



**COUNCIL OF
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NOTE

from: the Austrian delegation
to: Delegations

Subject: Proposal for a Council FWD on the use of PNR data for law enforcement purposes
- Note of the Presidency (11281/08) - Austrian comments

Following the invitation of the Presidency to provide comments on the Proposal for a Council FWD on the use of PNR data for law enforcement, the Austrian delegation would like to forward to the delegations the following comments on the note of the Presidency (11281/08):

1. The approach of the Presidency to abandon the work on the proposal of the Commission (7656/3/08) and to start a thematic discussion is welcomed.
2. The first questions to be discussed should be:
 - The legal basis of the instrument fully taking into account the ruling of the European Court of Justice (case C-301/06) and the opinion of the Council Legal Service (16614/07);
 - The proof of need and usefulness of the instrument also against the background of existing systems/databases;
 - The question, whether the PNR system should be an isolated instrument (as foreseen in the abandoned proposal of the Commission) or be part of a comprehensive system;
 - The discussion on the other elements of such a PNR-system should only start when the above mentioned questions are solved.

3. The European Parliament should be involved in the discussion in an appropriate way.
4. The legal instrument shall foresee a strong and coherent data protection regime.
5. The system must be efficient and effective in order to avoid unnecessary financial and administrative burden for air carriers and involved authorities. Therefore a centralised system should be considered.
