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REPORT ON GUANTANAMO
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Dimension of the OSCE PA
to the President of the OSCE Parliamentary Assembly,
Mr Alcee HASTINGS

Introduction

The current report has been drawn up on the basis of contacts with the Pentagon Administration, discussions with several members of the US Congress and various sources who have had access to prisoners both in Guantanamo and when these have been sent back to different countries. It should be emphasised that the Pentagon did not authorise your rapporteur to visit the Guantanamo detention facility, despite several requests to do so. A recent response from the Pentagon stated:

“In light of these observations, I regret that we are unable to grant your request to visit Guantanamo to evaluate the detention facility. We hope that the volume of reported information about the detention facility, plus the additional information we are providing, affords you with sufficient information to complete your report. I have noted your request, however, should the United States in the future decide to expand access to international observers other than the ICRC.”

However, the internal debate in the United States, underway since May, throws more light on the current situation at Guantanamo. In order to appreciate the proposed recommendations, it is appropriate to cite the **dilemma** in which the US authorities are caught up: to assure the security of the United States and to lead the fight against terrorism on the world stage, on the one hand; and on the other hand, to ensure that US and international law are respected.

The report does not cover the question of torture, or the treatment of individuals, but it does broach the issue of the legal principle of detention, from the point of view of the effectiveness of the law.

The following points resulted from the numerous discussions held in the United States:

1. that the transfer to this American base at the time was justified by reasons of security; that the exceptional procedures set up did not always function in an appropriate manner. However, although for the last three years, they have been clarified (A.R.B. and E.C.S.R. Tribunal), maintaining +/- 520 prisoners without due national process (civil or military) is an abnormally high number;
2. that the transfer of Guantanamo detainees to United States territory and processing them through civil judicial procedures does not appear to be the most appropriate solution for many of them, nor for the United States. Returning them to their country of origin or to a country of their choice would allow for a better follow-up to the procedure, and provide a greater knowledge of the degree of dangerousness of the detainees. Furthermore, another prison located on United States territory would constitute an ideal target for terrorists.
3. that fast-tracking the procedures for sending prisoners back is possible; detainees who are European nationals have been sent back; the Russians too, and the Afghans, Pakistanis, Yemenites and Saudis, among others, will shortly be the subject of similar agreements. Significant negotiations have been held with the Afghan authorities.
4. All options are currently being studied, including the closure of the Guantanamo detention facility.

Chapter 1: The 'Guantanamo System'

The purpose of the current report is to draw up as objective an assessment as possible, based on the information available, of the Guantanamo detention facility, since its establishment on 11 January 2002, and of its usefulness to the United States government, and to the Member States of the OSCE who have citizens detained there, and of maintaining several hundreds of people there suspected of terrorist activities.

This assessment seems to us to be all the more necessary given that the US face daily attacks and smear campaigns that tarnish its reputation worldwide and fuel anti-American sentiment. Therefore in this report we shall **not** be taking account of accusations coming from extremist organisations and networks seeking to harm the US by all means.

On the other hand, one must recall that official and democratic authorities such as the Council of Europe, the European Parliament, etc., have published reports that at times contained legal objections and harsh criticism against the detention measures taken at Guantanamo by the US Administration in its Global War on

Terrorism. These objections and this criticism in no way involve the legitimacy of the fight that democracies have to carry out against the terrorist threat.

The ICRC, which has a permanent presence on the Guantanamo base and on other places of detention, has deemed it necessary as well, despite the fact that its action is neutral and confidential, to voice some of its concerns in public, more particularly its concerns about the legal status of detainees.

In substance, let us recall that this criticism of a legal or humanitarian nature involves:

- a. The fact that the US refuses to grant those arrested and detained at Guantanamo prisoner of war status, as per the four Geneva Conventions.
- b. The procedures used by the special military tribunals as well as the legal guarantees granted to the detainees.
- c. The detention conditions and the treatments inflicted on those detained at Guantanamo.

Several representative NGOs such as Amnesty International, Human Rights Watch, the Federation of International Leagues on Human Rights, the American Civil Liberties Union, etc., have published very damning reports on these issues, which have been echoed critically in the international, and US, press.

