of nonprofits and advocacy organizations to advance such controversial issues as:

- U.S. membership on the International Criminal Court,
- America's abolition of the death penalty,
- The standardization of international legal norms,
- The closing of the U.S. Guantanamo detention facility, and
- Debating U.S. detention and rendition policies.⁹

The EU–U.S. Counterterrorism Relationship

Despite an unprecedented display of transatlantic solidarity following the 9/11 terrorist attacks, the EU–U.S. counterterrorism relationship has been marked as much by confrontation as by cooperation. The Lisbon Treaty, which was introduced in 2009, has also seen a huge boost in powers for the European Parliament, which has flexed its legislative muscle to frustrate key U.S. counterterror policies.

Passenger Name Records (PNR) Agreement. The U.S. Air Transportation Safety Act of 2002 requires that the PNR data of travelers to the U.S. are provided to American authorities before the arrival of planes in the U.S. In May 2004, the EU and the U.S. agreed that airlines operating U.S.-bound flights would provide the U.S. authorities with travelers' data contained in their reservation systems before the flight's departure. Being able to analyze the personal and financial data of passengers prior to departure, in conjunction with U.S. and international intelligence databases, allows analysts a further opportunity to spot any red flags and ultimately screen out potential terrorists.

However, the European Parliament argued that the 2004 agreement violated EU citizens' privacy rights. The European Parliament's objections revolved around the amount of PNR data transferred to the U.S. authorities, the length of time such data could be kept, the degree of redress available to European citizens in cases of data misuse, and the potential for profiling by U.S. authorities. The 2004 agreement was annulled in May 2006 on a technicality, and an interim agreement was provisionally agreed.

In July 2007, the EU and the U.S. agreed on a third iteration of the PNR agreement, and a seven-year deal was signed which reduced the pieces of shareable information from 34 to 19.¹⁰ Originally, the U.S. had asked for 38 data elements to be shared. However, the European Parliament has still not given its approval, which is required for the accord to

⁹The Heritage Foundation will release a lengthy Special Report by Sally McNamara in the week commencing May 9, 2011, detailing how the European Union spent \$1.23 billion inside the United States from 2007 through 2009.

¹⁰*Official Journal of the European Union*, "Agreement between the European Union and the United States of America on the processing and transfer of Passenger Name Record (PNR) data by air carriers to the United States Department of Homeland Security (DHS) (2007 PNR Agreement)," August 4, 2007.

be formally enforced.¹¹ In January 2011, the EU and U.S. formally entered into renewed negotiations for a fourth iteration of the PNR agreement.

There is little doubt that the EU–U.S. PNR agreement is of significant value to European and American counterterror efforts—as testified to by Assistant Secretary for the Department of Homeland Security’s Office of Policy David Heyman;¹² former U.S. Secretary of Homeland Security Michael Chertoff,¹³ and even Baroness Ashton of Upholland, the current EU foreign minister.¹⁴ Moreover, providing PNR data pre-travel is mandated under U.S. law, and to restrict this transfer contravenes what Congress has stated is necessary to protect American security.

Terrorist Finance Tracking Program (SWIFT). The Society for Worldwide Interbank Financial Telecommunication (SWIFT) is a Belgium-based syndicate of international banks, which started sharing large amounts of its processed data with the U.S. after 9/11 for the purposes of tracking terrorists’ finances. When media reports revealed the existence of this program in 2006, the European Data Protection Supervisor ruled that the transfers breached EU data protection laws,¹⁵ and in February 2007, the European Parliament resolved that proposed U.S. improvements to the program were insufficient to adequately protect the personal data of EU citizens.¹⁶ U.S. negotiators were once again sent back to the drawing board.

In July 2009, SWIFT announced changes to its data storage which necessitated yet another EU–U.S. agreement. A new interim agreement was formally concluded in November and ratified by the European Council.¹⁷ Nevertheless, in February 2010, the European Parliament’s Civil Liberties, Justice and Home Affairs Committee voted down the agreement, and the parliament as a whole refused to give its consent on the basis of

¹¹In May 2010, parliament postponed its approval vote of the July 2007 agreement and asked the European Commission to instead present a comprehensive PNR plan for intra-EU PNR exchanges and PNR exchanges with a number of third parties including the U.S.

¹²Testimony of David Heyman and Vicki Reeder, “International Aviation Screening Standards,” Subcommittee on Aviation Operations, Safety and Security, Committee on Commerce, Science, and Transportation, U.S. Senate, December 2, 2010, p. 12, at http://commerce.senate.gov/public/?a=Files.Serve&File_id=5cbe4680-f1f2-41a8-a4a5-03023232c5f6.

¹³House of Lords European Union Committee, “The EU/US Passenger Name Record (PNR) Agreement,” 21st Report of Session 2006–2007, May 22, 2007, p. 11.

¹⁴*Ibid.*

¹⁵Press release, “Agreement Achieved on the Use of SWIFT Data,” Germany 2007–Presidency of the European Union, June 29, 2007, at http://www.eu2007.de/en/News/Press_Releases/June/0629BAM/swift.html (March 3, 2011).

¹⁶European Parliament, “PNR–SWIFT,” 2007, at <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+TA-P6-TA-2007-0039+0-DOC+PDF+V0/EN>.

¹⁷Council of the European Union, “Council Decision on the signing, on behalf of the European Union, of the Agreement between the European Union and the United States of America on the processing and transfer of Financial Messaging Data from the European Union to the United States for purposes of the Terrorist Finance Tracking Program,” November 27, 2009, at <http://register.consilium.europa.eu/pdf/en/09/st16/st16110.en09.pdf>.

privacy concerns, proportionality, and reciprocity.¹⁸ Acting under powers granted to them by the Lisbon Treaty, the European Parliament's vote rendered the agreement legally void. A center-right Polish MEP told me after the vote that there was significant "cheering and whooping" among parliamentarians after the vote.

The U.S. Mission in Brussels has stated that from 2001 through February 2009, the SWIFT agreement had resulted in more than 1,500 reports and numerous counterterrorism leads being given to European governmental authorities.¹⁹ The Spanish Interior Minister further revealed that SWIFT data had been used to investigate the Madrid train bombers and that the data were integral to preventing a later attack on Barcelona.²⁰

It was not until June 2010 that the European Commission was able to conclude a new draft agreement with Washington, and only with the inclusion of a number of new restrictions, including (1) oversight roles for both the European Commission and Europol to oversee the transfer of information and (2) limiting information requests to make them as narrow as possible.²¹

Foreign Terrorist Organizations (FTOs). The EU's common definition of terrorism and designation of terrorist individuals and groups has acted as a powerful sanction against the free flow of terrorist finances. An individual or organization that is designated terrorist by both the EU and the U.S. is effectively being denied access to the world's biggest financial markets.

