



**Prepared Remarks by Attorney General Alberto R. Gonzales
at the International Institute for Strategic Studies**

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Thank you. It's a privilege to be here, and I appreciate the opportunity to exchange views about our shared struggle to keep our citizens safe in the face of the continuing threat of global terrorism.

As democratic societies anchored on civil liberties and the rule of law, America and Europe face enormous challenges in responding effectively to the terrorist threat. And let us be frank: the United States and some of its closest democratic allies have disagreed on how to approach certain aspects of the struggle against terrorism. The war in Iraq and issues relating to the detention of terrorists and foreign fighters are extremely difficult and have caused particular concern. But I want to begin by underscoring that we are committed to working together with our Allies and partners, in full respect of our respective national sovereignties, and we wish to remain engaged in an open and constructive dialogue on these challenging issues. That is precisely what brings me here today.

Although these issues are complex we must not let the consensus between the United States and Europe in fighting terrorism be weakened over differences in how we approach the fight. Prevailing in this global struggle is essential to us all – and only through a strong continued partnership between the United States and Europe will we be able to disrupt militant conspiracies, destroy their ability to commit terrorist acts, and give millions in a troubled region a hopeful alternative to the terrorists' ideology of hatred, fear, and repression. Freedom, after all, is not for Americans and Europeans alone, but is the enduring hope of all humanity. A close and united partnership between Europe and the United States remains vital to the security and prosperity of all our countries and, indeed, the whole world.

I. Successes

I think it's important to take a moment at the outset to reflect on what we have achieved working together over the last few years in the criminal justice arena. It is all too easy to focus on the challenges facing the trans-Atlantic relationship without fully appreciating the massive amount of work – and the profound successes – we have achieved. Together we are confronting the reality of terrorism with a steadfast resolve – and we are doing so with remarkable effect in many areas. In the last few years, we have reached out to one another and secured unprecedented new levels of cooperation between our respective criminal justice systems. We are coordinating closely with the U.K. in support of its investigations into the July 2005 London attacks. In 2004, thanks to coordinated efforts by antiterrorism units on both sides of the Atlantic, we were able together to disrupt and prosecute plots to commit attacks in both the United States and the U.K.

Another recent example involves the sentencing last September of British arms dealer Hemant Lakhani to 47 years in prison for attempting to arrange the sale of shoulder-fired missiles in New Jersey. New Scotland Yard and the Russian Federal

Security Service were critical to the success of this investigation, and representatives of both services testified at trial.

You will also recall the case of Richard Reid, the so-called “shoe bomber” who sought to blow up a transatlantic commercial flight. His plot was foiled by an astute flight attendant who saw him trying to light a match and ignite a fuse protruding from his shoe. After a fight, Reid was subdued and he was eventually prosecuted and sentenced to life in prison in the United States. What has received perhaps less attention is that Reid had a co-conspirator here in the U.K., Saajid Badat, who was uncovered thanks to the cooperation between our two countries. U.K. authorities arrested and convicted Badat after finding in his possession bomb components virtually identical to those Reid attempted to use. After his arrest, Badat admitted to police that, like Reid, he’d been asked to act as a shoe bomber.

These are just a few examples of the string of antiterrorism successes we’ve achieved through criminal justice cooperation in recent years thanks to far greater coordination between our law enforcement agencies. There are many more like them. Our efforts at working together to uncover and foil terror plots through the criminal justice system has taken many forms and occurred at every level of our respective governments. We have posted to our Embassy here FBI attaches and a liaison federal prosecutor from the Department of Justice to aid in terrorism investigations and prosecutions. The UK, in turn, has posted similar liaison officers to Washington. I personally have met with the Home Secretary on three occasions within the last year, and I look forward to another such meeting at the EU Justice Ministerial later this spring. We have also signed many important agreements, foremost of which is a new extradition treaty – and I am hopeful that the United States will be in a position to ratify this treaty soon. We have also concluded new extradition and mutual legal assistance treaties between the European Union and the United States – the first ever treaties between the US and the EU. These treaties and others like them now being negotiated and implemented in the terrorism arena will ensure even greater coordination in combating the terror threat we all face.

II. Challenges

While our recent advances in the fight against terrorism have been profound and all-too-often unsung, I am not here to deny that some points of tension have also arisen in our trans-Atlantic relationship.

But, while we may take somewhat different approaches in the struggle against terrorism, we should not overlook the fact that we share a common objective and a common threat. The truth is that our enemy rejects as immaterial and even corrosive some of the most basic values both you and we hold dear. Values like the freedom of expression. The freedom of worship. The belief in the equality and inviolability of all human beings – regardless of gender, or race, or creed. This enemy’s war is not just with America, or the United Kingdom. All freedom-loving people have a stake in this struggle.

