



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 15 January 2010

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2009/0190 (NLE)**

**JAI 24
USA 6
RELEX 27
DATAPROTECT 3
ECOFIN 16**

NOTE

from: Presidency

to: delegations

No. Cion prop.: 17702/09 JAI 937 USA 112 RELEX 1226 DATAPROTECT 77 ECOFIN 887

Subject: Council Decision on the conclusion of the Agreement between the European Union and the United States of America on the processing and transfer of Financial Messaging Data from the European Union to the United States for purposes of the Terrorist Finance Tracking Program

Further to discussion at Coreper on 17 December 2009, delegations find attached a revised draft Council Decision on the conclusion of the Agreement between the European Union and the United States of America on the processing and transfer of Financial Messaging Data from the European Union to the United States for purposes of the Terrorist Finance Tracking Program.

This decision will now be subjected to lawyer-linguists scrutiny before transmission to the European Parliament.

COUNCIL DECISION

of

**on the conclusion of the Agreement between the European Union and the United States of
America**

**on the processing and transfer of Financial Messaging Data
from the European Union to the United States
for purposes of the Terrorist Finance Tracking Program**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles
16, 82(1)(d) and 87(2)(a), in conjunction with Article 218 (6)(a) thereof,

Having regard to the proposal from the Commission,

Having regard to the consent of the European Parliament¹,

Whereas:

- (1) On 27 July 2009 the Council authorised the Presidency of the Council, assisted by the Commission, to open negotiations for an Agreement between the European Union and the United States of America on the processing and transfer of Financial Messaging Data from the European Union and the United States for purposes of the Terrorist Finance Tracking Program.

¹ OJ C , , p. .

- (2) In accordance with Council Decision 2010/16/CFSP/JHA of 30 November 2009¹ the Agreement between the European Union and the United States of America on the processing and transfer of Financial Messaging Data from the European Union to the United States for purposes of the Terrorist Finance Tracking Program was signed on 30 November 2009, subject to its conclusion at a later date.
- (3) In accordance with its Article 15(2) the provisions of the Agreement shall apply provisionally from 1 February 2010 until its entry into force.
- (4) The Agreement has not yet been concluded. With the entry into force of the Lisbon Treaty on 1 December 2009, the procedures to be followed to that end by the European Union are governed by Article 218 of the Treaty on the Functioning of the European Union.
- (5) The Agreement should be concluded.
- (6) [In accordance with Article 3 of the Protocol on the Position of the United Kingdom and Ireland in respect of the area of Freedom, Security and Justice annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, the United Kingdom and Ireland take part in the adoption of this Decision.]
- (7) In accordance with Articles 1 and 2 of the Protocol on the Position of Denmark annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Decision and is not bound by the Agreement or subject to its application,

HAS ADOPTED THIS DECISION:

¹ OJ L 8, 13.1.2010, p. 9.

Article 1

The Agreement between the European Union and the United States of America on the processing and transfer of Financial Messaging Data from the European Union to the United States for purposes of the Terrorist Finance Tracking Programme is hereby concluded.

The text of the Agreement to be concluded is attached to this Decision.

Article 2

The President of the Council shall designate the person empowered to proceed, on behalf of the European Union, to the exchange of the instruments of approval provided for in Article 15 of the Agreement, in order to express the consent of the European Union to be bound by the Agreement.

Article 3

This Decision shall enter into force on the day of its adoption. It shall be published in the *Official Journal of the European Union*.

The date of entry into force of the Agreement shall be published in the *Official Journal of the European Union*.

Done at Brussels,

For the Council

The President
