

COUNCIL DECISION

of 13 July 2010

**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 the purposes of the Terrorist Finance Tracking Program**

(2010/412/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 87(2)(a) and 88(2), in conjunction with Article 218(6)(a) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament,

Whereas:

(1) By decision of 11 May 2010, the Council authorised the Commission to open negotiations on behalf of the European Union between the Union and the United States to make available to the United States Treasury Department financial messaging data to prevent and combat terrorism and terrorism financing.

(2) In accordance with Council Decision 2010/411/EU of 28 June 2010 ⁽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 the purposes of the Terrorist Finance Tracking Program (the Agreement) was signed on 28 June 2010, subject to its conclusion at a later date.

(3) The Agreement should be concluded.

(4) The Agreement respects the fundamental rights and observes the principles recognised in particular in the Charter of Fundamental Rights of the European Union, notably the right to private and family life, recognised in Article 7 of the Charter, the right to the protection of personal data, recognised in Article 8 of the Charter and the right to effective remedy and fair trial recognised in Article 47 of the Charter. The Agreement should be applied in accordance with those rights and principles.

(5) In accordance with Article 3 of Protocol No 21 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 to the Treaty on the Functioning of the European Union, the United Kingdom has notified its wish to take part in the adoption and application of this Decision.

(6) In accordance with Articles 1 and 2 of Protocol No 21 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 to the Treaty on the Functioning of the European Union and without prejudice to Article 4 of that Protocol, Ireland is not taking part in the adoption of this Decision and is not bound by it or subject to its application.

(7) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark annexed to the Treaty on European Union and to 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 it or subject to its application.

HAS ADOPTED THIS DECISION:

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 the purposes of the Terrorist Finance Tracking Program (the Agreement) is hereby approved on behalf of the Union ⁽²⁾.

The text of the Agreement is attached to this Decision.

Article 2

The Commission is invited to submit to the European Parliament and the Council, no later than one year from the date of entry into force of the Agreement, a legal and technical framework for the extraction of data on EU territory.

⁽¹⁾ See page 5 of this Official Journal.

⁽²⁾ The date of entry into force of the Agreement shall be published in the *Official Journal of the European Union* by the General Secretariat of the Council.

Within three years from the date of entry into force of the Agreement, the Commission is invited to present a report of progress on the development of the equivalent EU system with regard to Article 11 of the Agreement.

If, five years after the date of entry into force of the Agreement, the equivalent EU system has not been set up, the Union shall consider whether to renew the Agreement in accordance with Article 21(2) thereof.

Article 3

The President of the Council shall designate the person(s) empowered to proceed, on behalf of the Union, to the exchange of the instruments of approval provided for in

Article 23 of the Agreement, in order to express the consent of the Union to be bound.

Article 4

This Decision shall enter into force on the day of its adoption.

Done at Brussels, 13 July 2010.

For the Council

The President

D. REYNDEERS
