



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

UNDER SECRETARY

September 18, 2013

Commissioner Cecilia Malmström
European Commission
B-1 049 Brussels
Belgium

Dear Mme. Malmström:

Thank you for your letter of September 12, 2013 concerning recent press reports and questions regarding alleged inconsistencies with respect to the United States Government's adherence to the Terrorist Finance Tracking Program (TFTP) Agreement. We welcome the opportunity to consult with the European Commission on this important matter.

As I expressed during our recent telephone call, the U.S. Government continues to view the TFTP as a critically important and highly effective tool in our shared efforts to combat terrorism and its financing. Moreover, I can assure you that we have been and remain in full compliance with the TFTP Agreement, and that the Treasury Department – indeed, the entire U.S. Government – is fully committed to the Agreement.

It is well-known that the U.S. Government seeks and obtains financial information about the activities of those engaged in proliferating weapons of mass destruction, narcotics trafficking, transnational organized crime and other criminal activities, as well as those threatening the security of the United States, our citizens and our allies and partners around the world. This information is collected through regulatory, law enforcement, diplomatic, and intelligence channels, as well as through exchanges with foreign partners. Because the great majority of cross-border messages transmitted by financial institutions are sent using the SWIFT format and system, it is natural that subpoenas served upon financial institutions and investigations targeting criminals and those threatening our security yield some SWIFT messages along with other financial records.

That said, the TFTP is a centerpiece of our counter-terrorist finance efforts, and the U.S. Government is using the TFTP to obtain SWIFT data that we do not obtain from other sources. For that reason, the TFTP has provided and continues to provide distinctive value in detecting, preventing, disrupting, and prosecuting terrorism and its financing in the United States, the European Union, and other regions of the world. As you know, the TFTP has been used to investigate many of the most significant terrorist attacks and plots of the last decade, including the Boston Marathon bombings and the threats to the 2012 London Olympics. We are proud of the TFTP's value and the key information it has provided to counter terrorism investigators as they have worked to identify terrorist operatives and disrupt terrorist plots. We look forward to sharing further detailed and concrete examples of TFTP successes with the Council and the European Parliament in the upcoming U.S.-EU joint report on the value of the TFTP.

Moreover, under the TFTP Agreement, the U.S. Government regularly provides valuable leads produced by the TFTP to authorities in the European Union. Since the inception of the TFTP in 2001, it has produced tens of thousands of leads and over 3,000 reports (each of which contain multiple TFTP leads) to counter-terrorism authorities worldwide, including over 2,100 reports to European authorities. In the three years since the entry into force of the TFTP Agreement alone, nearly 1,000 investigative leads have been shared with European authorities pursuant to over 150 separate European requests under Article 10 of the Agreement.

Finally, as noted above, the Treasury Department and the U.S. Government remain in full compliance with all of our commitments under the TFTP Agreement. The TFTP database has always been and remains a completely distinct stand-alone system that is not connected to any other server, system, or database; it is neither accessible nor searchable through any means other than rigorously monitored and audited TFTP searches, pursuant to the TFTP Agreement. The only TFTP information shared with law enforcement or intelligence agencies, whether in the United States or abroad, are the individual leads that are extracted pursuant to the TFTP's strict controls.

Our full compliance with the TFTP Agreement has been and remains subject to real-time monitoring and auditing by independent overseers. Oversight of the TFTP is provided by the EU, SWIFT, and the Treasury Inspector General's office, and the implementation and value of the program are further reviewed by U.S. and EU joint review teams, which include data protection officials from relevant Member States. The reports following the first and second joint reviews of the TFTP reaffirmed the strength of these safeguards and our implementation thereof, and we welcome further inspection of the TFTP in the third joint review, scheduled for next year.

I am grateful for your strong and committed partnership in implementing the TFTP. Like you, we continue to see the TFTP as an extraordinarily valuable resource for our collective security. We look forward to consulting with you on this issue to allay your concerns, and continuing our dialogue to maintain and reinforce mutual trust in our partnership.

Sincerely,

A handwritten signature in black ink, appearing to read 'David S. Cohen', with a long horizontal flourish extending to the right.

David S. Cohen