



**COUNCIL OF
THE EUROPEAN UNION**

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RELEX 166
JAI 135
AVIATION 104
TELECOM 85**

"I/A" ITEM NOTE

from : General Secretariat
dated : 6 May 2004
to : Permanent Representatives Committee - Council

No. Cion prop. : 7571/04 PE 58 USA 28 RELEX 106 JAI 83 AVIATION 74 TELECOM 57
(COM(2004) 190 final)

Subject : Proposal for a Council Decision on the conclusion of an Agreement between the European Community and the United States of America on the processing and transfer of PNR data by Air Carriers to the United States Department of Homeland Security, Bureau of Customs and Border Protection
- Conclusion of the agreement

1. On 23 February 2003, the Council decided to authorise the Commission to negotiate an Agreement on the use of Passenger Name Record (PNR) data, allowing the US Bureau of Customs and Border Protection (CBP) to access PNR data bases situated on Community territory and imposing the corresponding obligation on air carriers and Computer Reservation Systems (CRS) to process PNR data as required by CBP. The Commission has conducted these negotiations in consultation with a special committee (Transatlantic Relations Working Party) appointed by the Council to assist it in this task.

This Agreement is part of a package which includes an Adequacy Finding decision, which is expected to be adopted by the Commission on 7 May 2004, in accordance with 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 data¹.

2. On 18 March 2004, the Commission presented its proposal for an Agreement mentioned above. The draft Agreement provides for its entry into force immediately upon signature.
3. At its meeting on 28 April 2004, the Permanent Representatives Committee agreed to consult the European Parliament on the Commission's proposal and asked it to deliver its opinion no later than 5 May 2004 in accordance with first subparagraph of Article 300(3) of the TEC. At the time of writing, the European Parliament had not delivered its opinion. It was expected that it would take a procedural vote on this issue on 4 May 2004.
4. At its meeting on 29 April 2004, the Transatlantic Relations Working Party agreed that the agreement should be concluded, assuming adoption of the Adequacy Finding by the Commission and notwithstanding the absence of an opinion of the European Parliament by the deadline set.²
5. The Permanent Representatives Committee is therefore invited to:
 - confirm agreement on the draft Council Decision on the conclusion of an Agreement with the United States of America on PNR;
 - assuming adoption of the Adequacy Finding by the Commission, invite the Council to adopt Council Decision on the conclusion of an Agreement between the European Community and the United States of America on the processing and transfer of PNR data by Air Carriers to the United States Department of Homeland Security, Bureau of Customs and Border Protection, which is set out in doc. 9026/04 USA 37 RELEX 167 JAI 136 AVIATION 105 TELECOM 86 as finalised by the Legal-Linguistic experts.

¹ OJ L 281, 23.11.1995, p.31.

² France, Denmark and the United Kingdom entered Parliamentary scrutiny reserves.