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**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT AND THE COUNCIL**

on an Action Plan for strengthening the fight against terrorist financing

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The recent attacks in the European Union and beyond underlined the need for the EU to work across all policies to prevent and fight terrorism. Terrorist organisations and individual terrorists need financing – to maintain their networks, to recruit and supply, and to commit terrorist acts themselves. Cutting off sources of finance, making it harder to escape detection when using these funds, and using any information from the financing process to best effect can all therefore make a powerful contribution to the fight against terrorism.

The challenge of terrorist financing is not new. Key characteristics like the close link with organised crime networks have been known for many years and EU criminal laws, police cooperation, as well as legislation to prevent and fight money laundering, already make an important contribution. However, new trends have emerged, seen in particular in criminal organisations such as Daesh, as well as the role of returning foreign terrorist fighters.

Today's security challenges need determined, rapid and cohesive action to modernise the relevant legislation, ensure it is fully implemented, cooperate better and exchange key information. This needs action both at EU level and beyond.

The European Agenda on Security¹ underlined the need for measures to address terrorist financing in a more effective and comprehensive manner. It highlighted the links with organised crime, feeding terrorism through channels like the supply of weapons, proceeds from drug smuggling, and the infiltration of financial markets. The European Agenda on Security was welcomed by the European Parliament². A further intensification of work was also supported in the conclusions of both JHA and ECOFIN Councils as well as of the European Council of 18 December 2015. The Foreign Affairs Council also addressed the issue on 14 December 2015, whilst earlier that month, the Commission presented a proposal for a Directive on combating terrorism, introducing a comprehensive criminal offence of terrorist financing³.

At international level, the work under way, in particular by the United Nations and the Financial Action Task Force (FATF)⁴, provides a good basis on which to build. The UN Security Council has reflected a deep global consensus to act against terrorist financing. In 2014, it imposed further obligations in terms of criminalisation of terrorist financing⁵, which led to the adoption of the Council of Europe Additional Protocol to the Convention on the Prevention of Terrorism – the Commission signed the Additional Protocol in October 2015. Another resolution was passed by the Security Council in December 2015, more specifically targeting funding to Daesh and extending the former "Al Qaeda" sanction regime.

This Communication presents an action plan to further step up the fight against the financing of terrorism, building on existing EU rules to adapt to new threats and updating our policy and

¹ COM(2015) 185 final.

² European Parliament resolution of 9 July 2015 on the European Agenda on Security (2015/2697(RSP))

³ COM(2015) 625 final.

⁴ The Financial Action Task Force (FATF) is an inter-governmental body established with the objective to set standards and promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and other related threats to the integrity of the international financial system. Several EU Member States are members of the FATF, and the Commission also participates. Key standards include those embodied in the FATF "40 Recommendations on combating money laundering and the financing of terrorism and proliferation":

http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf

⁵ Resolution 2178(2014).

practices in line with international standards. There are also many ways in which Member States can act already to use the existing framework better.

Two main strands of action have been identified:

- How to further detect and prevent terrorist organisations and their backers to move funds and other assets; and to ensure that financial movements can wherever possible help law enforcement to trace terrorists and stop them from committing crimes;
- How to further disrupt the sources of revenue of terrorist organisations, by targeting their capacity to raise funds in the first place.

To be effective, the targets of action need to go beyond terrorist organisations as such. It needs to include affiliates, such as foreign terrorist fighters, financial backers and fundraisers, and anyone who knowingly helps terrorist activities. It also requires action both inside the EU and in external relations: drawing on the work of the FATF is of particular importance.

The fight against the financing of terrorism is crucial for the security of citizens. But further steps to close off the options for terrorist financing may also touch on the lives and the economic activity of citizens and companies throughout the Union. In line with better regulation principles, the Commission will undertake impact assessments to prepare the legislative actions identified in this action plan. The Commission will take into account the balance between the need to increase security and the need to protect fundamental rights, including data protection, and economic freedoms.

1. Preventing the movement of funds and identifying terrorist funding

Terrorist networks operate across different countries and rely heavily on being able to finance terrorist acts in one country from a base in another. Limiting and tracking financial operations can block the movements of funds needed to finance their activities – as well as help identify terrorist networks and investigate after attacks in order to apprehend the terrorists and their backers.