US authorities have rejected this criticism on the basis of legal or political arguments. It must be said that these have not helped allay the fears of human rights activists and calm down the controversy.

1. **Guantanamo: an exceptional prison system**

Let us briefly recall the origin of this criticism. This exceptional system that detainees at Guantanamo fall under was very speedily put in place after the attacks on 9/11. This procedure was started by an 'Executive Order' dated 13 November 2001, which is by nature not subject to the approval of Congress. This Executive Order, entitled: 'Military Order. Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism' was part and parcel of the broader backdrop of the US Patriot Act ('Uniting and Strengthening America by Providing Appropriate Tools required to Intercept and Obstruct Terrorism') and passed in October 2001 by the US Congress this time. It was completed by an Executive Order dated 21 March 2002 on the procedures applying before the special military tribunals.

The US Administration's strategy was aimed at taking away forms of protection from the detainees, named 'Enemy Combatants' – a concept that is irrelevant in

international law: recourse to the US legal system, to foreign or international jurisdictions and especially to the protection provided to prisoners of war by the Geneva Convention.

Under the terms of the Executive Order, the Department of Defence (DoD) had the exclusive competence of trying the detainee, of organising the 'Military Commissions' before which even capital punishment could be called for. Under the system, the defendant could call on appointed legal counsel, the "judge advocates-general" and possibly obtain the services of a civil lawyer meeting certain conditions, among which, that of 'following the rules of the Military Commission'. The definitive rules for the operation of these Commissions were not approved until mid-2004. The Military Commissions are supposed to guarantee the detainee a fair trial, all the while protecting sensitive or classified information.

On 28 June 2004, the US Supreme Court clarified two important points. It determined that, the United States exercising exclusive control over the Guantanamo base, no extraterritoriality whatsoever could be invoked in order to claim that the courts did not have jurisdiction over the persons detained there. Furthermore, it acknowledged that the civil courts were competent to process *habeas corpus* (the legality of detention) of the Enemy Combatants of Guantanamo. It was following this decision that the 'Combatant Status Review Tribunals' (CSRT) were set up, before which detainees could challenge their 'Enemy combatant' status. At the time, not one of the first eighteen detainees to be tried had their status revised. To this day, 558 'sessions' of the CSRT have been finalised: the last one having been on 22 January 2005. 520 detainees had their Enemy Combatant status confirmed. 38 of them were deemed to 'no longer meet the criteria' defining them as such. These detainees have been or will be repatriated to their country of origin. It is important to note that the notification of the CSRT's decision to the detainee specifies the possibility for the detainee to appeal said decision in a civil court.

Administrative Review Boards (ARD) were also set up. These ARDs are held annually and their purpose is to determine whether a detainee still presents a risk for the United States. The first ARD was only held on 14 December 2004.

Exception regimes have applied to the detainees of the Guantanamo base since 2002. That is why the Pentagon has never supplied an exhaustive document on the names and nationalities of the detainees. Most of the detainees' names have been kept secret and remain so. This is also why the charges and the detainees' arrest circumstances are not known, except for the case of detainees that have since been released or handed over to their country of origin. It is also not known whether certain of them previously had relations with US services (period of the anti-URSS

combat in Afghanistan) or whether they are members of the secret services of certain countries.

The US Administration used the war on terrorism to justify these measures. According to US officials it was about isolating a certain amount of individuals held captive who belonged to the Talibans or to Al-Qaida from the rest of the world in order to obtain as much information as possible on terrorist networks with the aim of dismantling these networks and thus preventing any further attacks on the US and on US staff on operational ground. This objective has not been reached, considering that in two days, information coming from Guantanamo about mishandling of the Koran provoked countless demonstrations at thousands of miles distance.

2. Questioned detention conditions and interrogation techniques

According to the information available, over 700 detainees of more than 40 different nationalities and speaking 17 different languages and dialects, among which minors, have been transferred to the base since January of 2002. The ones that were the first to be detained experienced rather rudimentary detention conditions (particularly in the first camp by the name of 'X-ray'). Since then other detention camps have been built in which detainees are being held, it would appear, according to how dangerous or how docile they are and depending on the information they have provided the interrogators.