In 2005, Congress passed a bill urging the EU to add Hezbollah to the EU's wide-ranging list of terrorist organizations.²² The EU's refusal to proscribe Hezbollah as an FTO is impossible to understand. The Lebanon-based group is a radical transnational terrorist entity responsible for several acts of mass murder, especially against U.S. targets, including (1) the April 1983 bombing of the U.S. embassy in Beirut which killed 63 people, including 17 Americans; (2) the October 1983 suicide truck bombing of a U.S. Marine barracks at Beirut Airport, which killed 241; and (3) the 1996 Khobar Towers bombing in Saudi Arabia, which killed 19 U.S. servicemen. Hezbollah also serves as a terrorist proxy for the Iranian government, which has ramped up its attacks on Israel in recent years.

¹⁸European Parliament, "SWIFT: MEPs to Vote on Backing or Sacking EU/US Data Sharing Deal," February 5, 2010, at <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+IM-PRESS-20100205STO68536-0+DOC-XML+V0/EN>.

¹⁹European Parliament Rejects SWIFT Deal for Sharing Bank Data with U.S., Deutsche Welle, February 11, 2010, at <http://www.dw-world.de/dw/article/0,5239595,00.html>.

²⁰*Ibid.*

²¹Council of the European Union, "Council Decision on the conclusion of the Agreement between the European Union and the United States of America on the processing and transfer of Financial Messaging Data from the European Union to the United States for the purposes of the Terrorist Finance Tracking Program," June 24, 2010, at <http://register.consilium.europa.eu/pdf/en/10/st11/st11222-re01.en10.pdf>.

²²S. Res. 82 and H. Res. 101, "A Resolution Urging the European Union to add Hezbollah to the European Union's wide-ranging list of terrorist organizations," at <http://www.govtrack.us/congress/billtext.xpd?bill=sr109-82> and <http://www.govtrack.us/congress/billtext.xpd?bill=hr109-101>.

Europe's willingness to turn a blind eye to Hezbollah's activities in Europe, especially its extensive fundraising efforts, is unconscionable. Hezbollah's "secretary general" Hassan Nasrallah recently stated that without European support "our funding [and] moral, political, and material support will...dry up."²³

The United States rightly considers Hezbollah "a direct and growing threat to the United States and Latin America." The EU should finally list Hezbollah as an FTO and effectively freeze Hezbollah's terrorist operations in Europe and erode one of its primary fundraising bases.

Detention and Renditions Policy. The EU has been categorical in its condemnation of U.S. detention and renditions policies. In 2006, EU Counter-Terror Coordinator Gils de Vries stated:

In the fight against terrorism popular support is critical, including among Muslims. The struggle against terrorism is first and foremost a conflict over values. To win the battle for hearts and minds our policies to combat terrorism must respect the rights and values we have pledged to defend, including the rights of prisoners. Abu Ghraib, Guantanamo and CIA renditions have damaged America's standing in the world and have compromised our common struggle against terrorism. Credibility matters. The European Union continues to believe that in this battle we should be guided by established international legal standards, including international human rights law. Any war paradigm should operate within these standards.²⁴

In November 2005, the *Washington Post* and *Financial Times* published reports stating that the U.S. Central Intelligence Agency (CIA) was operating covert detention facilities in Central and Eastern Europe, where terrorist suspects were being interned without charge and then rendered to third countries for the purposes of torture.²⁵ In January 2006, the European Parliament set up a 46-member committee to investigate these allegations,²⁶ pledging to leave "no stone unturned" in their year-long investigation to find out whether or not the CIA had used European countries to transport and illegally detain terrorist suspects.²⁷ Poland and Romania were identified as alleged host countries of the U.S.

²³Steven J. Rosen, "The Arab Lobby: The European Component," *The Middle East Quarterly*, Vol. 17, No. 4 (Fall 2010), p. 25, at <http://www.meforum.org/meq/pdfs/2774.pdf>.

²⁴Gils De Vries, "The Fight Against Terrorism: Five Years After 9/11," London School of Economics & King's College London, June 30, 2006, at <http://www.consilium.europa.eu/uedocs/cmsUpload/060630LondonSchoolEconomics.pdf>.

²⁵Dana Priest, "CIA Holds Terror Suspects in Secret Prisons," *The Washington Post*, November 2, 2005, at <http://www.washingtonpost.com/wp-dyn/content/article/2005/11/01/AR2005110101644.html>, and Jan Cienski et al., "Evidence CIA Has Secret Jails in Europe," *Financial Times*, November 3, 2005.

²⁶European Parliament, "European Parliament Decision Setting Up a Temporary Committee on the Alleged Use of European Countries by the CIA for the Transportation and Illegal Detention of Prisoners," January 18, 2006, at www.europarl.europa.eu/sides/getDoc.do?language=EN&pubRef=-//EP//TEXT+TA-P6-TA-2006-0012\0\DOC_XML\VO/EN.

²⁷Sarah Ludford, quoted in "European Parliament CIA Committee—First Meeting," January 26, 2006, at www.sarahludfordmep.org.uk/news/000611.html.

detention facilities, and EU Commissioner Franco Frattini warned them that their voting rights in the European Council would be suspended if they were found guilty of hosting any such facilities.²⁸

In December 2005, U.S. Secretary of State Condoleezza Rice made a detailed speech to clarify the Administration's policy on rendition,²⁹ and U.S. Attorney General Alberto Gonzales met with Commissioner Frattini in Vienna in May 2006 to personally reassure him that the U.S. neither tortured nor was complicit in the torture of suspects.³⁰ Nevertheless, in its final report, the parliamentary committee concluded that the "excesses" of "the so-called 'war on terror,'" have produced, "a serious and dangerous erosion of human rights and fundamental freedoms."³¹

No statement has been issued to clarify this position in light of reports that CIA sites in Europe could have played a key role in the successful operation against Osama bin Laden in May 2011, which EU presidents Herman Van Rompuy and José Manuel Barroso said in a joint statement "makes the world a safer place."³²

