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**Statement on the draft agreement with
the United states on the Terrorist
Financing Tracking Programme (TFTP)**

*Check Against Delivery
Seul le texte prononcé fait foi
Es gilt das gesprochene Wort*

Press statement at the occasion of the presentation of the state of play of the negotiations of the draft agreement on the TFTP agreement to the LIBE Committee of the European Parliament

Brussels, 10 June 2010

The first day of entering into office as new Commissioner for Home Affairs, the first dossier I was faced with was the Terrorist Financing Tracking Programme, (TFTP) and I made the commitment to the European Parliament and to the citizens to be as transparent as possible regarding this issue, that is why I am here today.

Today I have presented the state of play to the LIBE Committee of the European Parliament and I have of course informed the Member States about it. We are very close to finalising a draft EU-US TFTP Agreement with our US counterparts.

I believe it is very much in line with the Council Mandate and takes account of the key points of the Parliament's Resolution.

As you will understand, at this stage I cannot disclose all the details of the agreement, firstly because it is not yet finalised but also because it still has to be presented to the College of Commissioners. I would however like to point out the considerable improvements we have achieved compared to the interim agreement that was rejected in February. The draft agreement has achieved most of what has been demanded by the Council mandate and has also taken into account the key points of the European Parliaments resolution.

The draft Agreement contains significantly stronger data protection guarantees. In the case of inaccurate data, the Agreement provides for rectification, erasure or blocking of those data.

It sets out a comprehensive mechanism according to which Europol will verify that US requests for data are within the mandate and that they meet the conditions of the Agreement. Europol will assess whether those data are necessary for the fight against terrorism and its financing before the data is sent to the US. It will also verify whether the request is tailored as narrowly as possible in order to minimise the amount of data transferred. Unjustified requests will be rejected and data will not be transferred. Already in the interim agreement, access to individual data has to be related to an ongoing investigation on terrorism.

The draft Agreement also contains significantly more detailed prerequisites for sending lead information (and not the data as such) to third countries. Bulk data can never be sent to third countries. It includes a requirement that prior consent be obtained from the competent authorities of the relevant Member State where the data concern an EU citizen or resident.

Moreover, the draft Agreement provides for a possible EU mechanism on TFTP. It is up to the European Union to decide how this will be tailored, and if. Should the EU decide to set up its own TFTP, the U.S. will commit to cooperate and provide assistance to ensure the efficient establishment of an EU TFTP system. Such a system would of course imply a more limited transfer of data to the U.S.

The draft Agreement also provides for the Commission to appoint an independent EU person who will monitor the activities of the "scrutineers" and the independent auditors. This is a very important result as the US authorities have agreed to have a European permanently monitoring what they are doing.

In addition, the EU will undertake within 6 months of the entry into force of the Agreement, and then on a regular basis, a detailed review of data protection compliance. It means a full access to all the files for the EU team, which is also a very big step forward

As for the retention period for non-extracted data, we explored the possibility of reducing it. In the negotiations, the US produced analysis showing the high value of data that are between 3 to 4 and 4 to 5 years of age. We have agreed therefore to keep the 5 year period. Significantly, according to the draft Agreement after three years the Parties will prepare a report on the value of data retained over several years – with a view to the possible reduction of the data retention period.

On redress we have achieved a non discriminatory treatment for administrative redress and a guarantee to have judicial redress means.

So, to conclude: I believe this draft Agreement is a substantial improvement as compared with the rejected Interim Agreement. It takes account of the key areas that the European Parliament has raised. It addresses the issue of bulk data by ensuring that a European public authority must verify that each and every request is tailored as narrowly as possible in order to minimise the amount of data requested. It includes significant data protection provisions on rights of access, rectification, erasure and redress. It empowers the EU to undertake significant review of all aspects of the Agreement and of the TFTP, of which the Parliament will be kept fully informed. And it takes account of the Parliament's call for a two step approach: holding out for the prospect of an EU TFTP and a relationship of equal partners between the EU and the US.

Of course, some people will always say that we have not achieved enough, but let's have a fair assessment. I am convinced that what we have achieved is a major step forward for European citizens, and is a real success for the European Parliament. First we have the possibility to verify the agreement at several levels: first the EUROPOL request, then we have the regular monitoring by the SWIFT scrutineers, we have then a European monitoring the scrutineers, and in addition we have a review team with representatives from the data protection authorities and an extra person with a judicial background as well.

I am convinced that on this solid ground we can finalise the negotiations: to conclude an agreement that will increase the security of the European citizens while at the same time fully respecting their rights to privacy and data protection.