



EUROPEAN COMMISSION  
Impact Assessment Board

Brussels,  
D(2013)

**Opinion**

**Title** **DG HOME – Impact Assessment on a Communication from the European Commission to the European Parliament and the Council on a European Terrorist Financing Tracking System (TFTS)**

(revised version of 27 March 2013)\*

**(A) Context**

When approving the conclusion of the Agreement between the EU and the US on the processing and transfer of Financial Messaging Data from the EU to the US for the purposes of the Terrorist Financing Tracking Program (TFTP), the Council called upon the Commission to submit a legal and technical framework for extraction of data on EU territory. Likewise the Parliament asked at various occasions to envisage a durable, legally sound European solution regarding the extraction of requested data on European soil. As a first stage of its response to these calls and the contents of Article 11 of the EU-US TFTP Agreement, the Commission published a Communication to the Parliament and the Council “A European terrorist financing tracking programme: Available options” on 13 July 2011. Based on the subsequent discussions and an external study the Commission has prepared this Impact Assessment.

**(B) Overall assessment: POSITIVE**

**While the report has been improved along the lines of the Board's first opinion, it should be further strengthened in a number of respects. Firstly, it should better present the policy context by providing a more comprehensive account of the legislative framework in place and of the adequacy of "traditional instruments" currently used for tracking financial trails of terrorist groups. It should better explain the impact of the TFTP by providing an outline of the role the system played in dealing with specific cases as mentioned in the second joint review. Secondly, the report should provide a more consistent assessment and comparison of the effectiveness and efficiency of the different options against each individual objective, including a better explanation of how the scores have been estimated. Finally, the report should better reflect the views of stakeholders on all key elements, particularly when their views are divergent or conflicting.**

**(C) Main recommendations for improvements**

**(1) Improve the policy context.** The report should better present the policy context by setting out more clearly the effects on society of terrorist activity in the EU, for instance by adding references to existing documents (including from international organisations such as IMF, OECD) that have attempted to quantify those impacts. Also, it should still provide more supporting evidence of the inadequacy of existing instruments currently used for the purpose of tracking financial trails of terrorist groups, by presenting a more

\* Note that this opinion concerns a draft impact assessment report which may differ from the one adopted

comprehensive and systematic account of the instruments available, their operational capabilities and the institutions involved. The report should further substantiate the effectiveness and efficiency of the TFTP in tracking financial transactions of terrorists by using evidence from existing joint reviews (for instance, specific cases mentioned in the second joint review where the TFTP system has made a difference). In addition, the report would benefit from a more comprehensive account of the legislative framework currently in place, highlighting to what extent it is acting as a driver of the current difficulties of existing means of tracking.

**(2) Better assess and compare the options.** All policy options should be assessed and compared in terms of effectiveness and efficiency against all objectives in a consistent way. Currently, the effectiveness in achieving all five objectives is summarised into a single criteria (and score), which does not provide an adequate assessment of the different performance of each options against each individual objective (plus the impact on fundamental rights). The report should better explain how the scores of the options against each criteria and parameter relative to the baseline scenario have been estimated. The parameter of "political buy-in" should be removed to avoid any prejudgement in the assessment of the options. The report should also better assess the impact of each option on fundamental rights and data protection. If some evidence is confidential, this should be explained on a case by case basis (rather than issuing a statement about the confidentiality of unspecified information in relation to this initiative). Finally the report should better present the comparison of options by presenting the outcomes in tabular form using the standard criteria of effectiveness, efficiency and coherence.

**(3) Better present stakeholders' views.** The report should provide stakeholders' views throughout the report in relation to all key elements of the report (problem definition, policy options and impacts). When their views are divergent or conflicting, the report should explain how their concerns have been taken into account.

#### **(D) Procedure and presentation**

Annexes to the report should include summaries of stakeholders' views as expressed in the targeted consultation events and questionnaires to the extent that this information is not confidential. The report should provide a more comprehensive justification why an open public consultation was not carried out.

#### **(E) IAB scrutiny process**

Reference number	2011/HOME/003
External expertise used	No
Date of IAB meeting	Written procedure. An earlier version of this report was submitted to the IAB in September 2012, for which the Board issued its opinion on 19 October 2012.