Bilateral Cooperation

Despite Brussels' increased role in counterterrorism policymaking, the EU has not replaced the bilateral relationships that have been formed between lawmakers, intelligence officers, and the security services over many decades. The Anglo-American relationship stands out in particular for the remarkable ease with which intelligence officers operate together. For example, in August 2004, the joint U.S.-U.K. investigation known as Operation Rhyme, which prevented multiple al-Qaeda attacks on key financial institutions in the U.S. and the U.K., was cited in congressional testimony by FBI director Robert Mueller as one of a number of "unclassified examples of successes in the war against terrorism that would not have been possible without extensive cooperation and coordination with our partners."³³ Mueller and President Bush also cited Operation Crevice as a major success of British-American intelligence-sharing which thwarted an

²⁸Luke Harding, "EU Threat to Countries With Secret CIA Prisons," *The Guardian*, November 29, 2005, at <http://www.guardian.co.uk/world/2005/nov/29/germany.eu>.

²⁹Condoleezza Rice, "Remarks Upon Her Departure for Europe," December 5, 2005, at <http://www.state.gov/documents/organization/124099.pdf>.

³⁰Veronika Oleksyn, "Gonzales Denies Torture by U.S.," *Deseret News* (Salt Lake City), May 4, 2006, p. A4, at http://findarticles.com/p/articles/mi_qn4188/is_20060504/ai_n16359423/?tag=content:coll.

³¹European Parliament, *Final Report on the Alleged Use of European Countries by the CIA for the Transportation and Illegal Detention of Prisoners*, A6-0020/2007, January 30, 2007, p. 6, at www.europarl.europa.eu/compar/tempcom/tdip/final_report_en.pdf.

³²"EU on the Death of Osama Bin Laden," European Union External Action, at <http://eurunion.org/emailcampaigns/preview.php?previewtype=html&n1=284&c=894&m=816&s=652d51de28e2b7e078504464c9ebb07e>.

³³Robert Mueller, "Transforming the Federal Bureau of Investigation," statement before the Subcommittee on Science, State, Justice, and Commerce, and Related Agencies, Committee on Appropriations, U.S. House of Representatives, September 14, 2005, at <http://www2.fbi.gov/congress/congress05/mueller091405.htm>.

al-Qaeda plot to detonate fertilizer bombs in a British shopping center and a London nightclub.³⁴

British and American intelligence officers were also in close contact for months, tracking and subsequently preventing the transatlantic airline bomb plot in summer 2006, which would have resulted in a projected death toll of at least 1,500.³⁵ After the arrest of 21 men, then-Prime Minister Tony Blair stated: “There has been an enormous amount of cooperation with the U.S. authorities which has been of great value and underlines the threat we face and our determination to counter it.”³⁶

Recommendations

To achieve a cooperative EU-U.S. relationship in counterterrorism, I would recommend the following policies to the EU:

- **The European Parliament should approve the 2007 EU–U.S. PNR Agreement without modification.** The EU should also consider extending the agreement for an additional seven years in light of the substantial evidence supporting its critical role in countering terrorism.
- **The current EU-U.S. negotiations to adopt an umbrella agreement on data-sharing should accept U.S. data privacy standards as adequate.** An umbrella agreement should not seek to limit future agreements by restricting how and when information can be used, or imposing onerous monitoring requirements.
- **The EU should add Hezbollah to its list of foreign terrorist organizations.** The EU and the U.S. should coordinate their FTO lists as closely as possible, and the EU should add Hezbollah as a designated terrorist entity.
- **EU member states should exclude foreign-born individuals who engage in terrorist activities.** If a foreign-born individual is convicted of a terrorist offense in one EU member state, s/he should thereafter be excluded from all EU member states.

³⁴Press release, “Fact Sheet: Plots, Casings, and Infiltrations Referenced in President Bush’s Remarks on the War on Terror,” The White House, October 6, 2005, at <http://georgewbush-whitehouse.archives.gov/news/releases/2005/10/20051006-7.html>.

³⁵James Auger, “Eight Britons on Trial over ‘Unprecedented’ 2006 Terrorist Plot Against Multiple Airliners,” *Global Insight*, April 4, 2008.

³⁶BBC News, “‘Airlines Terror Plot’ Disrupted,” August 10, 2006, at http://news.bbc.co.uk/2/hi/uk_news/4778575.stm (March 3, 2011).

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Mr. BURTON. Now, you are with the Margaret Thatcher—

Ms. MCNAMARA. Center for Freedom.

Mr. BURTON. Boy, they picked the right one for that job, I will tell you. You are a tiger.

Ms. MCNAMARA. Thank you.

Mr. BURTON. Margaret Thatcher would be proud.

I had a whole bunch of questions, but I was mesmerized by some of the things that you said.

First of all, it is very interesting; you think that if the EU was more cooperative in trying to cut off funds to Hezbollah, that we could have that operation or that organization dry up because they have said so themselves.

Ms. MCNAMARA. I don't think that we could end Hezbollah, but we could make things incredibly difficult for them. They use Europe as a logistical base. They use it as a staging point, and the United States has passed legislation requesting, time and again, that the European Union list Hezbollah as a Foreign Terrorist Organization.

That needs to happen, and it needs to happen sooner rather than later. We have seen no fruits of any sort of engagement, except the fact that Europe is nothing more than, as they say themselves, a political, a moral and fundraising base.

Mr. BURTON. Wow.

I want you to make notes on everything this young lady said, because when I go to Brussels, I want your statement. I am certainly going to utilize some of that.

Let me ask you a couple of other questions and you can comment too, Dr. Schmitt, if you would like. One of the things that concerns me is what I asked the first panel, and that is across the northern tier in Africa and in the Persian Gulf area, we see the rise of the "freedom movement," the "Arab Spring" movement.

I would like your take on that and how that will—what will the end result be if all of these uprisings are successful?

I am very concerned, I know that Muammar Ghadafi has been a tyrant for a long time, but we took him off the terrorist list a few years ago. And now, we are participating with France and England in running him out of office. There is a major civil war going on over there.

In Egypt, we have seen a big change. Mubarak is gone, and we are looking forward to elections in, I believe, September and later on in the year.

We see changes possibly in Syria and elsewhere.

