

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

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The Commission presented a report on 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 (TFTP).

The Agreement, which entered into force on 1 August 2010, provides for regular joint reviews of the safeguards, controls, and reciprocity provisions to be conducted by review teams from the European Union and the United States.

This report concerns the fourth joint review of the Agreement since it entered into force and covers a period of 22 months between 1 March 2014 and 31 December 2015.

The fourth joint review was carried out in two main stages: on 1 March 2016 in The Hague at Europol's premises and on 15 and 16 March 2016 in Washington at the U.S. Treasury Department.

Satisfactory implementation: the Commission is satisfied that the Agreement and its safeguards and controls are properly implemented and that the findings of the third joint review have been followed up by the Treasury.

In particular:

- the Commission is satisfied with the outcome of the discussions on the interpretation of Article 15 concerning the right of access and the manner in which the Treasury continues to assess the necessity of retaining extracted data in the sense of Article 6 (7) of the Agreement;
- Europol is accomplishing its verification tasks in full compliance with Article 4 on the basis of detailed and regularly updated supporting documentation received from the Treasury;
- the oversight mechanism is functioning smoothly and is effective in ensuring that the processing of data complies with the conditions laid down in the Agreement. All non-extracted data is deleted on a semi-annual basis in order to ensure that all such data is deleted at the latest five years from receipt;
- the relevant information about the process of rectification of data has been included on the Treasury's website.

Possible improvements: the Commission suggested:

- that Member States should consider providing regular feedback on the TFTP data received from the Treasury which could further improve the quality and the quantity of information exchanged;
- that Europol should: (i) continue its efforts to actively promote awareness of the TFTP and to support Member States seeking its advice and experience in devising requests; (ii) continue fulfilling its verification role as thoroughly and independently as at present.

In conclusion, the Commission considered that the TFTP remains an important instrument to provide timely, accurate and reliable information about activities associated with suspected acts of terrorist planning and financing. It helps to identify and track terrorists and their support networks worldwide.

The Commission welcomed the continued increased transparency of the U.S. authorities in sharing information illustrating the value of the TFTP in international counter-terrorism efforts.

A regular review of the Agreement is essential to ensure its proper implementation, to build up a relationship of trust between the contracting parties and to provide reassurances to interested stakeholders on the usefulness of the TFTP instrument. It has been agreed between the Commission and the Treasury to carry out the next joint review of the Agreement at the beginning of 2018.