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EU-US EXTRADITION AGREEMENT STILL FLAWED ON HUMAN RIGHTS

AMNESTY INTERNATIONAL RELEASES LEGAL ANALYSIS

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(Brussels 4 June 2003) With tomorrow's meeting of Justice and Home Affairs Ministers due to approve the EU-US Agreements on Extradition and on Mutual Legal Assistance, Amnesty International today releases its own analysis which points to serious concerns and omissions concerning the right of suspects to a fair trial in the US and calling for strict interpretation of measures relating to the death penalty.

Amnesty's analysis (on www.amnesty-eu.org and go to "documents" page) which focuses particularly on extradition, also deplores the lack of transparency in negotiating the agreements which has made it extremely difficult to scrutinize.

"Here is an agreement essentially negotiated in secret and due to be automatically approved at tomorrow's JHA meeting, which still contains serious flaws as far as human rights guarantees are concerned," said Dick Oosting, Director of Amnesty International's EU Office.

"On the issue of guarantees of fair trial, the wording of the agreements is ambiguous, omitting any mention of international human rights obligations. We can assume this ambiguity is a response to US resistance to explicit reference to international human rights standards. US-proposed military commissions, which would have the power to hand down death sentences, have added a new ingredient to this concern," he said.

"It is conceivable, for example, that a non-US defendant accused of a "terrorist" offence, initially placed in the normal criminal justice system, could subsequently be transferred to trial by military commission, as was reportedly considered in the case of French national Zacarias Moussaoui," said Dick Oosting.

Among the conclusions reached in the analysis:

Serious Omission

Amnesty International considers the absence of a substantive reference to

fair trial guarantees in the extradition agreement a serious omission.

Margin of discretion on death penalty

Amnesty International considers that Article 13 of the extradition agreement leaves an unacceptable margin of discretion with regard to conditioning and refusing extradition in the face of the death penalty. It is not consistent with Protocols 6 and 13 of the European Convention on Human Rights and with the EU Charter of Fundamental Rights which prohibit extradition where there is a risk of the death penalty. If adopted it must be interpreted in a manner which is consistent with the EU's stance on the death penalty and with Member States' obligations under international law.

Among Amnesty's recommendations regarding the agreement:

Framework for decision-making

Amnesty International recommends that an interpretative framework be drawn up to inform decisions regarding the EU-US agreements and any future such agreements with a view to prohibiting EU Member States from surrendering individuals to countries where they will be at risk of suffering serious human rights violations.

Need for public scrutiny

Amnesty International believes that given the nature of the agreements and their potential impact on protection of fundamental rights, their entry into force should be contingent on proper parliamentary scrutiny in all Member States.

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