My big concern, as you heard from the first panel, is what are we going to have in the future. Because I am very concerned that more radical elements may be on the horizon. I don't know what we could do to predict that or to completely eliminate that possibility, but I would like to have your ideas on how we should deal with this unusual state of affairs that are taking place all throughout that region right now. And as I said before, it is not just because of security and stability in the Middle East; it is because of the energy needs of the United States. We are so dependent, at least in large part, on energy from the Middle East. And if we see radical elements take over in Syria, and ultimately, possibly in Jordan, in Egypt, in Libya and across that area, and then we also

have some problems in Yemen, as you know, big problems in Yemen, and in the Persian Gulf, Oman and elsewhere. I would like to know what you think, from your think tanks' perspective, what we can expect and what we should be doing to stop the possibility of radical elements taking over. I know that is a big, big question, but it is one I think is extremely important.

Mr. SCHMITT. That is a big question and a question whose response from a lot of these countries will vary from different circumstances. We will have different players and different ways of influencing outcomes in each country. But I am—

Mr. BURTON. Let me interrupt. We have been told by our intelligence people al-Qaeda is in Libya. People, who have fought in Afghanistan that are al-Qaeda, are now in some leadership positions with some of those units and tribes in Libya. And in Egypt, the Muslim Brotherhood is an organization that in the past has been looked upon as a radical organization. The same thing is true over in Syria; they are concerned about that.

So you do have large radical elements in those areas. They may be different in some respects, but I think we, as Americans, ought to have some idea of where we are heading, especially if we are talking about giving support to the rebels in Libya and the democratic movement in Egypt and possibly supporting movements in these other countries as well.

Mr. SCHMITT. I would say—

Mr. BURTON. Excuse me, we get one view from the State Department and from Homeland Security; this is the American Government's position. But you folks are experts in think tanks that work on this all the time, and I would like to have your candid observations in this area.

Mr. SCHMITT. Well, to start, I am quite worried that the "Arab Spring" is going to turn into an "Arab winter," and I mean that in the worst possible way, which is precisely the point you are making. I have had a number of conversations with friends in European governments and the European Union about their plans and what they want to try to accomplish in wake of all these revolutions. And what you get from them is mostly, "We know that we basically had all these failed policies for the last 10 years, including our Neighborhood Policy." So then you ask them, "Well, what are you going to do now?" and they have no answer.

So there is a passivity on the part of Europe and our European allies about exactly how to handle the situation. They are still trying to figure out what kind of policies we are going to implement, so that is not a good sign.

On the American end, I would say that I think, to be frank, the administration has something of a hands-off approach to what is going on, out of the fear that they will look like they are being American "colonialists," so to speak.

I don't think that is the way to handle the situation. If you want to prevent the worst from happening, you have to get involved. It doesn't mean you will always succeed, but I do know if you are not deeply involved in trying to move things forward in the right way, you won't succeed. You won't have the success that you want. And you wind up with radical elements actually. Because they are more

organized and more ruthless, they will wind up being the dominant figures in these revolutions as we move on.

So I think we are actually in a quite dangerous period, where we have on-going revolutions but both the United States and our allies are acting way too passively when it comes to these changes.

Mr. BURTON. Ms. McNamara.

Ms. MCNAMARA. I absolutely agree with my friend, Dr. Schmitt. American leadership matters. I think there has been this idea that if America takes a back seat, it won't look like a colonialist. Well, I am afraid there is a difference between taking a back seat and looking weak.

Europe, I think, can only succeed if America is involved, and I think American leadership is desperately needed in the region.

With regard to Libya, I think Libya is a key test, because if Libya goes the right way, I think it will provide an example.

I do agree, sadly, that I don't think we have entirely our eye on the ball.

We have seen recently President Obama, President Sarkozy and Prime Minister Cameron put out a big paper saying, Ghadafi absolutely has to go.

Well, okay, I agree. How are we going to do it?

And I don't think that is entirely clear to us. I would like to see a stronger objective. I would like to see greater American involvement.

One thing that I am not in a position to comment on and you may know yourself, surely we have intelligence on Libya and the opposition in Libya. We have been there for a number of years now. We have had a failed engagement strategy, but the result of that is that we probably have a lot of Western involvement and a lot of Western intelligence. We probably know something about the opposition, even if we don't know everything about them.

We need to start looking now; who do we think is in our best interest? Who are the Libyan people going to support? I don't know this is a civil war. It looks to me as if Ghadafi is just massacring his own people. I think Libya will be a key test case, and that is why I would like to see greater involvement.

Finally, the EU has comprehensively failed. A few years ago, we had a lot of excitement around this thing called "the Mediterranean Union." It was hailed as one of the EU's greatest strategies that was going to engage North Africa, and make it more democratic. There was going to be great energy projects. We were going to import solar power. I mean, some of the stuff we were saying was ludicrous. As it happened, we spent a lot of money and not seen any results.

David Cameron has recently asked the European Union to look at its entire aid program, look where the money is going and what effect it has. The provisional reports that are coming back state that their aid projects are absolutely horrific. Where they are not spent corruptly, they are spent badly, and it is highly ineffective in terms of what we want to do: Promote our values, relieve poverty, that sort of thing. So I think the EU needs to take a root and branch look at its aid policies and change them.

Mr. BURTON. Mr. Bilirakis.

Mr. BURTON. I may have another question or two after my colleague.

Mr. BILIRAKIS. Yeah, I am not going to be long.

Mr. BURTON. Take your time.

Mr. BILIRAKIS. Thank you, Mr. Chairman, I appreciate it.

I want to pose the same questions that I posed to the previous panel. Maybe I can ask Ms. McNamara first. Again, on the EU dragging its feet and sharing the data as it relates to the passengers' name records, can you elaborate on that, please?

Ms. MCNAMARA. In my longer testimony, I have outlined what happened and the different iterations we have been through, and it looks almost like a fairytale. The Europeans want this. The Americans agree, even though they think it will limit the program. And the Europeans once again say, not good enough.

Originally, America asked for 38 pieces of data. You have now said, okay, give us 19. This is mandated by U.S. law that this information has to be provided in advance, that is why, in my view, it happened. So good one for doing that. But the Europeans don't like this program. A Polish MEP came to Heritage in late February last year. Under the Lisbon Treaty, new powers granted to the European Parliament saw them immediately strike down the third iteration of the PNR agreement. And he said, "When the European Parliament did this, there was whooping and cheering in the chamber." He said, "I had thought we had won the World Cup or something." And he said, "All I heard was, 'We have got those Americans,' as though it was 'a them and us.' And the 'us' isn't the terrorists; the 'us' is the Americans."