Innovation in financial services and technological change, for all its benefits, creates new opportunities which may sometimes be abused to conceal terrorist financing. New financial tools such as virtual currencies create new challenges in terms of combatting terrorist financing. Highly versatile criminals are quick to switch to new channels if existing ones become too risky. For innovative financial tools, it is critical to be able to manage the risks relating to their anonymity, such as for virtual currencies. Critical to this question is less the forms of payment themselves, but rather whether they can be used anonymously. For this reason, the Commission has already started to carry out periodic assessments of known but also emerging risks related to money laundering and terrorist financing⁶. This work allows the EU to continuously assess and mitigate emerging risks which affect the internal market, but also the EU's security.

⁶ In the framework of the 4th Anti-Money Laundering Directive (AMLD): Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73).

Work at EU level, as well as in international fora such as the FATF, have identified possible loopholes or shortcomings. Information gathered by investigators after attacks have also been an essential source of information in identifying key areas that have emerged recently as presenting a potential risk.

When it comes to detecting the movement of funds through financial transactions or the identification of terrorist networks and affiliates, both Financial Intelligence Units (FIUs) and tracking systems such as the EU-US Terrorist Financing Tracking Programme (TFTP) are key tools. However, existing capacities can be reinforced and need to focus both on complex and large-scale funding operations, and on "low cost" terrorist operations which can still have a devastating effect, and which use new modes of payment which are difficult to track. The speed of reaction is also essential, as current financial services allow for terrorists to very rapidly move funds from one place to the other, also pointing at the need to improve cooperation and the exchange of financial and law enforcement intelligence.

1.1 Immediate actions that can be taken under the existing legal framework

There are several ways in which the fight against terrorist financing can be stepped up immediately within the existing legal framework:

- The 4th Anti-Money Laundering Directive (AMLD) was adopted on 20 May 2015. Its primary goal is to prevent the use of the Union's financial system for the purposes of money laundering and terrorist financing. As such its swift transposition and implementation is the first key step. The Commission calls on Member States to agree to bring forward the date for effective transposition and entry into application to end 2016 at the latest. The Commission stands ready to assist Member States in their transposition efforts as well as with carrying international standards into national law.
- The Commission will accelerate its work under the AMLD to provide for the identification of third countries with strategic deficiencies in the area of anti-money laundering or countering terrorist financing⁷. As already provided for by the AMLD, Member States should apply enhanced due diligence measures on financial flows coming from and going to these listed countries. The Commission will come forward with this list by June⁸.
- Member States should improve exchange of financial intelligence between EU FIUs and third countries' FIUs, and between FIUs and the private sector, in line with Financial Action Task Force recommendations and best practices. The European Commission will engage with the Egmont Group of FIUs in order to foster international cooperation in this field.

1.2 New actions to tackle the abuse of the financial system for terrorist financing purposes

The Commission will propose amendments to the 4th Anti-Money Laundering Directive on the following points:

⁷ This will be the object of delegated acts, to be adopted by the Commission on the basis of AMLD.

⁸ Such an EU blacklist might also be relevant for use in risk management in other policy areas, such as customs.

- *Giving concrete effect to the EU "list of high risk third countries":*

Under the 4th AMLD, once a country is listed as having strategic deficiencies in the area of money-laundering or countering terrorist financing, EU obliged entities will already have to increase the degree and nature of monitoring of financial transactions (i.e. apply enhanced due diligence measures) with economic operators coming from that country. But at present, the exact nature of these measures is not explicitly defined in the legal text. In order to clarify this obligation, the Commission proposes to include detailed provisions, based on FATF standards, defining the concrete enhanced due diligence measures and countermeasures which should be applied. This clarification will ensure that enhanced due diligence and counter-measures will be coordinated and harmonised at EU level to ensure a level playing field.