Aside from the detention conditions, it is precisely the interrogation techniques that have stirred the most criticism on the part of human rights organisations but also on the part of the US Supreme Court and the FBI in its report dated 10 May 2005. Several testimonies that have remained anonymous but are reliable have indeed mentioned mistreatment (sensory deprivation, all types of humiliation, shaving-off of beards and moustaches in spite of their religious significance, blinding with the use of a hood, removal of the 'comfort objects', etc.) of the Guantanamo detainees.

In fact, the interrogation techniques were largely improvised at the outset, which explains the inevitable abuses in this type of context. The US military authorities themselves admitted that the US Army Field Manual 34-52 (designed for enemy prisoners of war) containing a list of 17 authorised interrogation methods had proved completely inappropriate in the case of the detainees that were suspected terrorists. This is why they resorted to techniques aimed at obtaining information all the while 'preserving the human treatment of detainees'. After lengthy consultation, the US Defence Secretary promulgated a list of the 24 most aggressive techniques on 16 April 2003.

Reports published by human rights organisations have frequently mentioned abuse akin to torture. The term is commonly defined as being a method used by State agents to intimidate or extract confessions from people on which a sharp pain is inflicted, be it physical or psychological. What actually constitutes a sharp pain is left entirely to the subjectivity of the person making the judgement.

It would appear that in the case of the techniques used at Guantanamo (which are the same as in other detention facilities in Afghanistan, Iraq or elsewhere), everything is a question of degree and of the combination of elements. Taken individually, these techniques are hard but, according to our sources, they do not constitute acts that would be considered torture. Despite that, the frontier between that which is authorised and that which is not authorised is tenuous, and there is a considerable risk of abuse.

Accusations of torture usually stem from the testimonies of former detainees. These are often disconcerting elements, all the more so because some of them have not thought twice about selling their story to the press or to editors of spectacular testimonies for a high price. The US authorities reiterate, and rightly so, that the members of Al-Qaida have a manual called the 'Al-Qaida Manchester manual') that teaches them how to resist interrogations and to spread false information about the treatment that they have allegedly received.

These allegations of abuse and even of torture were taken seriously, after they had been made public by the US Authorities. Inquiries were made or are still ongoing, more particularly into the claims of sexual abuse. The profanation of the Koran by the people in charge of the interrogations in Guantanamo has been borne out.

It is indisputable that certain images broadcast by the media (detainees kept in chains, isolation, etc.) have shocked public opinion. According to the US authorities, these measures are justified in view of the procedures applied at the base and which in any case comply with the standards of the US penitentiary administration.

At any rate, the precedent of cruelty inflicted on the detainees in the prisons of Abu Ghraib in Iraq or Bagram in Afghanistan is of concern to all those who are concerned about the compliance of human rights.

Let us recall that the military courts are prosecuting those responsible for inflicting this cruelty: at present proceedings are being brought against 155 members of the military in the framework of approximately 300 enquiries taking place on all internment camps.

3. A secret selection procedure

Three years later, it transpires that some 520 people are still being detained in different detention centres on Guantanamo (Camp Delta, Camp Five, etc.). And yet it would appear that a lot of detainees on Guantanamo are there by mistake, or are only second-rate combatants who know very little about the terrorists plots of Al-Qaida leaders. Thousands of them have been called into questioning, not producing very much high-level information however. Which is contested by the Pentagon Authorities.

Let us recall that over 130 detainees were released in the first 29 nine months of the camp's operation, representing about 20% of the total amount of detainees. This figure speaks volumes about the Pentagon's 'global' approach. Almost all the detainees that were set free proclaimed their innocence. The fact that no dossier with formal charges has ever been provided by the Pentagon would lead one to believe that one must take their word for it. And yet most of them are undoubtedly dangerous individuals, hardened fundamentalists or ignorant fanatics, Dhijadists whose presence in Afghanistan was not due to an unconscious act or a charitable one.