The most absurd part about this, we act as if we are trying to just protect Americans. We are not. We are trying to protect people in the EU, too. We are trying to protect the crew, the staff pilots. If al-Qaeda is intent on crashing the plane, as we saw awfully in Pennsylvania, if they can't manage to get their target; they will crash it wherever, and kill as many people as possible. This is about protecting European people as well as Americans.

I think this is about being muscular for the European Parliament. I worked in the European Parliament for 3 years, and I can tell you, I never experienced anti-Americanism like it in my entire life. I think this is about the European Parliament being juvenile. They have got these new powers, and they want to use them. I think that the PNR agreement that we have in place, I think it should be not only agreed; I think it should be extended for another 7 years.

I would like to see more pieces of information, but that probably won't happen. The agreement we have got, we have testimony that it will suffice. We even have the EU Foreign Minister saying on record, before she was appointed, that this is a vital program. She testified in the House of Lords that the PNR agreement was a vital program. And now, all of a sudden, we are seeing pushback on it. I think it's wrong.

Mr. BILIRAKIS. Thank you.

Dr. Schmitt.

Mr. SCHMITT. Sally is absolutely right about the new EU Parliament exercising its muscles since the Lisbon Treaty. I think one of the things that we sometimes don't appreciate is the degree to

which there has been sort of very fundamental changes in EU governing structures with the Lisbon Treaty. It is called a treaty, but it is in fact very much a constitutional agreement.

I would also say that along with the Parliament, that one of the difficulties we have is with the European Court of Human Rights, another body which is relatively independent and not responsible directly to home governments. And it has produced a lot of decisions which are very problematic when it comes to security.

I do know that, if I was in government now, it would be a very complex thing to handle. I mean, we do have, I think it is fair to say, very good bilateral relations with a lot of countries, even countries that we were very much in disagreement with over Iraq and other matters, but when it came to intelligence sharing and security matters behind the curtain, they were very cooperative.

The EU element really does make this a much more complex game. Whether the EU Parliament matures or not, that is an open question. But right now it is a very difficult obstacle in getting these security matters accomplished.

Mr. BILIRAKIS. Thank you.

Ms. MCNAMARA. I am sorry, there are a couple of things that I forgot that I would like to say.

You recently, a few years ago, added new countries to the Visa Waiver Program. I think the Visa Waiver Program is a fantastic thing. Not least of all, it is a public diplomacy thing. Familiarity breeds favorability. When people come to the United States, they find they love Americans. They are great. They want to come back. They want to spend money. Everyone is a winner.

However, the part of having all these flights coming in, you need information, and you need to stop the bad guys from coming. And so, when you upgraded the Visa Waiver Program, you upgraded the security requirements, and it has been very, very successful.

At the time, I remember, I held a public program, and we hosted the Honorable Richard Barth. The EU was in the audience, and a commission official stood up and said, we might take member states to court because they have no right to be giving the Americans this information; it is up to the EU how much information they get.

The EU again is trying to supernationalize visa policy. Because, I think Dr. Schmitt is right, at a nation state level, it works pretty well; the EU is a complicating factor.

Now, one warning I will give here—I am afraid the EU might have actually listened to Heritage Foundation for once. For a number of years, I have recommended that there should be an umbrella agreement in terms of respecting American data standards—data transfer as good standards, that Europeans can accept that the way the Americans treat data is good enough. The EU and U.S. is now negotiating that umbrella agreement.

However, I am very afraid that that umbrella agreement is going to turn into the EU trying to limit future agreements. Instead of it just being a generic agreement saying that we accept that America has good ways of treating data, they are going to say, only if it is limited to being held for a certain amount of days, narrowly providing the scope that you can request information.

I am afraid that this umbrella agreement will be a shopping list of restrictions, rather than something that makes these agreements easier, and I would caution you to be very careful on that.

Mr. BILIRAKIS. Thank you very much.

Dr. Schmitt.

Mr. SCHMITT. I apologize, but just one big larger point, which is that, if a bomb, God forbid, goes off in London, it is not the EU Parliament that is held responsible. It is the members of Parliament of the United Kingdom. And I think that is a really fundamental distinction and problem, which is that you have members of a governing body in the EU Parliament who are elected on all kinds of grounds but rarely on protecting the citizens of a particular country.

Mr. BILIRAKIS. Thank you.

Mr. Chairman, one more question?

Mr. BURTON. Sure.

Mr. BILIRAKIS. Thank you.

Again, the question with regard to Albania, what do you suppose the Department of State and DHS are doing to make a dent in stamping out the human trafficking, the narcotrafficking and the arms trafficking that characterize the economy in countries, such as Albania?

Mr. SCHMITT. I really don't have the expertise to be able to answer that with any specificity.

My suspicion is that this is something they have given over to the European Union to take responsibility for since basically the Europeans face the brunt of it. Doesn't mean that we don't have responsibility, but if I had to guess, given the resources, I would say that is probably something they are looking for Brussels to address less than we are.

Mr. BILIRAKIS. Ms. McNamara, would you like to comment?

Ms. MCNAMARA. The European Union does actively deal with Albania.

I spend the vast majority of my time talking about what the EU shouldn't be doing. So let me change that and talk about what the EU should be doing. The EU should have a sensible neighborhood strategy. The one thing where I think the EU could be helpful is in its Eastern neighborhood and in the Balkans. And, I would like to see them focusing more of their aid and more of their attention and more of their energy on that area of the world, instead of having this idea that they are going to have a unified Middle East policy and Catherine Ashton is going to save the world. Lord help us, it is not going to happen. So I would like to see them have a more proactive strategy in the Balkans.

In terms of where the United States can work, I think NATO is going to be a superb format for this. What we have found is that countries, who have got into NATO, and Albania is a recent member of NATO, they generally do very well inside the alliance, because they pick up best practices; they liaise with their colleagues. It is a very easy way of sharing information, of saying, hey, we don't like this, you better do something about it, without making it an official diplomatic hoopla. So I definitely think you should use your channels within NATO to advance that, all of the allies and especially the United States.