- *Virtual currency exchange platforms*⁹: There is a risk that virtual currency transfers may be used by terrorist organisations to conceal transfers, as transactions with virtual currencies are recorded, but there is no reporting mechanism equivalent to that found in the mainstream banking system to identify suspicious activity¹⁰. Virtual currencies are currently not regulated at EU level. As a first step the Commission will propose to bring anonymous currency exchanges under the control of competent authorities by extending the scope of the AMLD to include virtual currency exchange platforms¹¹, and have them supervised under Anti-Money Laundering / countering terrorist financing legislation at national level. In addition, applying the licensing and supervision rules of the Payment Services Directive (PSD)¹² to virtual currency exchange platforms would promote a better control and understanding of the market. The Commission will examine this option further. The Commission will also examine whether to include virtual currency "wallet providers"¹³.
- *Prepaid instruments (such as prepaid cards)*: Prepaid cards have been used by terrorists to finance the logistics of terrorist attacks anonymously¹⁴. An appropriate and balanced response needs to be provided to this challenge as at the same time, prepaid instruments also present a social value. Prepaid cards allow economically vulnerable or financially excluded people to have a means of payment that can be used off-line (like cash), and more importantly online, to buy goods and services on the internet. Some people use prepaid cards to limit the risk of fraud when buying over the internet, as their exposure will be limited to the e-money amount featuring on the card.

⁹ Virtual currency exchange platforms can be considered as 'electronic' currency exchange offices that trade virtual currencies for fiat currencies. Virtual currency wallet providers hold virtual currency accounts on behalf of their customers. In the 'virtual currency' world, they are the equivalent of a bank offering a current account on which fiat money can be deposited. They store virtual currencies and allow for their transfers to other wallets/virtual currency accounts.

¹⁰ IHS Consulting – Terrorism Financing Assessment, 15 September 2015; European Banking Authority opinion on virtual currencies, 4 July 2014; FATF guidance for a risk based approach on virtual currencies, June 2015.

¹¹ Which are providers of exchanging services between virtual currencies and "fiat" currencies.

¹² Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35–127).

¹³ A wallet provider is an entity that provides means (software application or other mechanism/medium) for holding, storing and transferring bitcoins or other virtual currency (FATF Report on Virtual Currencies)

¹⁴ For example, the terrorists who committed the attacks in Paris on 13 November 2015 reportedly used prepaid cards to pay for hotel rooms.

Some Member States use these instruments to pay out social benefits. Some people also see the anonymity that certain prepaid cards confer to their holder as an advantage to protect their privacy – an increasing issue with respect to transactions made on the web - although anonymity has also been sought or abused to conduct illegal actions.

The terrorist financing risk posed by prepaid cards is essentially linked to those anonymous (reloadable or non-reloadable) prepaid cards run on domestic or international schemes. The key question is how to address the concerns raised by the anonymity of such general purpose cards without wiping out the benefits that these instruments offer in their normal use.

Issuers of prepaid instruments are already covered by EU legislation, including the AML legislation. In order to address the above concerns, the Commission will present further changes to the AMLD, which could focus in particular on reducing existing exemptions such as thresholds below which identification is not required, notably for cards used face-to-face, and requiring customer identification and verification at the time of online activation of the prepaid cards. The Commission is currently exploring the detailed design of such measures, taking into account their impact and the need for proportionality.

- *Centralised bank and payment account registers and central data retrieval systems:* The existence of centralised registers at national level, which provide all national bank accounts listed to one person, or other flexible mechanisms such as central retrieval systems, is often cited by law enforcement authorities as facilitating financial investigations, including of possible terrorism financing. Currently, not all Member States have such a register and they are not bound under EU legislation to do so.¹⁵ Having such a centralised register or central retrieval systems in all Member States would provide direct operational support to the Financial Intelligence Units (FIUs). This has initially been a subject of debate in many Member States in the context of broader issues of data collection and storage but recent consultations suggest that there is now a more general support for such a tool.

The Commission will therefore propose to establish centralised bank and payment account registers or electronic data retrieval systems by amending the AMLD, which would provide FIUs and other competent authorities with access to information on bank and payment accounts.

In parallel, the Commission will explore the possibility of a distinct self-standing legal instrument to broaden the access to such centralised bank and payment account registers. In particular, such an instrument would allow the consultation of these registers for other investigations (e.g. law enforcement investigations, including asset recovery, tax offences) and by other authorities (e.g. tax authorities, Asset Recovery Offices, other law enforcement services, Anti-corruption authorities). Any initiative would have to be accompanied by appropriate safeguards, notably regarding data protection and the conditions of access.

¹⁵ However, many Member States have already put in place such a register or are currently in the process of adopting such centralised mechanisms.

