



**Homeland
Security**

STATEMENT ON INFORMATION SHARING AND PRIVACY AND PERSONAL DATA PROTECTION BETWEEN THE EUROPEAN UNION AND THE UNITED STATES OF AMERICA

1. In the framework of the High Level Contact Group on information sharing and privacy and personal data protection, the European Union and the United States have identified common principles and certain outstanding issues relating to privacy and personal data protection. The European Union and the United States share a wide range of significant commonalities in respecting privacy and protecting personal data.
2. On 10 June 2008, the EU-U.S. Summit recognized that the fight against transnational crime and terrorism requires the ability to share personal data for law enforcement purposes while fully protecting the fundamental rights and civil liberties of both sides' citizens and residents. It also concluded that the best way to ensure these interests are met is through a binding international agreement that addresses all the issues identified in the High Level Contact Group final report of 28 May 2008. This statement forms a strong basis for further enhancing transatlantic cooperation. Our goal moving forward is to take the understanding we have gained of the high level data protection we each seek to provide, and translate that understanding into greater law enforcement cooperation, while ensuring a high level of protection of privacy and personal data on both sides of the Atlantic.
3. Therefore, the European Union and the United States aim at starting the negotiation of a binding international agreement as soon as possible, consistent with each others' constitutional and procedural obligations.
4. Both sides reaffirm their commitment to all of the principles described in the final report of 28 May 2008 that have been discussed between the parties insofar as consensus has been reached; both sides will take due account of these principles for law enforcement purposes and will use best endeavours to refrain from activities which undermine these principles.

In order to ensure the continuation of law enforcement exchanges and practices between the United States and the European Union, both sides state that they are guided by the principles described above, on which consensus has been reached, until such time as a binding international agreement is concluded and without prejudice to outstanding issues to be further explored in that context.

5. We are directing our experts in the High Level Contact Group to continue working on the outstanding issues identified in the final report and referred to in the working document of the High Level Contact Group experts as of 9 December 2008, with a view to preparing the negotiations of a binding international agreement.

Status Report and Agreed Text from the High Level Contact Group Experts as of 9 December 2008 following the final report of the High Level Contact Group of 28 May 2008:

On private entities' obligations, any adverse impact on private entities resulting from data transfers, including those impacts deriving from diverging legal and regulatory requirements, should be avoided to the greatest extent possible.

On preventing undue impact on relations with third countries, when the European Union or the United States has international agreements or arrangements for information sharing with third countries, each should use their best endeavours to avoid putting those third countries in a difficult position because of differences relating to data privacy including legal and regulatory requirements.

On specific agreements relating to information exchanges and privacy and personal data protection, when the European Union and the United States agree that a clear legal necessity arises in particular due to a mutually-recognized conflict of laws, the processing of personal information in specific areas should be made subject to specific conditions and should include the necessary safeguards for the protection of privacy and personal data and individual liberties [through the negotiation of an information sharing agreement]. Such rules may offer individuals a wider measure of protection.

On issues related to the institutional framework of the EU and the U.S., the European Union and the United States intend to consult each other as necessary to discuss and if possible resolve matters arising from divergent legal and regulatory requirements.

The High Level Contact Group experts continue to examine issues related to the **redress** principle and issues related to the equivalent and **reciprocal application of data privacy law** principle.