We should not permit our own healthy debate over approaches to this conflict to divert us from our shared objectives, or to disrupt our vital alliance in pursuing them. Just weeks ago, Osama bin Laden and his deputy, Ayman al-Zawahiri, emerged from hiding to describe new threats against both Europe and America, promising that attacks are being planned. Zawahiri went so far as to predict that we all face a future – quote – “colored by blood, the smoke of explosions, and the shadows of terror.” And certainly the recent bombings here in London, as well as those in Bali, Spain, Jordan and elsewhere, belie any notion that we can dismiss such threats as empty rhetoric or write off terrorism as the problem of America or the UK alone. The

convictions of the Yarkas group in Spain, the Beghal convictions in France, and the Badat prosecution here in the U.K. also underscore that the threat remains very real and worldwide. And, of course, we should remember that al Qaeda patiently waited eight years between its attacks on the World Trade Center, planning, training, and calculating death and destruction on such a massive scale. Citizens from more than 90 countries died on September 11, including some 67 Britons.

Whether you accept that we are actually at war with terrorists worldwide, I hope you can appreciate our view that the United States is engaged in an armed conflict with al Qaeda – and that we are going to continue to use all available tools, including the traditional incidents of waging war, to defeat this enemy.

I understand that our characterization of a “global war against terrorism” has raised some questions here in Europe: for example, does the United States really believe it is engaged in a state of war against all terrorists in all places? To these questions, I should explain what we mean when we use this phrase. On a political level, we believe that all countries must exercise the utmost resolve in defeating the global threat posed by transnational terrorism. On a legal level, we believe that the United States is engaged in an armed conflict with al Qaeda. They have attacked our embassies, our military vessels and military bases, our capital city, and our financial center. On September 11th, they killed nearly three thousand people and the UN and NATO quickly passed resolutions acknowledging the right of the United States to self defense. It is appropriate and lawful to use all available tools, including our military forces, to defeat this brutal enemy.

Some say that in pursuing the war on terror America has failed to respect human rights and the rule of law. Nothing could be further from the truth. Dealing with captured terrorists is a difficult challenge in this very different kind of war and we are constantly working to improve our detainee policies and procedures. But the United States, together with our European allies, has always been, and remains, a great defender of human rights; and the rule of law is an essential element of all of our democracies.

We recognize that our military base at Guantanamo Bay has been a matter of particular concern in the UK and Europe. But not all of the facts about Guantanamo seem to be widely known. There are currently about 500 detainees there, including highly dangerous people – terrorist trainers, bomb makers, terrorist financiers, body guards for Osama bin Laden, and potential suicide bombers. The U.S. military has designed specific processes to ensure that we continue to detain only those who are dangerous enemy combatants. Indeed, the military screened more than 10,000 people in Afghanistan alone and determined only a very small fraction merited detention at Guantanamo.

Even so, the United States Congress and the President have recognized the unusual nature of this conflict and, the wartime context notwithstanding, have provided additional and unprecedented legal protections to Guantanamo detainees – protections that seem to have received scant attention abroad. First, each detainee is provided not just the traditional assessment of his status by commanders in the field. He is also afforded a subsequent formal hearing before a separate, three member military tribunal to determine whether he is properly being detained as an enemy combatant. Then, if the detainee objects to the tribunal’s conclusion, he may appeal to a civilian federal Court of Appeals and thereafter to the United States Supreme Court. In addition, every detainee is afforded an annual administrative review to determine whether he should be released – a process very much like a prison parole hearing.

We are aware of no other nation in history that has afforded procedural protections like these to enemy combatants – including allowing access to civilian courts for those captured on the battlefield. In point of fact, more than 265 detainees have already been transferred out of Guantanamo Bay. Unfortunately, despite assurances from those released, the Department of Defense reports that at least 15 have returned to the fight and been recaptured or killed on the battlefield.

As to conditions at Guantanamo Bay, detainees are permitted access to state-of-the-art medical care, healthy meals consistent with their cultural and religious requirements, and opportunities to observe their religious beliefs. Now, I am familiar with many allegations of torture, or cruel, inhumane and degrading treatment by US officials, both at Guantanamo and elsewhere. But on this point, let me be absolutely clear: The United States abhors torture and categorically rejects its use, as a matter of policy, as a matter of international obligations, and as a matter of US law. Likewise, US law forbids cruel, inhuman and degrading treatment of detainees as defined by U.S. obligations under the Convention Against Torture, whether in the United States or abroad, whether at the hands of military or civilian personnel. When violations do occur, as they have, we investigate any credible allegation – and those found to have committed infractions are disciplined. Unlike our enemies who torture and decapitate innocent human beings to make their point, we are committed to rooting out and denouncing the mistreatment of human beings – even when it is committed by our soldiers against enemy combatants. The virtue of the rule of law is not that it eliminates all human flaws; rather, laws expose flaws, and address them justly.

Our Congress recently passed and the President signed the Detainee Treatment Act, which included the well-known McCain Amendment. Contrary to press accounts, however, the McCain Amendment did not prohibit torture. Our federal criminal laws have long done that. Instead, the McCain Amendment codified in U.S. law the prohibition against cruel, inhuman, and degrading treatment contained in the Convention Against Torture, making clear that the prohibition applies to the treatment of all detainees under U.S. control anywhere in the world.