Improved cooperation on financial intelligence

The European Agenda on Security sets out a number of actions to facilitate *cooperation between Financial Intelligence Units (FIUs)*. The implementation of these actions can be accelerated in different areas:

- *As a first step, aligning rules for the access to information by Financial Intelligence Units with the latest international standards:* Financial Intelligence Units (FIUs) play an important role in identifying the financial operations of terrorist networks across borders and in detecting their financial backers. International standards now emphasise the importance of extending the scope of and the access to the information available to FIUs (this is currently limited in certain Member States by the requirement to make a prior Suspicious Transaction Report): this will be achieved through an amendment of the AMLD.
- *As a second step, identifying and tackling obstacles concerning access to relevant information, exchange and use of information and operational cooperation:* A mapping exercise is being conducted within the FIU Platform to identify practical obstacles to access to, exchange and use of information as well as operational cooperation with a view to provide results before the end of 2016. FIUs should also be expected to interact closely with other enforcement authorities. In this context, the Commission will also further look at means to support joint analysis of cross-border cases by FIUs and solutions to enhance the level of financial intelligence. As currently discussed at international level, the FIUs may also need to evolve from a suspicions-based disclosure system to a more intelligence-based disclosure system. Depending on the results of this mapping exercise, the Commission will decide on whether and which kind of measures are necessary to address differences in the organisational status of the FIUs and tackle any obstacles to effective cooperation and information exchange.

In addition to this, the Commission is conducting a supranational assessment of money laundering and terrorism financing risks, as foreseen under the AMLD. Regular risk assessments provide an appropriate general framework to detect blind spots and respond to the evolving nature and associated risks of terrorism financing, with mitigating measures that are both evidence based and tailored to the actual risks. Mitigating measures can include both Recommendations to Member States (on a "comply or explain" basis) or the development of new policy initiatives at EU level. A political commitment of Member States to this process will be particularly important as regards the mitigating measures that will be addressed to them via such recommendations.

Cooperation to track and freeze terrorist financing

Another key area in fighting terrorism is improving the efficiency of *freezing measures based on UN listings*. The UN listings (in general and also in respect of designated organisations such as Al-Qaeda and Daesh) need to be applied as quickly as possible in order to have the maximum impact and to minimise the risk that listed persons and entities can withdraw funds before the restrictive measures come into force. As a matter of EU law, restrictive measures decided at the level of the UN must be transposed into EU law by way of EU legal acts, which provide certain procedural safeguards for the listed person and obligations in the way the

Commission takes its decisions. The Commission transposes UN listings under the Al-Qaeda and Daesh regime into EU law by way of an amendment to the listings under Council Regulation 881/2002 of 27 May 2002¹⁶. Once the Commission is made aware of new listings decided by the 1267 Sanctions Committee and after having made the necessary *prima facie* checks that certain essential procedural guarantees are respected, the Commission needs to go through the obligatory process of drafting, internal consultation and translation into all official EU languages before being adopted and published in the Official Journal. At this point they are directly applicable on EU persons, financial institutions and economic operators as a matter of EU law. Currently this process takes about five working days. Although the procedure has already been streamlined, the time required has been the subject of criticism by FATF. Further steps, at EU and UN level, including better coordination and advance information sharing, will allow the Commission to be on standby to immediately launch procedures once new listings are decided, and will further speed up the transposition process.

In this context and as an additional step, the Commission is working to ensure new UN listings are made accessible to EU financial institutions and economic operators, immediately after publication of new UN listing but before transposition at EU level, and to facilitate due diligence procedures under the AMLD even before the EU legal acts come into force. This will involve uploading new UN listings onto the EU's Financial Sanctions Database, so they can be immediately accessible by EU financial institutions and economic operators¹⁷. In the medium to longer term, Commission services will work with UN stakeholders to support development of a common data sharing system, to enable the new listings to be published in a downloadable common format compatible with the EU database. This will support the efforts of EU financial institutions to undertake appropriate due diligence procedures, in accordance with the requirements of the AMLD, in order to mitigate the risk of asset flight before the EU legal acts come into force.

Actions:

Member States are called on to:

- Bring forward the date for effective transposition and entry into application of the 4th AMLD to *4th quarter 2016 at the latest*;

As foreseen by the Anti-Money Laundering Directive, the Commission will:

- Adopt a EU blacklist to identify high risk third countries with strategic deficiencies in their anti-money laundering/countering terrorism financing: *at the latest by 2nd quarter 2016*;
- Publish a report on a supranational assessment of money laundering and terrorism financing risks and recommendations to Member States on measures suitable to address those risks: *2nd quarter 2017*.