From the end of 2002, less than a year after the camp was opened, numerous anonymous testimonies from the US Army itself revealed that about 10% of detainees were being held without purpose. After having questioned the detainees on several occasions in Afghanistan, interrogators concluded that they did not have any informative value. Logically the interrogators had recommended they be let go. In fact, in spite of this, many were transferred to Guantanamo.

Among the 134 prisoners that were liberated and the 13 of them that were transferred up to mid-2004, many still pretend not to know the reasons why they have been detained, which obviously is in their interest. It should be noted that, to-date, all the detainees with a European nationality have been released and transferred to their country of origin, in addition to the minors.

After two and a half years in detention, only 15 had been pre-selected to go before the Military Commissions set up by the Pentagon. Fifteen individuals against which prosecutors believed they had a solid case. At the time this amounted to less than 3% of the total amount of detainees. And the Pentagon had only drafted bills of indictment for 4 out of the 15 detainees. It would appear that by juxtaposing figures and accumulating personal stories one irremediably draws the conclusion that only a minority of the detainees on Guantanamo is highly dangerous, capable of devising a terrorist act.

Of course it is difficult not to ask questions about the procedure to select detainees for Guantanamo. At the time the Pentagon had provided an answer, not by

publicly disclosing the names of the detainees and the facts for which they had been transferred to the base, but by offering a typology of the prison population on the base. In this public document, the word ‘terrorist’ was mentioned on each line, under various categories: ‘Terrorists linked to important Al-Qaida attacks’; ‘Terrorists having given or received training’; ‘Terrorists who continue to express their desire to kill Americans and to carry out suicide attacks if they were to be released’; ‘Terrorists who have sworn an allegiance to Osama Bin Laden’; ‘Terrorists who have taken part in attempts to hijack planes, members of the international support network of Al-Qaida terrorism, including financiers, couriers and recruiters’. This document was accompanied by sample detainee profiles, still nameless to date.

The Pentagon is not admitting any errors publicly. At the time, in order to be transferred to Guantanamo, one needed to merely belong closely or loosely to Al-Qaida, to the Taliban leadership, to be a ‘foreign combatant’ or be ‘anybody representing a threat to American interests, capable of providing valuable information or likely to be prosecuted in the US.’ Incidentally, these already-vague criteria were not always abided to. Some detainees were sent to Guantanamo not on the advice of intelligence officers but military police officers *in situ* in Afghanistan who, according to the US press, were seeking to get rid of problematic prisoners. These individuals had to go to great pains to prove their innocence once absorbed in the administrative machine.

Chapter II: Is Guantanamo effective?

a) The effectiveness of the Joint Task Force (JTF)

Let us return here to an aspect of the procedures and methods used by the US authorities and particularly by the Joint Task Force that runs the Guantanamo detention centres. All staff on the base work under a rotational system which means that the stays, and hence contact with the detainees, rarely exceed a couple of months. This aspect of the problem is particularly significant in terms of the staff carrying out investigations and analysts who, it would appear, on the one hand never have enough time to properly work out the complexity of the dossiers, and on the other hand cannot build up any empathy towards the detainees they are dealing with.

In addition to this, most interpreters are non-Muslim (oftentimes Lebanese Christians or of Syrian origin), whose objectivity vis-à-vis those who are presented to them as dangerous terrorists cannot be guaranteed. According to the information gathered, more often than not the detainees’ reaction to these interpreters is negative. Moreover, it should be mentioned that some people

working at the base were arrested for having taken out confidential data, and even transmitting it to foreign powers.

Albeit this is not about questioning the professionalism of US Army members or the stress they experience by being in daily contact with detainees that are by definition considered as dangerous, it has to be said that around 70% of interveners are military reservists, frequently quite young and inexperienced, who have little ‘grounding’ in the detainees’ religion and culture. This situation reinforces the detainees’ feeling of isolation and arbitrariness. The detainees are divided into 4 categories, with implications of the level of detention ‘comfort’. For instance, only category ‘1’ is entitled to have paper and something to write with at its disposal.