Mr. BILIRAKIS. Thank you very much, thanks for the testimony. Appreciate it.

I yield back, Mr. Chairman.

Mr. BURTON. My colleague and I are going to visit Greek Cyprus and Turkey before too long, and we will probably have some questions for you down the road.

One of the troubling things, at least it troubles me, that you just indicated, was that the EU seems to want to usurp some of the intelligence capabilities or the dissemination of intelligence information to the United States or between the United States and these countries. That is troubling because, as you said before, we have had a pretty good working relationship with most of those European countries regarding intelligence gathering. Is this a problem that is going to increase? Is it going to be more difficult to get intelligence data because of the EU? I was not aware of this kind of problem until today.

Ms. MCNAMARA. It would be an overstatement for me to say to you that the European countries aren't going to give you information because of the EU. Let's face it, as Dr. Schmitt said, it is the governments of these countries who have to protect their citizens.

Mr. BURTON. Sure.

Ms. MCNAMARA. And so ultimately I think intelligence services are working pretty well.

In terms of the EU trying to limit that, it is definitely the case. They have stated their outright goal is to have one judicial system in Europe. Now that might sound great, but in reality, it is not going to happen. Could you imagine if you, Mexico and Canada, all of a sudden, tomorrow, said, we are going to have one judicial system? Most people would think it is quite nuts. There is a reason why you have differences. It is the same in Europe. So the EU has institutionalized things.

We have this thing called SitCen. We have Europol. We have Eurojust, all of these things, which most British people don't even know about; these are trying to get in on the intelligence game. And I think that is hugely problematic.

Now, one thing I will say to you, the EU occasionally operates with the height of hypocrisy, and the European Arrest Warrant is one of those things. We have had a yearlong investigation by the European Parliament over U.S. rendition practices. Oh, the Americans are breaking the law; they are doing this, and they are doing that.

The European Arrest Warrant means that one member state, let's take Greece, for example, can request from Britain any person be extradited to Greece without a single bit of prima facie evidence. Does this happen? You betcha; 1,800 British citizens have been rendered to countries around Europe from Britain in the last years. We were told that this was an antiterrorism measure; it is not. The vast majority of those people, who are being rendered to other European countries, are extradited because they left a gas station without paying the bill. Now, I know gas prices are high, but it ain't a reason for extradition, let's face it.

Mr. BURTON. 1,800 you said.

Ms. MCNAMARA. 1,800, I believe, is the latest number.

Mr. BURTON. That is because of the EU's policies?

Ms. MCNAMARA. Absolutely, 100 percent, the European Arrest Warrant. It was a flagship project by the European Union, meant to be about terrorism, and it has not been about terrorism. Scotland Yard has said, complying with all of these warrants, finding the people, sending them over, all of that sort of thing, it has taken our resources up. That is what I was testifying about diverting the resources, the key resources from member states to do ridiculous things like this. I would rather the U.K. be using its antiterrorism resources to look at who is preaching hate, to render terrorists; not to get people who haven't paid their bill at a petrol station.

Mr. BURTON. Let me just ask both of you this question, what in your opinion should we do as far as intelligence-gathering capability—take the CIA or FBI or DIA—what should we be doing to make sure that there is complete cooperation between the European countries that are at risk, just like we are, and not have to worry about there being an impediment to getting that intelligence information? I guess maybe I am not making the question clear.

I am really concerned, after hearing what you said today, that information that we might need in order to stop somebody like bin Laden, or one of his minions, from perpetrating another attack on England, France, United States, wherever they happen to be, that we might be at risk of not being able to stop that because there is an impediment to this sharing of information. So if you could just give me a reassuring answer that our intelligence sharing will overcome these impediments.

Ms. MCNAMARA. My number one recommendation would be to maintain your bilateral alliances.

Mr. BURTON. With individual countries?

Ms. MCNAMARA. With individual countries.

Mr. BURTON. And not go through the EU?

Ms. MCNAMARA. With all due respect to President Obama, when he first came into office, I think he found a lot of enthusiasm for the EU. He thought this, you know, is a great multilateral alliance, and I think he has slowly realized over time, you know what, sometimes it is best to go through your bilateral alliances.

In my view, the vast majority of time, for things like intelligence, which is so important, you must maintain those strong alliances. And there is a way of doing that; Poland is a perfect example. Poland is such a strong ally. I met a Polish guy a few weeks ago who said to me, can you tell me, Sally, why is it okay for 2,000 Polish soldiers to be fighting alongside the Americans in Afghanistan where they don't need a visa, but we need a visa to get into the United States, when the guys in the Czech Republic next to us, they can just get in on visa waiver?

These things are often interlinked. I think VWP is good public diplomacy. I think it is good to maintain your strong bilateral alliances. And also, Members of Congress, you have a fantastic position here. I would not be afraid to push back with the European Parliament. What they have done over the Passenger Name Record agreement has endangered a key counterterrorism policy. And I think you have every right to be angry about that. And you have parliamentarians on your side, particularly the European Conservatives and Reformist Group. It is a new inter parliamentary group-

ing in the European Parliament. And they are some of the most pro-American groups.

Mr. BURTON. Can you give me some information on that or give it to my staff so we have that?

Ms. MCNAMARA. Absolutely.

Mr. BURTON. Dr. Schmitt.

Mr. SCHMITT. My impression from, again, when I was doing research on the book that we published last year and I held extensive discussions with intelligence and security officials in London and Berlin and Madrid and Paris, my impression was that the cooperation at the bilateral level was still very high and that there—this doesn't make it easier, but there is a considerable amount of rhetoric that points in one direction when operationally things are going quite well in another direction.

So there is a little bit, as Sally was saying, hypocrisy and what public officials will say, but in fact what they are actually doing on the ground—

Mr. BURTON. Let me end up by saying this, if you at your various organizations come up with any information that would lead to you believing that there is an impediment to the United States getting intelligence data that we need or our allies need, would you let this subcommittee know? Because we would immediately contact Homeland Security and the State Department to make sure that they knew that we were concerned about this.

Mr. SCHMITT. If I could just add one little thing; one of the problems we found after 9/11 was that the European Union was a security risk in the sense that, the borders are so open between the member states, there was a need, in fact, to work with the EU to sort of strengthen their capacity to exchange information and so there wouldn't be this sort of hole in the system where people had safe havens and could move around in ways that were a security risk.