¹⁶ Council Regulation (EC) No 881/2002 of 27 May 2002 imposing certain specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban, and repealing Council Regulation (EC) No 467/2001 prohibiting the export of certain goods and services to Afghanistan, strengthening the flight ban and extending the freeze of funds and other financial resources in respect of the Taliban of Afghanistan (OJ L 139 29.5.2002 p. 9-22).

¹⁷ The Commission will explore the technical aspects of developing the Financial Services Database to enable better information sharing regarding national asset freezing measures amongst Member States and financial institutions.

The Commission will present a legislative proposal to amend the following points of the AMLD, at the latest by 2nd quarter 2016:

- Enhanced due diligence measures/countermeasures with regards to high risk third countries;
- Virtual currency exchange platforms;
- Prepaid instruments;
- Centralised bank and payment account registers or electronic data retrieval systems;
- The access of Financial Intelligence Units to, and exchange of, information.

The Commission will take forward the following initiatives :

- Improving the efficiency of the EU's transposition of UN freezing measures, including by enhanced information between EU and UN: *at the latest by 2nd quarter 2016*;
- Reinforcing the capacity of Member States, the Commission, EEAS and economic operators to share information on challenges to implementation of restrictive measures, including to exchange information on new UN listings, via the Financial Sanctions Database: *at the latest by 2nd quarter 2016*.
- Explore the possibility of a self-standing legislative instrument to allow for a broader consultation of bank and payment account registers for other investigations and by other authorities, beyond the scope of the AMLD *at the latest by 2nd quarter 2016*;
- Reinforcing the cooperation between FIU through appropriate measures: *at the latest by 2nd quarter 2017*.

1.3 Other initiatives to complement the existing legal framework

Harmonizing money laundering criminal offenses and sanctions

Terrorists often resort to criminal proceeds to fund their activities and use money laundering schemes to convert, conceal or acquire such proceeds of criminal activities. A strengthened EU legal framework to combat money laundering thereby contributes to tackling terrorist financing more effectively. While both the relevant FATF recommendation and the Council of Europe Convention No. 198 on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism require the introduction of criminal offences for money laundering, this has not yet been comprehensively reflected under EU legislation. All Member States have criminalised money laundering, but there are differences between Member States as to the definition of money laundering and the sanctions applied. These differences create obstacles in cross-border judicial and police cooperation to tackle money laundering, and have a direct relevance to action against terrorist financing. In accordance with Article 83 TFEU, the Commission will propose a Directive on criminal offences and sanctions for money laundering. The objective will be to introduce minimum rules regarding the definition of the criminal offence of money laundering (applying it to terrorist offences and other serious criminal offences) and to approximate sanctions.

Tackling illicit cash movements

Payments in cash are widely used in the financing of terrorist activities¹⁸. EU legislation sets controls on persons carrying cash equal to or in excess of €10,000 entering or leaving the EU¹⁹. An evaluation carried out by the Commission²⁰ has pointed to the need to extend the scope of this Regulation, to include cash shipped in post and freight shipments and to allow the authorities to act upon lower amounts of cash where there are suspicions of illicit activity. Action could also be taken to include precious metals and potentially other highly liquid high-value commodities. In this context, the relevance of potential upper limits to cash payments could also be explored. Several Member States have in place prohibitions for cash payments above a specific threshold.

Beyond the use of cash in general, the use of high denomination notes, in particular the EUR 500 note, is a problem reported by law enforcement authorities²¹. These notes are in high demand among criminal elements who engage in physical transportation of cash due to their high value and low volume. The Commission will work with the European Central Bank, Europol and other relevant parties on this matter.

Completing the EU framework to track and freeze terrorist assets

There are several UN regimes in place to freeze the assets of persons with links to terrorism. Within the EU such freezing measures are currently implemented under the Common Foreign and Security Policy and Article 215 TFEU. The Treaty also provides in Article 75 TFEU, under certain conditions, for the possibility to take administrative measures to achieve the objectives of Article 67 TFEU as regards the preventing and combating of terrorism. The aim of such administrative measures would be to disrupt terrorists financing as well as dissuading supporters, such as fundraisers, through measures with EU-wide effect. Such measures would put in place common standards on the assets to be frozen, which actors are involved and which remedies and safeguards apply, notably in relation to fundamental rights. Whereas the EU already has effective asset freezing arrangements in line with the UN system as concerns persons with links to international terrorism, Article 75 TFEU provides a legal base which would also cover persons with links to terrorism beyond the UN listed international groups.