According to our sources, questioning sessions at Guantanamo are carried out by a number of different agencies (military intelligence services, US NAVY, CIA, FBI, etc.) and there are major shortcomings in the coordination. These different agencies have a permanent representation on the base, all operating on the basis of staff rotation and most of which are represented in the CITF (Crime Investigation Task Force). This permanent presence does not prevent other delegations from the same agencies to now and again come from the US mainland to conduct specific questionings sessions.

Furthermore, it appears that these structural problems are worsened by the sometimes difficult relations between the civilian contractor companies. It should be recalled that these companies were called in to provide extra support as interpreters and analysts due to the shortage of specialised staff

b) A worrying phenomenon: the radicalisation of the detainees

Another phenomenon must be drawn to people’s attention: just like in all prison communities, an informal network ends up settling in and becoming the guarantor of the detainees’ ‘collective conscience’. This process, which is commonplace in internment camps and prisons, has taken place in Guantanamo where, according to our sources, most detainees had a strong religious and ‘political’ identity from the outset.

The upshot of this is that the forces of cohesion are extremely important and it would appear – according to observers – that at the camp there currently is a ‘hidden authority’ that makes sure that religious instructions are followed strictly (the wearing of beard and wedge-style cap, etc.) as well as the dissemination of standardised political talk. This phenomenon, which is facilitated by the contact among detainees who can communicate through wire netting on doors, seems to have taken on a worrying proportion.

Indeed their stay at the Guantanamo detention centre seems to have helped enlighten a deep hatred of the United States. The deep rooting in a rigid and backward vision of Islam of most detainees does not appear to be a guarantee for reinsertion, given the additional fact that no doubt some extremist factions will try and manipulate them during their possible release and return to their country of origin, which prisoners are not unaware of!

c) The level of information obtained

The central issue is to find out whether the information obtained further to the numerous questioning sessions has thwarted fresh attacks and hence save lives. The replies from US authorities all concur. They maintain that the information collected at Guantanamo has undeniably saved human lives, both military and civilian. They believe that approximately 25% of the detainees are considered as possessing information of utmost importance and are therefore questioned on a regular basis. They also acknowledge that most detainees (75%) are not questioned on a systematic basis and state that they do not wish to prolong the detention of individuals who are of not of interest in this area. Detention, transfer and release are the result of lengthy and complex deliberations before the military commissions.

According to the US authorities, the questioning sessions in the Guantanamo detention centres have, generally speaking, made it possible:

- To better understand the Al-Qaida leadership and structure, and that of other, existing terrorist networks and the cooperation among them as well as their recruitment procedure, the type of training and the *modus operandi* of terrorists, in addition to the financing of their activities.
- To update plans to attack US or foreign targets.
- To gain a better understanding of the groups linked to Al-Qaida that are active in the US, in Europe and in the CENTCOM operational area.
- To obtain information on individuals linked to Al-Qaida trying to obtain chemical, biological or nuclear weapons.
- To share information with European allies on Islamic extremists in several European countries.

More specifically, the information provided by the detainees is said to have made it possible:

- To pursue the capture of Al-Qaida members, Taliban and members of armed groups in Afghanistan that are fighting against coalition forces. In some cases, the information obtained from the detainees made it possible to

identify captured combatants. It was also possible to identify the training bases, paths and routes used for the transfer of equipment and weapons.

- To decrypt the training practices and techniques used by the terrorists to make 'improvised explosive devices' (IED). Some detainees were identified as instructors in this area and capable of using sometimes sophisticated techniques such as the 'dual tone multi-frequency (DTMF) encode/decode system'.
- To identify a certain amount of them as having been involved in the preparation of attacks in Europe, in the US and in Central Asia. Some detainees confirmed the presence of some of Osama Bin Laden's bodyguards on the Guantanamo base, who had all been trained on the Al-Faruq camp.
- To obtain information on the financing of terrorist activities, the use of legal financial circuits and informal circuits such as the Hawala system and charities.
- To understand the recruitment procedure for the networks, the transfers to the training camps and the meetings with Al-Qaida officials. According to the US authorities, some 25 detainees were identified as having been recruiters, providing money, false documents, transport and accommodation facilities to candidates.
- To gain a better understanding of the profile of a certain amount of detainees, among which over 10% have followed higher education, oftentimes in Western including US institutions.

