

EU/USA Agreement: processing and transfer of Financial Messaging Data for purposes of the Terrorist Finance Tracking Program

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This report relates to the joint review of the implementation of the Agreement between the European Union and the United States of America on the processing and transfer of Financial Messaging data from the European Union to the United States for the purposes of the Terrorist Finance Tracking Program.

In accordance with its Article 13, the first review of the Agreement took place six months after the entry into force of the Agreement. This review has therefore primarily focused on whether all of the elements of the Agreement have been implemented and its mechanisms have been properly put into place rather than on the effectiveness of the Agreement ? time was considered too short to come to a considered judgment on that.

This report was prepared by the EU delegation of the joint review team, based on the work of the joint review team and other work independently conducted by the EU delegation. The report reflects the views of the EU delegation.

This report provides a picture of the way the Agreement has been implemented during the first six months after its entry into force. The EU review team has reached the conclusion that all of the relevant elements of the Agreement have been implemented in accordance with its provisions, including the data protection provisions. The measures which have been taken to ensure such implementation by the U.S. authorities are convincing, and in some cases go beyond what is required under the Agreement. In addition, the review team has been presented with convincing indications of the added value of the Terrorist Finance Tracking Program (TFTP) to efforts to combat terrorism and its financing. The review team met with representatives of the Treasury Department, the F.B.I., Europol, the overseers and auditors appointed by the designated provider, as well as with the overseer provisionally appointed by the European Commission.

The recommendations of the EU review team focus on the desirability of providing more publicly accessible information on the way the program functions, in as far as this is possible, without endangering the effectiveness of the Program. This concerns, in particular, the overall volume of data provided to the U.S. authorities, and the number of financial payment messages accessed.

The EU review team also suggests further enhancing the Europol verification procedure referred to in Article 4. In addition, the EU review team would welcome more verifiable statistical information on the added value of TFTP derived information to efforts to combat terrorism and its financing in order to further substantiate the added value of the program. It also recommends improving some aspects of the provision of information to the general public on the rights accorded to them under the Agreement.

Lastly, the EU review team provides a recommendation on the preparation of future reviews, and suggests that the implementation of the recommendations should be the subject of future review efforts.

This report consists of four Chapters. Chapter 2 provides an overview of the background to the review and its purpose and procedural aspects. Chapter 3 presents the main findings of the review and the recommendations of the review team. Finally, Chapter 4 presents the overall conclusions.

The report is supplemented by Annex A which contains the report of the U.S. Department of the Treasury to the joint review team, including the answers given by the Treasury Department to the questionnaire sent on behalf of the EU members of the review team. This Annex also provides the statistical information referred to in Article 13 of the Agreement, which stipulates the elements to be covered by the review. Annex B presents the EU and U.S. representatives in the joint review team.

It has been agreed that a follow up review will be carried out next year.