The initial work on an impact assessment study in 2013 on the application of Article 75 assessed various options, including in particular an EU listing and freezing regime complementary to national regimes, the possibility for imposing obligations on Member States to establish national freezing regimes, as well as different ways of ensuring mutual recognition of such listings and freezing orders. The Commission will review this assessment in light of the recent developments and challenges, taking into account the scope of the existing freezing regimes in light of recent UN Security Council Resolutions, the scope and the added value of an EU regime under Article 75, and its complementarity to existing

¹⁸ <https://www.europol.europa.eu/content/why-cash-still-king-strategic-report-use-cash-criminal-groups-facilitator-money-laundering>

¹⁹ Regulation 1889/2005 25.11.05 OJ L 309.

²⁰ Issues with the present regulation and major policy options for a revision have already been identified in an evaluation document and feedback was collected through an open public consultation: http://ec.europa.eu/taxation_customs/resources/documents/common/consultations/customs/cash_survey_summary_report_en.pdf

²¹ See the Europol report cited above: "The fact that the EUR 500 note is not commonly used as a payment instrument, yet accounts for one third of the value of all banknotes in circulation, raises questions around the purpose for which it is being used."

regimes at EU and national level, as well as the need to find an appropriate balance between fundamental rights safeguards and effectiveness. As part of the assessment of a possible EU regime for the freezing of assets of terrorists under Article 75 TFEU, the Commission is also currently exploring measures of mutual recognition of national freezing decisions (e.g. by way of a European Asset Freezing Order).

In addition, mutual recognition of judgments and judicial decisions in criminal matters is also a key element in the security framework²². Successfully tackling terrorism financing requires a range of complementary approaches. In addition to the assessment of a possible EU regime for the freezing of assets of terrorists under Article 75 TFEU, the Commission will seek to ensure that criminals who fund terrorism are deprived of their assets. In order to disrupt organised crime activities that finance terrorism, it is essential to deprive those criminals of the proceeds of crime. Beyond being a sanction, confiscation of criminal assets is also a preventative tool. To this end, the Commission wishes to ensure that all types of freezing and confiscation orders in the area of serious crime available within Member States are enforced to the maximum extent possible throughout the EU, though the application of the principle of mutual recognition, as provided for by Article 82 TFEU. Any initiative on mutual recognition instruments will take due consideration of the fundamental rights of persons subject to freezing and confiscation orders.

Tracking of international transactions through the *EU-US Terrorist Finance Tracking Programme (TFTP)* agreement appears to function effectively. Following an impact assessment, a Commission Communication of November 2013 concluded that setting up an EU-based system (referred to as TFTS, Terrorist Finance Tracking System) duplicating the TFTP would not be proportionate or bring added value. However, it would nevertheless be worthwhile to analyse the possible need for complementary mechanisms to the TFTP to fill possible gaps (i.e. transactions which are excluded from the EU-US TFTP agreement – notably intra-EU payments in euro – and may not be possible to track otherwise).

Actions:

The Commission will take forward the following initiatives:

- Legislative proposal harmonising money laundering criminal offences and sanctions: *at the latest by 4th quarter 2016*;
- Legislative proposal against illicit cash movements: *at the latest by 4th quarter 2016*;
- An EU regime for the freezing of assets of terrorists under Article 75 TFEU: Conclude an assessment *at the latest by 4th quarter 2016*;
- Strengthening the mutual recognition of criminal assets' freezing and confiscation orders: *at the latest by 4th quarter 2016*;
- A possible European system which would complement the existing EU-US TFTP agreement by tracing transactions excluded under the mentioned agreement: Conclude an assessment *at the latest by 4th quarter 2016*.