Has this invaluable information really made it possible to fight against global terrorism? Your rapporteur has chosen to analyse this aspect of the report under a positive angle, taking into account the information provided by the Pentagon and from other US information services. However, it should be recalled that the effectiveness of maintaining the Guantanamo facility is now the subject of debate within the United States itself.

The specialised services of countries involved in the fight against terrorism are also debating this issue. Their investigators have had access to certain information coming from the debriefings. This information has sometimes led to the dismantling of networks in Europe and to the arrest of a certain number of terrorist suspects. However, it does appear, according to our sources, that the information transmitted by the US authorities is often incomplete and even contradictory, and it is difficult to match it up with information gathered in Europe, or outside Europe.

It is consequently a legitimate question to ask oneself if the objective has truly been achieved in the light of the extreme violence that continues to rage in Afghanistan, Iraq and elsewhere.

Even though the Guantanamo interrogation camp is not really the fount of information, the US authorities have implicitly recognised that perhaps its genuine usefulness lies elsewhere. Indeed, the questioning sessions have produced invaluable indications about Islamic extremism, on the roots of the hatred of the US, on the path of the detainees, which have all included a stay in Afghanistan at a certain stage. The Joint Task Force Guantanamo is a laboratory of sorts of the Defence Department for the training of interrogators and analysts in anti-terrorist techniques. After Guantanamo, sources indicate that interrogator teams went to continue their work in Iraq or Afghanistan. Hence the interrogation camp progressively turned into a training camp, a 'refresher course' camp for an Army that for too long did not patiently and painstakingly become informed and learn about its enemy's customs. Novice interrogators, beginner translator and analysts with no practical experience can come to Guantanamo to 'rub shoulders' with Muslim fundamentalism in a protected atmosphere. At their expense, much like guinea pigs, some detainees help them learn about the communication networks, recruitment procedures and financing mechanisms: 'The lessons learned at GTMP have advanced both the operational art of intelligence, and the development of strategic interrogations doctrine' is a statement made in an unclassified document entitled 'JTF-GTMO Information on Detainees' (May 2005).

There is no doubt that the information acquired in this manner, through contact with the detainees, will be useful to the interrogators and translators. But at the same time, a generation of young Muslims fed on the images of Abu Ghraib, of the treatments reserved for the Guantanamo detainees and rumours about profanation of the Koran will have filled the Al-Qaida ranks and those of other extremist groups. Need one recall the *Newsweek* of 09 May 2005 (despite the fact it was subsequently retracted) reporting incidents of profanation of the Koran, which provoked large-scale demonstrations and caused victims in several Muslim countries (Afghanistan, Pakistan, Indonesia, Palestine) and has increased anti-American sentiment? The longer the detention is on the camps the more the hatred against the US and the West becomes anchored in hearts and minds. In the aforementioned document, the US authorities acknowledge that some former detainees have returned to the field to take up arms against coalition forces.

d) **The ponderousness of bureaucracy**

The problem obviously lies in US law or simply in terms of bureaucratic *angst*, that of responsibility: no one wants to be held accountable for releasing someone who, somewhere in the Pentagon's bureaucratic maze, was deemed to be dangerous at a given time. This is a crucial aspect of the analysis that is not decided in Guantanamo but at the very heart of the Pentagon itself.

Your rapporteur met officials at the Pentagon who were aware of the dilemma that is also viewed as such by the uppermost authorities. They are engaged in fast-tracking the return of detainees and are studying alternative solutions for the

countries of origin which would refuse the reintegration of their citizens. Moreover, the return of a national reconstruction phase in Afghanistan making it possible to negotiate the return of all the Afghans at Guantanamo is currently underway.

All options are being studied by these officials who are concentrating on fast-tracking the mechanisms of a return to the country of origin, to the extent that they fear that a certain number of detainees might attempt to initiate proceedings in the US judicial system.