In the context of renditions – another matter that has raised particular concern in the UK and Europe – US policy is also clear. We do not transport anyone to a country if we believe it more likely than not that the individual will be tortured; and we seek assurances, where appropriate, that transferred persons will not be tortured. We do not use the airports or air space of any country in Europe or anywhere in the world for the purpose of transporting a detainee to a country where he will be tortured.

III. Opportunities

As I emphasized at the start of my presentation, I recognize that these issues are complex and challenging. The United States remains committed, though, to engaging in an open dialogue with our European partners about these issues and to work together to achieve our vital objectives.

Indeed, there remains much we must do together if we are to succeed in our struggle against terrorism. I am convinced, for instance, that we can learn a great deal from one another by comparing how our different legal systems and cultures approach similar terror-related issues. At the same time, of course, we must recognize that our societies, while both firmly committed to the rule of law, will never be identical. Under European legal systems, you have tools at your disposal for combating terrorism that are not available in our criminal justice system; and, of course, the contrary is sometimes true as well.

Take, for example, the issue of electronic surveillance, which has come to the fore in the current debate over the U.S.'s terrorist surveillance program. Critics have expressed concern about civil liberties and privacy interests. As I have stated many times, the program is both fully constitutional and fully protective of civil liberties. And while such issues must be resolved under our own Constitution and laws, it is noteworthy that the practice of obtaining electronic surveillance without a judicial warrant has long been accepted in Europe as something that can be accomplished with proper respect for liberty and privacy interests. France, for example, allows public prosecutors to order wiretapping without judicial warrant if they believe doing so would be useful for determining whether a terrorist offense has occurred. Here in the UK, the Home Secretary has the same power, subject to careful checks.

In a different vein, European countries have adopted an array of different preventive detention regimes not available in the United States. A French investigative judge may, for example, order an individual to be detained for as long as four years prior to trial if the judge has serious reason to believe the suspect participated in a major terrorist offense. German law makes membership in a foreign terrorist organization a crime and provides for the expulsion of non-citizens who engage in "hate-preaching" associated with terrorism. And here in Britain there is a lively ongoing debate over the length of time the government may hold terrorism suspects in order to gather evidence before making a charging decision. Meanwhile, prosecutors in the United States are far more constrained in this area – they may, for example, hold even those suspected of imminent deadly attacks only for hours or perhaps over a weekend (if a magistrate is not available) before charges must be brought or the suspect released.

Now, to be clear, I am not advocating that America adopt a European model or vice versa. Instead, I seek merely to point out that we are all engaged in a difficult and ongoing dialogue over how to balance the civil liberties we all cherish with the need to protect against a secretive and unconventional enemy operating within our own societies. How to manage all this consistent with our unique cultures and legal norms is a difficult but necessary dialogue for us all.

One area in which we clearly must do more to learn from each other involves the sharing of data regarding terror suspects. A central challenge faced by all our countries is how to ensure that data is gathered and shared in ways that maximize the safety of our citizens without endangering their legitimate privacy interests. In Europe, the EU Commission has advanced the "principle of availability" to encourage data sharing among EU countries for criminal justice purposes. Significantly, this principle would permit the sharing not only of traditional criminal justice information, but also fingerprint, DNA, and border control data.

But there is a danger to be avoided here. Some contemplate erecting barriers against sharing data with partners outside the EU if their privacy systems do not precisely match the EU's. Yet some of these privacy systems, while not identical to the EU's, aim at very much the same result. The U.S., for instance, recognizes a right of privacy. While we implement that right in a different fashion than the EU, the core principles and protections remain the same. It is for this reason that we have been able to partner in data sharing arrangements with Europol and to work with the EU to fashion data protection provisions for the Council of Europe Cybercrime Convention. It would be a great loss to both the US and Europe if we were not able to do the same thing in the terrorism context. Neither side can afford to erect new walls that preclude us from sharing critical information about terror suspects.

Closing

In closing, I want to remind you that during the dark days of the Cold War many wondered whether the interests of Europe and the United States would remain aligned in confronting the Soviet Union. On a visit to the United States, Churchill addressed this issue head on, giving an impassioned plea for resolve and unity among our peoples. He reminded us that – quote – “our difficulties and dangers will not be removed by closing our eyes to them. They will not be removed by mere waiting to see what happens; nor will they be removed by a policy of appeasement.” Instead, Churchill predicted that, in his words, only by joining Europe and America’s “moral and material forces and convictions” will the “high-roads of the future be clear not only for us but for all.” Churchill was right then; his words remain equally right today. As Prime Minister Blair has eloquently explained, our interests today are inextricably intertwined; interdependence defines the new world we live in. And so it is imperative that we remain united and resolute in our common struggle. And for that to happen, it is important that we continue to have opportunities such as this – opportunities to talk and listen, to enhance mutual understanding and work through our difficulties, and to reaffirm our common bonds. Thank you very much for your steadfast friendship in these challenging times and thank you again for the opportunity to speak with you today.