I think it has been clear that we think there are real problems in the European Union's handling of some of these things, particularly in the Parliament and the court. On the other hand, there is a need to work with them precisely because the EU is not going to go away.

Mr. BURTON. Okay. I want to thank both of you for your testimony. It has been very enlightening and invigorating.

I would like to say for the record that Representative Meeks and Engel, who are minority members of the committee, would have been here, but they are with the President at Ground Zero in New York, so they extend their apologies.

Once again, thanks for being here, and we stand adjourned.

[Whereupon, at 4:09 p.m., the subcommittee was adjourned.]

A P P E N D I X



MATERIAL SUBMITTED FOR THE HEARING RECORD

**SUBCOMMITTEE HEARING NOTICE
COMMITTEE ON FOREIGN AFFAIRS**

U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515-0128

**Subcommittee on Europe and Eurasia
Dan Burton (R-IN), Chairman**

May 4, 2011

You are respectfully requested to attend an OPEN hearing of the Committee on Foreign Affairs' Subcommittee on Europe and Eurasia, to be held in **Room 2200 of the Rayburn House Office Building (and available live, via the WEBCAST link on the Committee website at <http://www.hcfa.house.gov>)**:

DATE: Thursday, May 5, 2011
TIME: 2:30 p.m.
SUBJECT: Overview of Security Issues in Europe and Eurasia
WITNESSES: Panel I

The Honorable Daniel Benjamin
Coordinator for Counterterrorism
U.S. Department of State

Mr. Mark Koumans
Deputy Assistant Secretary-International Affairs
U.S. Department of Homeland Security

Panel II

Gary J. Schmitt, Ph.D.
Resident Scholar and Director of Advanced Strategic Studies
American Enterprise Institute

Ms. Sally McNamara
Senior Policy Analyst, European Affairs
Margaret Thatcher Center for Freedom
The Heritage Foundation

By Direction of the Chairman

The Committee on Foreign Affairs seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202-225-5021 at least four business days in advance of the event, whenever practicable. Questions with regard to special accommodations in general (including availability of Committee materials in alternative formats and assistive listening devices) may be directed to the Committee.

COMMITTEE ON FOREIGN AFFAIRS

MINUTES OF SUBCOMMITTEE ON Europe and Eurasia HEARING

Day Thursday Date May 5, 2011 Room 2200

Starting Time 2:30 Ending Time 4:14

Recesses (to) (to) (to) (to) (to) (to)

Presiding Member(s)

Dan Burton

Check all of the following that apply:

Open Session Electronically Recorded (taped)
Executive (closed) Session Stenographic Record
Televised

TITLE OF HEARING:

"Overview of Security Issues in Europe and Eurasia"

SUBCOMMITTEE MEMBERS PRESENT:

Dan Burton, Gus Bilirakis, Tim Griffin, Jean Schmidt, Ted Poe, Theodore Deutch.

NON-SUBCOMMITTEE MEMBERS PRESENT: (Mark with an * if they are not members of full committee.)

None

HEARING WITNESSES: Same as meeting notice attached? Yes No
(If "no", please list below and include title, agency, department, or organization.)

STATEMENTS FOR THE RECORD: (List any statements submitted for the record.)

*Dan Burton's opening remarks
Witness statement of the Honorable Daniel Benjamin, Coordinator for Counterterrorism at the U.S. Department of State
Witness statement of Mr. Mark Koumans, Deputy Assistant Secretary-International Affairs at the U.S. Department of Homeland Security
Witness statement of Gary J. Schmitt, Ph.D., Resident Scholar and Director of Advanced Strategic Studies at the American Enterprise Institute
Witness statement of Ms. Sally McNamara, Senior Policy Analyst, European Affairs at the Margaret Thatcher Center for Freedom, the Heritage Foundation.*

TIME SCHEDULED TO RECONVENE _____
or
TIME ADJOURNED 4:15 PM

Mark A. Walker
Subcommittee Staff Director

**Questions for the Record of the Honorable Dan Burton
Committee on Foreign Affairs, U.S. House of Representatives
Hearing: "Overview of Security Issues in Europe and Eurasia"
Thursday, May 5, 2011**

Ambassador Daniel Benjamin and Assistant Secretary Mark Koumans:

Different Approaches to counterterrorism (CT):

There are similarities and differences in the counterterrorism strategies the U.S. and the Europeans pursue. While the day-to-day cooperation appears seamless, challenges are evident in the strategic approaches to counterterrorism. Diverse approaches and practices present challenges and offer opportunities for both sides.

How do our allies and partners in Europe and Eurasia look at terrorism? What are ideological differences between their views and approaches versus ours? What challenges and opportunities arise from these differences?

What tools/resources/legislative authorities do our Europeans friends benefit from that our government would be able to use?

Working with Europe to Prevent Global Threats:

Experts argue that in the aftermath of bin Laden's death, various al-Qaeda splinter groups might become even more dangerous. Over the past couple of years, attempts to attack the United States were plotted by the al-Qaeda in the Arabian Peninsula. This terrorist group is particularly dangerous as it targets young English-speaking Muslims by its sick attempts to make militancy look "cool and easy."

What is the United States doing with European and Eurasian allies to address the threat posed by al-Qaeda in the Arabian Peninsula, as al-Qaeda attempts to radicalize and recruit a new generation of English-speaking youth? Also, can you describe the transatlantic efforts to counter the threat of terrorism emanating from lawless regions in the Horn of Africa?

Differences in the U.S. and European Terrorist Watch Lists:

European and American lists of terrorist organizations differ. This difference allows entities designated by the U.S. State Department as Foreign Terrorist Organizations, such as Hezbollah, to fundraise in Europe.

What tools do we have or need to cut off Hezbollah's ability to fundraise in Europe?

Balancing Security and Prosperity:

The Euro-Atlantic community is under constant threat from extremists. Given the close ties between Europe and the U.S., it is in all parties' best interests to implement policies designed to counter terrorism while preserving the free movement of people and goods. Because of the significance of transatlantic trade to the U.S. economy and American jobs, it is important that the U.S. Government allow the free flow of goods and people while keeping suspicious persons and packages out of the U.S. (and Europe).

How does your personal in Washington and abroad work to strike a delicate balance between ensuring free flow of goods and people (important for transatlantic trade, tourism, etc.) and keeping suspicious people and packages out of the U.S. (and Europe)?

