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THE EUROPEAN UNION**

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Subject:	Questions in relation to the Commission Communication on TFTS

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**Background to the Commission Communication**

On 13 July 2011, the European Commission issued a Communication on the options available as regards the setting up of a Terrorist Finance Tracking System (TFTS) in the European Union. The preparations of this Communication were preceded by consultations with Member States and a study carried out by an external company.

The Commission Communication pays heed to a call made in the Decision of 13 July 2010 on concluding the TFTP Agreement, in which the Council, at the request of the European Parliament, instructed the Commission to study a "legal and technical framework for extraction of data on EU territory". The Parliament requested such study because it had serious qualms about the bulk transfer of personal data to a third country. It is essential to understand that the Parliament's objections were aimed both at the transfer to a third country and the storage of bulk data of personal data of innocent individuals.

The stated principal objectives of the proposed system by the Commission are:

- 1) ensuring an effective instrument to prevent and to fight the financing of terrorism, and
- 2) limiting personal data flow to third countries.

Therefore it seems that the proposed TFTS would address only one of the two concerns of the Parliament, namely the transfer to a third country. It may be argued that the setting up of a TFTS will not allay the second concern of the Parliament, namely the bulk transfer of personal data by a private company to a government body and the storage of these data during a long period. Therefore it is worth to consider how to achieve this aim in the best possible way.

### **Aim of the CATS discussion**

The purpose of the Presidency at the CATS meeting of 5-6 September 2011 is to organise a debate with regard to the document in such a way that will allow identifying the most important areas and directions of further work.

In this perspective, the Polish Presidency prepared the following questions for delegations, which are aimed at streamlining the debate during the CATS meeting:

- 1) Do the delegations confirm the need of the creation of an additional instrument such as a TFTS, as a tool for preventing and fighting the financing of terrorism? Do delegations see the need for further clarifications with the Parliament on this?
- 2) How do the delegations assess the result of the Commission's work, the information and conclusions included in the Communication?
- 3) In the light of the proposed options in the Commission's Communication, which of the options are, in your view, optimal to be implemented? Do delegations agree that the list of options is exhaustive or do you see a need for the formulation of an additional option?  
Could/should the FIU's also play a role in option 1 and/or 2?

- 4) In case a TFTS were to be set up, how do you assess the interaction and possible influence of the use of such TFTS regarding the US-EU TFTP Agreement?

*The Presidency kindly requests delegations to assess and evaluate the above questions during the forthcoming CATS discussion.*

Following the CATS debate and presentation at the JHA Council, the Working Party on General Matters, including Evaluations (GENVAL) may be tasked with the further work on this topic. Possible problems identified on the basis of national experiences and challenges to allow a proper implementation and an effective functioning of the proposed TFTS shall also be addressed at GENVAL.

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