²² COM(2015) 185 final

2. Targeting the sources of funding

The ways in which terrorism can be financed are very diverse. The funding can come from the abuse of legitimate non-profit organisations²³, such as charities, of legal businesses, or of collections. They can also be funded from criminal activity, state sponsors and activities in failed states as well as abuse of the international trade system²⁴. Whilst not new, the current terrorist threat from Daesh has highlighted some particular issues. According to the Financial Action Task Force, Daesh's primary sources of revenue are illicit proceeds from its occupation of territory. Sources include bank looting, extortion, control of oil fields and refineries, robbery of economic assets, kidnapping for ransom, cash smuggling and grass-roots funding.

Although the existing framework to combat terrorism financing – as set out in UN Security Council Resolutions and reflected in the proposal for a Directive on combatting terrorism – includes a prohibition to make any economic or financial resource available to the listed individuals and entities, one shortcoming today is that existing EU instruments are not adequate for customs authorities themselves to intervene effectively. Terrorists can gain both from illegal means (e.g. through dissimulation of trade transactions; misrepresentation of the value of goods; fictitious invoicing; or smuggling) and from trade in legal goods. The Commission will consider an explicit legal basis to allow for provisional detention of goods and for the necessary investigations to be undertaken, notably by FIUs.

Images of the destruction of archaeological sites by Daesh are familiar sights in our media, seen by many as war crimes against cultural heritage. But as well as causing huge damage, there is clear evidence that Daesh uses illicit excavations of archaeological sites to obtain cultural goods²⁵ as a source of income. Cultural goods illicitly removed from Iraq and Syria can be a significant source of terrorist income. Where this income relies on proceeds from European markets, identifying and cutting off the trade could have a real impact on an important source of funding of terrorist activities.

Currently, two Regulations impose trade restrictions on cultural goods illicitly removed from Iraq and Syria²⁶, and provide a legal basis for import controls. However, their effectiveness is limited. These trade restrictions depend on the continuation of the specific sanctions regimes and provide only a partial response and the burden of proof required for customs to establish the origin of such goods is high. The Commission will consider a wider response to combatting terrorism financing via illicit trafficking in cultural goods – whatever the country of provenance – to overcome some of these problems. Options that will be considered involve the introduction of a certification system for the import of cultural goods into the EU coupled with guidance to stakeholders such as museums and the art market.

Illegal wildlife trafficking is increasingly recognised as a further source of funding of terrorist and related activities. The Commission will shortly present an EU Action Plan to tackle the illicit financial flows related to wildlife trafficking.

²³ <http://www.fatf-gafi.org/media/fatf/documents/reports/BPP-combating-abuse-non-profit-organisations.pdf>

²⁴ <http://www.fatf-gafi.org/media/fatf/documents/reports/Trade%20Based%20Money%20Laundering.pdf>

²⁵ As defined under Council Regulation (EC) No 116/2009 of 18 December 2008 on the export of cultural goods (OJ L 39 of 10.02.2009 p.1).

²⁶ Council Regulation (EU) No 36/2012 of 18 January 2012 concerning restrictive measures in view of the situation in Syria and repealing Regulation (EU) No 442/2011 (OJ L 16, of 19.01.2011) and Council Regulation (EC) No 1210/2003 of 7 July 2003 concerning specific restrictions on economic and financial relations with Iraq and repealing Regulation (EC) No 2465/96 (OJ L 169 of 08.07.2003 p.6).

Actions:

The Commission will take forward the following initiatives:

- Legislative proposal reinforcing customs' powers and cooperation and addressing terrorism financing related to trade in goods: *at the latest by 2nd quarter 2017*;
- Legislative proposal against illicit trade in cultural goods: *at the latest by 2nd quarter 2017*;
- EU Action Plan on Illegal Wildlife Trafficking: *at the latest by 1st quarter 2016*.

3. The external dimension

Due to the very nature of the current terrorist threat, the distinction between domestic "home grown" terrorism and terrorism organised by international groups is often blurred, though groups operating exclusively in the EU still exist²⁷. In particular, there is often an international dimension to financing as well as to the procurement of weapons.

For this reason, it is essential that the EU is an active player in the fight against terrorist financing on the international scene, notably through the relevant international organisations. The EU actively supports the UN Global Counter Terrorism Strategy, as well as the implementation of relevant UN Security Council Resolutions. The EU is also an active participant of the Global Counter-Terrorism Forum (GCTF), whose work includes activities relating to terrorism funding²⁸, and has encouraged the G20's work to underline the importance of cutting off terrorism-related financial flows²⁹.