Terrorist Threat in Russia:

According to an article *Time* published on January 27, 2011, Russia has had more serious terrorist attacks over the past decade than any other country with the exception of war zones such as Pakistan, Afghanistan, and Iraq.

Does Russia face an increasing threat from terrorism? Are U.S. interests at increasing risk?

2014 Winter Olympics in Sochi:

On March 7 this year, *The New York Times* reported that Sochi, the site of Winter Olympics Russia is to host in 2014, is dangerously close to the volatile North Caucus region. Most of terrorists, who have attacked Russian citizens and foreign tourists in recent years, have come from there. Russian local and national authorities claim that they are doing what they can to secure the site. Concerns remain, especially following a fatal shooting of three tourists on February 18 this year. The suspects are local Muslim extremists.

Does the United States regard the violence in the North Caucasus as primarily terrorist-related, or partly attributable to other causes such as separatism or ethnic conflict?

What is the U.S. doing to help Russia with security measures for the Winter Olympic Games Russia is supposed to host in 2014? Scores of American and European tourists will likely attend. Our best sportsmen and women will participate. What is our plan to ensure their safety?

Terrorist Threat in Central Asia:

The U.S. State Department advises U.S. citizens and firms that there are dangers of terrorism in Central Asia, ranging from the Islamic Movement of Uzbekistan (IMU) to al-Qaeda and the East

Turkestan Islamic Movement (ETIM). Groups such as Hizb ut Tahrir (HT) also foment anti-Americanism. The IMU and its splinter group, the Islamic Jihad Union (IJU), not only threaten U.S. interests in Central Asia, but directly combat U.S. and NATO forces in Afghanistan.

Do the Central Asian states face increasing threats from terrorist groups? Do these threats mainly emanate from outside the region (including from IMU/IJU forces now based in Afghanistan and Pakistan), or are indigenous terrorist groups emerging and strengthening?

U.S. Counterterrorism Cooperation with Central Asian Countries:

The U.S. trains and equips security forces and border guards in Central Asia.

What are the main U.S. counter-terrorism assistance programs in Central Asia? How effective have the programs been in combating terrorism in the region? What are our European allies doing? How are we coordinating the effort?

Other Counterterrorism Efforts in Central Asia:

All the Central Asian states except Turkmenistan (which declares itself neutral) belong to the Shanghai Cooperation Organization (SCO), and the Collective Security Treaty Organization (CSTO). Both the SCO and CSTO have held counterterrorism military exercises in Central Asia. In the SCO, Russia and China have set up the Regional Anti-Terrorist Structure in Tashkent, Uzbekistan, to combat the “three evils” of terrorism, separatism, and extremism. Some are concerned that these organizations are used to impart undemocratic values upon the member states.

Is the United States cooperating with Russia and China, or the SCO and the CSTO, in combating terrorism in Central Asia? Why or why not?

Visa Waiver Legislation:

Recently introduced H.R. 959 appears to change the main criteria upon which countries are allowed into the Visa Waiver Program.

What consequences would this change have on, among other factors, the ability of the U.S. to keep our borders secure, prevent immigrants/tourists from overstaying their visas, and reward faithful allies?

Ambassador Daniel Benjamin:

Northern Distribution Network:

The U.S. and NATO supply their forces operating in Afghanistan through the Northern Distribution Network (NDN) of land, sea, and air routes. Russia, Central Asian states and some

in the Caucuses participate in the NDN. According to Congressional Research Service, over 50% of the non-lethal supplies entering Afghanistan now transit the NDN, and the percentage is expected to increase given the risks of shipping through Pakistan.

Does the Northern Distribution Network (NDN) face increasing threats from terrorism? How is the United States assisting the regional states in defending the NDN from possible attacks?

Cutting of Funding for Hamas and Hezbollah:

Ambassador Benjamin testified that he has made urging Europeans to crack down on Hezbollah's fundraising "a personal priority."

Please list EU countries, which share the U.S. concern about the ability of Hezbollah to fundraise in Europe.

Building CT Capacity in Albania:

In your testimony, you mentioned that the U.S. builds Albanian capacity through the International Law Enforcement Academy, ILEA, in Bucharest.

Please provide additional information about training and capacity building that the U.S. and our European allies have provided to Albania.

Assistant Secretary Mark Koumans:

DHS Personnel in Europe:

According to its fact sheet, Department of Homeland Security has 400 permanent staff deployed in 21 countries in Europe. They execute various programs, including Airport Preclearance, Container Security Initiative, Electronic Crimes Task Forces, Immigration Advisory Programs, the Visa Waiver Program, etc.

What training does the DHS personnel receive before and during their overseas assignments? Do they leverage State Department's language of foreign service schools?

Immigration Advisory Program (IAP):

Mr. Koumans, in your testimony, you indicated that IAP is currently active at seven European airports.

Which airports is the IAP active at? What is the U.S. doing to extend this program to other airports? What are the challenges in extending IAP to other airports?

DHS Cooperation with Turkey:

Mr. Koumans, in your testimony, you mentioned the U.S. DHS CT cooperation with Turkey. You also indicated that DHS would like to extend and broaden its work with Turkey.

What are the challenges to expanding DHS/USG CT cooperation with Turkey?

[NOTE: Responses to the above questions were not received prior to printing.]

**Questions/Statement for the Record of the Honorable Ted Poe
Committee on Foreign Affairs, U.S. House of Representatives
Hearing: "Overview of Security Issues in Europe and Eurasia"
*Thursday, May 5, 2011***

Ambassador Daniel Benjamin and Assistant Secretary Mark Koumans:

On November 29, 2010, the *Washington Times* reported that diplomatic cables released by WikiLeaks contained information regarding the transfer of arms by Armenia to Iran. According to the *Times*, the cables reveal that the Government of Armenia transferred rockets and machine guns to the Government of Iran. These weapons, Armenian-supplied rocket propelled grenades, were eventually transferred to insurgents in Iraq and used to kill a U.S. soldier and wound several others on January 31, 2008. Are you confident that Armenia has stopped transferring weapons to Iran? What sort of consequences, if any, have there been for Armenia since it was discovered in 2008 that they gave weapons to Iran that were then given to insurgents in Iraq who killed Americans?

[NOTE: Responses to the above questions were not received prior to printing.]