Chapter III

Conclusions and recommendations

A) Conclusions

1 We consider that the US authorities could have obtained more useful intelligence if they had accepted to share more intelligence with the special services of the countries involved in the fight against terrorism. According to our sources, several countries referred investigators to various locations informally to interrogate the detainees who were citizens of these countries. Thanks to the intelligence obtained in this way, it was possible to hold enquiries which led to not insignificant findings. Yet the cooperation between the Western and US services is still too often insufficient and sometimes difficult. The information provided by the former is not always correctly used by the latter, if not ignored altogether. Certain agents even described their contacts with the authorities at Guantanamo as a « dialogue of the deaf », mainly because of the above-mentioned system of rotation of staff

Numerous Western experts have underscored that the circulation of intelligence from one US service to the other is extremely difficult, and that each fragment of information corresponds to a level of security, the classification of which remains largely a mystery. Intelligence on terrorism is categorised as maximum security. This compartmentalisation, a legacy of the Cold War era, is detrimental to the fight against terror where the circulation of intelligence and cooperation are paramount.

b) To obtain better results at Guantanamo, numerous experts consider that an International Task Force should have been set up as from 2002, composed of, specialists and experts in the Muslim world and in the languages spoken in the countries concerned. It now seems obvious that the United States, which nevertheless does have eminent specialists in the Muslim world, is not making

sufficient use of this know-how, which moreover certain European countries also possess, particularly those who have historic links with the Arab world.

3. If the principle of security demands that exceptional measures be taken with regard to individuals judged to be dangerous, it is now appropriate that a limit be established. We are faced with complex, moving groups, with international ramifications, which explains the length of some of the inquiries. Nonetheless, after more than three years of questioning sessions and the processing of information collected during the sessions, it is in the US' interest and that of its allies taking part in the war on terror to take comprehensive stock of the pros and cons.

If the US authorities persist along their current path, there is a real fear that the Guantanamo camp will become completely counter-productive by rallying to the cause of Jihad those individuals who identify with their Muslim brothers who are in chains and deported outside any legal framework. Moreover, supposed or real violations of humanitarian law could have heavy consequences on the treatment of captured American soldiers in future armed conflicts.

The prolongation of the situation is seriously harming the US' reputation in the world, and especially in democratic countries who are challenging the special judicial techniques that are endangering the most fundamental values of the State of law.

4) Your rapporteur, who has a level of expertise in penitentiary systems in numerous countries, finds it regrettable that she was not able to visit Guantanamo. However, this has in no way prevented an assessment of the facts or reports being drawn up, given the extent of the reliable information available, the reception she received at the Pentagon and the debate within the very heart of US political forces.

B) Recommendations

1. Being fully aware of the US authorities' dilemma between national and world security and long procedures, **we recommend terminating the Guantanamo detention facility, by announcing a calendar of closure. This calendar should be established by nationality and include a timeframe for the procedures.** It is recommended to fast-track the return of detainees in accordance with the procedures foreseen (transfer or release) to their country of origin, or by referring the detainees as soon as possible for them to come before the US civil jurisdiction. Although the administrative officials of Guantanamo and of the Pentagon may be « engaged in analysing all the possible options », it is very clear that the decision for **closure** can only be taken by

political figures at the country's highest level, such a decision will not be the result of an internal Pentagon report.

Your rapporteur thinks that it is in the interest of the United States to refer as soon possible those detainees whose hostile activities to the United States are clearly established and proven, to the American civil jurisdiction, or to send them back to their country of origin, in particular the countries of the OSCE, so that they can be submitted to legal proceedings there, where applicable, in accordance with the methods established by the relevant national authorities.

2. Your rapporteur recommends an urgent exchange of the intelligence results coming from Guantanamo within a new International Task Force, made up of the relevant services in charge of anti-terrorism in the Member States of the OSCE. The gathering and exchange of information are in fact at the very heart of the effectiveness of Guantanamo. An International Task Force of this nature can be created at the initiative of the Pentagon and will be very useful for a truly multilateral action against terrorism in the long term, including Russia and the countries of Central Asia.

3. We hereby insist to the US authorities that they grant the appropriate access to the detention facility to official representatives of the Member States of the OSCE who still have nationals detained at Guantanamo, to the international institutions concerned, to close family members and to independent observers.