The Commission is a member of the Financial Action Task Force (FATF) and actively contributes to its work as well as to the implementation of its Recommendations in the EU. There is an obvious benefit in Europe speaking with a consistent voice within the FATF. Relevant UN Resolutions and Council of Europe instruments, such as the Council of Europe Convention No. 198 on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism³⁰, play an important role in this context; the Commission supports EU States in implementing these. As explained above, enhanced information between EU and UN on asset freezing will also be developed.

In addition to this, there is a strong need for the EU to support our partners, with a specific focus on neighbouring countries, which are facing threats from the same groups that have attacked the EU. The fight against terrorist financing could be part of broader efforts to support governments of third countries in complying with United Nations Security Council resolutions and FATF recommendations in order to enhance their capacity to fight against financing of terrorism, and to cooperate with EU Member States and Agencies³¹. The EU can

²⁷ See notably Europol's European Union Terrorism Situation and Trend Report TE-SAT: <https://www.europol.europa.eu/content/european-union-terrorism-situation-and-trend-report-2015>

²⁸ <https://www.thegctf.org/focus-areas>

²⁹ <http://www.consilium.europa.eu/en/press/press-releases/2015/11/16-g20-summit-antalya-communique/>

³⁰ <http://www.coe.int/t/dghl/monitoring/cop198/>

³¹ The assistance could include building the capacity of criminal justice and wider financial sector stakeholders, assisting partner countries in amending and updating legislation in line with international best practices, and promoting regional cooperation. The EU has been implementing this approach in countering the financing of terrorism mainly in the Greater Horn of Africa (Djibouti, Ethiopia, Eritrea, Kenya, Somalia, South Sudan,

also help through supporting partners' efforts to tackle serious crime such as drugs or firearms trafficking, as a source of terrorist finance.

In this context, the Commission and the High Representative will deepen cooperation with third countries to list and maintain the listing of terrorist entities when the listings decided by competent national authorities from third countries serves as a basis to list terrorist entities at EU level. In addition, this work will also cover continued liaison with third countries for the alignment with the existing restrictive measures to combat terrorism. Counter-terrorism dialogues with partners provide the most effective framework for discussion on alignment or implementation of restrictive measures.

Third countries could also be helped to combat illicit trade in cultural goods and its use for terrorist financing. This could imply re-prioritising existing support to capacity building (for example in the Middle East and North Africa - MENA) to give specific attention to protecting their cultural heritage and increasing international police cooperation against trafficking of cultural goods.

Finally, action requires a global perspective with security as one of our main external priorities. There is a broad global consensus on the need to act together and the EU should put itself at the head of efforts to ensure that worldwide initiatives to tackle terrorist financing are effective and that EU measures are up-to-date with the latest developments.

The Commission and the High Representative will:

- Launch projects to provide technical assistance to Middle East and North African countries to fight against the trafficking of cultural goods: *by 4th quarter 2016 at the latest;*
- Strengthen support to third countries in complying with UNSCRs legal requirements and FATF recommendations: *ongoing;*
- Support countries in the MENA and South East Asia regions to monitor, disrupt and deny the financing of terrorism: *by 4th quarter 2016 at the latest.*
- Deepen work to exchange information with third country partners to make/sustain listings under EU autonomous measures to combat terrorism: *ongoing.*

4. The way forward

The European Agenda on Security underlined that delivering a high level of internal security in the EU has to be a joint undertaking by all actors. This includes action by EU institutions, Member States and EU agencies, but also improved cooperation, and in particular exchange of information amongst the relevant authorities. Member States should use all the tools at their disposal and ensure that agreed EU action is swiftly implemented. The Commission also calls on the co-legislators to take forward their work on the forthcoming Commission proposals in a timely manner.

Sudan, Uganda and Yemen). The EU is now in the process of developing a global programme under the Instrument contributing to Stability and Peace for countering the financing of terrorism and anti-money laundering (with planned allocation of EUR 16 million). The geographical scope of the actions will be the regions of the Middle East and North Africa and countries in South East Asia.

In addition, working together, the EU and Member States need to deepen their engagement with EU financial institutions and economic operators to understand the challenges they face in implementing international standards in the field of counter-terrorist financing, and assess how policies and practices can be re-enforced to address relevant risks in a rapidly evolving environment.

The Commission will monitor progress on the action plan and provide regular updates on progress to the European Parliament and to the Council.