



REGERINGSKANSLIET

28 November 2009

Prime Minister

Mr Jerzy Buzek
President of the European Parliament
Bât. Paul-Henri Spaak
11B011
60, rue Wiertz
B-1047 Brussels
Belgium

Dear President Buzek,

I refer to your letter of 26 November concerning the draft Council Decision on the signing of the Agreement between the European Union and the United States on the processing and transfer of financial messaging data for purposes of the Terrorist Finance Tracking Programme ("TFTP").

I am pleased to address the issues raised by your letter. The Presidency is very sensitive to and supportive of the views of the European Parliament on safeguarding the protection of privacy and personal data. Therefore, the Swedish Presidency, assisted by the Commission, has negotiated with the United States a draft Agreement which takes full account of the concerns raised in the European Parliament's Resolution of 17 September 2009. The draft Agreement contains, inter alia, significant safeguards for the protection of personal data transferred under the Agreement. It ensures that any person whose personal data would be handled in breach of the Agreement is entitled to seek effective legal redress. The draft Agreement also requires that all requests of the United States are subject to European judicial authorisation before any data can be made available.

Moreover, and as expressly requested by the Parliament's Resolution, the draft Agreement is for a short duration only and will be replaced during the course of 2010 by a longer term agreement under the Lisbon Treaty. I should also like to inform you that, in order to meet the concerns expressed in your letter, the Presidency has, in addition, regarding the duration of the current

draft Agreement negotiated to further limit the maximum duration from 12 to only 9 months, going well beyond what the Parliament called for in its Resolution of 17 September 2009.

The Presidency, together with the Commission, has endeavoured to keep the Parliament, and in particular the Civil Liberties Committee, fully informed of developments on this matter. In conformity with the TFEU the Parliament will be called upon to give its consent before the Agreement can be concluded. It will also be fully involved in the proceedings leading to the conclusion of the envisaged long-term agreement in accordance with the provisions of the TFEU.

The draft Agreement states that it will be provisionally applied as from 1 February. In the event that the Council does not authorise signature of the Agreement on 30 November, procedural steps would be required under the TFEU before the Council could adopt a decision authorising the signing of the agreement. This would make it unlikely to apply this Agreement provisionally from 1 February. That would create a risk that for a certain period of time there would be no European data flows to the TFTP, which would result in a serious security gap for the European Union. Considering the importance of the TFTP for EU security, it is important to avoid that risk.

I believe it is now well established that the TFTP which has existed for some eight years, has played a significant role in helping to ensure the security of the EU in the fight against terrorism. It is for these reasons that the EU 27 unanimously mandated the Swedish Presidency on 23 July 2009 to negotiate an Agreement with the United States to ensure the continuation of the TFTP.

For the reasons I have outlined in this letter, the Presidency believes that the interests of the citizens of the European Union are best served by maintaining the above-mentioned item on the agenda of the 30 November Council meeting.

Yours sincerely

Credit Crisp