



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 1 February 2010  
(OR. en)**

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**LEGISLATIVE ACTS AND OTHER INSTRUMENTS**

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Subject: COUNCIL DECISION on the conclusion of the Agreement between the European Union and Australia on the processing and transfer of European Union-sourced passenger name record (PNR) data by air carriers to the Australian Customs Service

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# COUNCIL DECISION

of

**on the conclusion of the Agreement between  
the European Union and Australia on the processing and transfer of  
European Union-sourced passenger name record (PNR) data  
by air carriers to the Australian Customs Service**

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament<sup>1</sup>,

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<sup>1</sup> OJ C ....

Whereas:

- (1) On 28 February 2008, the Council authorised the Presidency, assisted by the Commission, to open negotiations for an agreement between the European Union and Australia on the processing and transfer of European Union-sourced passenger name record (PNR) data by air carriers to the Australia Customs Service.
- (2) In accordance with Council Decision 2008/651/CFSP/JHA of 30 June 2008<sup>1</sup>, the Agreement between the European Union and Australia on the processing and transfer of European Union-sourced passenger name record (PNR) data by air carriers to the Australian Customs Service (hereinafter "the Agreement") was signed on 30 June 2008, subject to its conclusion.
- (3) The Agreement, in accordance with Article 15(2) thereof, has applied provisionally since the date of its signature.

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<sup>1</sup> OJ L 213, 8.8.2008, p. 47.

- (4) The Agreement has not yet been concluded. With the entry into force of the Treaty of Lisbon on 1 December 2009, the procedures to be followed by the Union in order to conclude the Agreement are governed by Article 218 of the Treaty on the Functioning of the European Union.
- (5) The Agreement should be approved.
- [(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, these Member States have notified their wish to take part in the adoption and application 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 it or subject to its application,

HAS ADOPTED THIS DECISION:

*Article 1*

The Agreement between the European Union and Australia on the processing and transfer of European Union-sourced passenger name record (PNR) data by air carriers to the Australian Customs Service<sup>1</sup> is hereby approved on behalf of the Union.

*Article 2*

The President of the Council is hereby authorised to designate the person(s) empowered to give, on behalf of the Union, the notification provided for in Article 15(1) of the Agreement, in order to bind the Union<sup>2</sup>.

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<sup>1</sup> OJ L 213, 8.8.2008, p. 49.

<sup>2</sup> The date of entry into force of the Agreement will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.

*Article 3*

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

*Article 4*

This Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels,

*For the Council*

*The President*

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