



Council of the  
European Union

Brussels, 18 December 2023  
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CONSOM 196  
MI 387  
USA 89  
EDPS 7  
DATAPROTECT 66

#### DECLASSIFICATION

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Subject: Draft Council Decision authorising the Commission to open negotiations with the United States of America for an agreement on cooperation and information exchange in the area of consumer product safety

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Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.

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# RESTREINT UE



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THE EUROPEAN UNION**

**Brussels, 21 October 2009**

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## **"I/A" ITEM NOTE**

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from: General Secretariat of the Council  
to : Permanent Representative Committee (Part 1)/Council  
No. Cion prop.: 12536/09 CONSUM 154 MI 294 USA 63 EDPS 6 DATAPROTECT 52  
RESTREINT UE

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Subject: Draft Council Decision authorising the Commission to open negotiations with the United States of America for an agreement on cooperation and information exchange in the area of consumer product safety

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1. The Commission submitted on 27 July 2009 to the Council its recommendation for authorisation to open negotiations with the United States of America for an agreement on cooperation and information exchange in the area of consumer product safety.
2. The Working Party on Consumer Protection and Information discussed the matter on 2 October 2009 and the agreement on the text of draft decision as attached to this note was subsequently confirmed through written consultation.

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3. It is suggested that the Permanent Representative Committee invites the Council:
    - a. to adopt, as an "A" item, the draft Council Decision attached to this note;
    - b. to appoint the Working Party on Consumer Protection and Information as special Committee to assist the Commission in its task as provided for in Article 300, paragraph 1, of the EC Treaty.
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ANNEX

DRAFT DECISION OF THE COUNCIL

OF .....

Authorising the Commission to open negotiations with the United States of America  
for an agreement on cooperation and information exchange in the area of consumer product safety

The COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, in particular Article 95  
and Article 300, paragraph 1, thereof,

Having regard to the Recommendation from the Commission,

HAS DECIDED AS FOLLOWS:

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## Sole Article

With regard to matters within the Community field of competence the Commission is hereby authorised to negotiate on behalf of the European Community an agreement on cooperation and information exchange in the area of consumer product safety.

The negotiations shall be conducted by the Commission in accordance with the Negotiating Directives laid down in the Annex and in consultation with a special Committee appointed by the Council in accordance with Article 300, paragraph 1, of the Treaty.

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Annex to the ANNEX

## NEGOTIATION DIRECTIVES FOR NEGOTIATIONS WITH THE UNITED STATES OF AMERICA FOR AN AGREEMENT ON COOPERATION AND INFORMATION EXCHANGE IN THE AREA OF CONSUMER PRODUCT SAFETY

1. The aim of the negotiations shall be the conclusion of an agreement covering cooperation and information exchange in the area of consumer product safety between the Community and the United States of America.
2. The Commission shall negotiate to ensure that any agreement:
  - (1) provides a stronger legal basis for cooperation and information exchange with the competent authority or authorities in the United States of America in the area of consumer product safety, within the scope of Directive 2001/95/EC<sup>1</sup> and in conformity with the Regulation (EC) N° 765/2008<sup>2</sup>, including for granting access to the Community Rapid Information System for non-food consumer products (RAPEX) information;
  - (2) is based on reciprocity, as defined in the relevant agreement, and provides for the necessary conditions and safeguards to ensure confidentiality of information which is covered by professional secrecy;
  - (3) provides for the participation in exchange of officials, joint activities and other forms of cooperation falling within the scope of Directive 2001/95/EC with the competent authority or authorities in the United States of America;

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<sup>1</sup> Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety, OJ L11, 15.1.2002, p. 4.

<sup>2</sup> Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93, OJ L 218, 13.8.2008, p. 30.

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- (4) sets out, as necessary, the financial arrangements for the above mentioned cooperation with the Unites States of America, including financial contribution to the operation and technical maintenance and upgrading of any database that may be set up or used for the purpose of the information exchange;
  - (5) provides for the necessary conditions and safeguards for the processing of personal data communicated to the Unites States of America so as to ensure a level of protection of personal data exchanged in accordance with the principles of Directive 95/46/EC<sup>3</sup> and the Regulation (EC) N° 45/2001<sup>4</sup> ;
  - (6) provides, where necessary, for the setting up of a Joint Committee, composed of representatives of the Contracting Parties, to ensure the proper application of any agreement resulting from these negotiations, and its adaptation to new or amended Community legislation;
  - (7) is adopted for an unlimited period of time;
  - (8) includes a review clause requiring the parties to consider the need for any amendments every five years from the date of entry into force of the agreement; and
  - (9) shall come to an end after the notification of either Contracting Party of the denouncement of the agreement.
3. The Commission shall regularly inform the special Committee appointed by the Council in accordance with Article 300, paragraph 1, of the Treaty on the progress made, in particular regarding the financial agreements in point 2(4) above, and, where appropriate, on any problem that may arise during the negotiations and report to the Council on the outcome of the negotiations.

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<sup>3</sup> Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, OJ L 281, 23.11.1995, p. 31.

<sup>4</sup> Regulation (EC) No. 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data, OJ L 8, 12.1.2001, p. 1