



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 16 September 2010

14245/11

**Interinstitutional File:
2009/0192 (NLE)**

**JAI 628
AUS 16
RELEX 907
DATAPROTECT 96**

“A” ITEM NOTE

from: General Secretariat
to: Council

No. prev. doc.: 9822/11 JAI 289 AUS 4 RELEX 459 DATAPROTECT 43
9825/11 JAI 291 AUS 6 RELEX 461 DATAPROTECT 45
10093/11 JAI 314 AUS 7 RELEX 493 DATAPROTECT 50

Subject: - Council Decision on the signing of the Agreement between the European Union and Australia on the processing and transfer of Passenger Name Record (PNR) data by air carriers to the Australian Customs and Border Protection Service - Adoption
- Council Decision on the conclusion of the Agreement between the European Union and Australia on the processing and transfer of Passenger Name Record (PNR) data by air carriers to the Australian Customs and Border Protection Service - Request by the Council for the consent of the European Parliament

1. On 20 May 2011 the Commission submitted to the Council two proposals, one for a Council Decision on signing the Agreement between the European Union and Australia on the processing and transfer of Passenger Name Record (PNR) data by air carriers to the Australian Customs and Border Protection Service and a second one for a Council Decision on conclusion of this Agreement.

2. At the COREPER meeting of 8 September 2011 an agreement was reached on the text of the draft Agreement and of the text of the draft joint declaration. At the COREPER meeting of 14 September 2011, the text of the draft Agreement, as well as the texts of the draft Council Decisions on signing and on conclusion as revised by the lawyer-linguists were approved.
3. On 3 August 2011 Ireland notified the Council that it intended to participate in the adoption of the decision on signing of this Agreement.¹
4. On 23 August 2011 the United Kingdom notified the Council that it intended to participate in the adoption of the decision on signing of this Agreement.²
5. In view of the above, the Council is invited:
 - to adopt, with Germany abstaining from voting, the decision on signing as contained in J/L document 9822/11 JAI 289 AUS 4 RELEX 459 DATAPROTECT 43 + COR 1(fi);
 - to decide to enter in the minutes of the Council the statement made by Denmark upon adoption of this Decision, contained in the Annex to this note; and
 - once the Agreement has been signed, to forward the draft decision on conclusion as contained in J/L document 9825/11 JAI 291 AUS 6 RELEX 461 DATAPROTECT 45 + COR 1 (fi) as well as the text of the Agreement as contained in J/L document 10093/11 JAI 314 AUS 7 RELEX 493 DATAPROTECT 50 + COR 1 (fi) to the European Parliament for its consent.

¹ 13399/11 JAI 557 AUS 11 RELEX 837 DATAPROTECT 82.

² 13715/11 JAI 578 AUS 14 RELEX 860 DATAPROTECT 85.

STATEMENT BY DENMARK

"In accordance with Article 28 of the Agreement the European Commission may notify Australia that Denmark has chosen to be bound by the Agreement.

The European Commission's notification to Australia concerning Denmark can only take place if Denmark, in accordance with its constitutional requirements, has taken the steps necessary for it to be bound by agreements of the European Union in the area of Freedom, Security and Justice. Until then Denmark is not bound by the Agreement or subject to its application in accordance with Protocol (No 22) on the position of Denmark annexed to the Treaty on European Union and the Treaty of the Functioning of the European Union."
