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United States Mission to the OSCE**Right of Reply:
Response to Statement by Belarus
“Regarding the Expansion of the Powers of
the Security Agencies in the United States of
America and Canada”**

As delivered by Ambassador Ian Kelly
to the Permanent Council, Vienna
May 24, 2012

We would like to take this opportunity to respond to the statement made by my esteemed Belarusian colleague on March 29, “Regarding the Expansion of the Powers of the Security Agencies in the United States of America and Canada.” Our entire response will be distributed to delegations, but I will summarize in my oral statement.

I would like to stress the core values of the United States and the principles guiding our response to the threat of international terrorism. President Obama has stated unequivocally that this serious threat must be countered “with an abiding confidence in the rule of law and due process; in checks of balances and accountability.” This has been and remains the consistent policy of this Administration. In strong, institutional democracies such as the United States, there are legislative and judicial checks on executive power.

Let me state clearly that no U.S. law or policy authorizes murder. U.S. actions to combat terrorism comply with all applicable domestic and international law, including the law of war, where applicable

The jurisdiction of U.S. federal and state criminal courts and military commissions is prescribed by legislation. To be criminally prosecuted in civilian courts, a suspect must be alleged to have violated U.S. criminal law. To fall within the jurisdiction of a military commission, the defendant must be an alien and the alleged offense must be one that was committed in the course of hostilities against the United States.

Executive actions in the United States are subject to legislative oversight and judicial review. Congress has established the Foreign Intelligence Surveillance Court (FISC) to review and approve applications for orders approving electronic surveillance of a foreign power or, in the case of a U.S. citizen or resident alien, that the target may be involved in the commission of a crime.

The United States does not hold “secret trials” and institutes rigorous protections for defendants when classified testimony or other evidence must be used in criminal proceedings. The Department of Justice has taken action to investigate and prosecute allegations of torture by U.S. Government personnel and has announced that it was opening a full criminal investigation into the deaths of two individuals in CIA custody overseas.

The Foreign Intelligence Surveillance Court reviews and approves applications for orders approving electronic surveillance of a foreign power or an agent of a foreign power. It does not try cases.

On January 23, 2012, the Supreme Court ruled that U.S. law enforcement agencies cannot use GPS devices if the use would violate the Fourth Amendment of the Constitution.

The United States will not transfer any person to a country where it determines that it is more likely than not that the person will be tortured. An interagency task force has been created to study and evaluate the transfer of individuals to other nations in order to ensure that such practices comply with the domestic laws, international obligations, and policies of the United States.

Mr. Chairman and Esteemed Colleagues,

Let me assure you that the Government of the United States remains committed to upholding its OSCE commitments and its obligations under applicable international law in its struggle against the terrorist threat, as it does in all other areas.

Thank you, Mr. Chairman.