



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 20 April 2012**

**8805/12**

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**Interinstitutional File:  
2011/0382 (NLE)**

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**JAI 256  
USA 7  
RELEX 336  
DATAPROTECT 51**

**“I/A” ITEM NOTE**

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from: General Secretariat  
to: COREPER/Council

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No. prev. doc.: 17433/11 JAI 861 USA 84 RELEX 1233 DATAPROTECT 138 + COR 1  
17434/11 JAI 862 USA 85 RELEX 1234 DATAPROTECT 139 + COR 1 (en) +  
COR 2 (fi) + COR 3 (bg) + COR 4 (fi, nl) + REV 1 (sl) + REV 2 (pl)

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Subject: Council Decision on the conclusion of the Agreement between the United States  
of America and the European Union on the use and transfer of Passenger Name  
Records to the United States Department of Homeland Security  
- Adoption of the Decision on conclusion

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1. On 23 November 2011 the Commission submitted to the Council two proposals, one for a Council Decision on the signing of the Agreement between the United States of America and the European Union on the use and transfer of Passenger Name Records to the United States Department of Homeland Security and a second one for a Council Decision on the conclusion of this Agreement.
2. On 8 February 2012 the United Kingdom notified the Council that it intended to participate in the adoption of the decision on the conclusion of this Agreement.<sup>1</sup>

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<sup>1</sup> 6352/12 JAI 81 USA 4 RELEX 109 DATAPROTECT 17.

3. In accordance with the Council Decision of 13 December 2012 on the signing of the Agreement between the United States of America and the European Union on the use and transfer of Passenger Name Records to the United States Department of Homeland Security<sup>1</sup>, this Agreement was signed on 14 December 2011, subject to its conclusion at a later date.
4. On 13 December 2012 the Council decided to forward - once the Agreement would have been signed - the draft decision on the conclusion as contained in J/L document 17433/11 JAI 861 USA 84 RELEX 1233 DATAPROTECT 138 as well as the text of the Agreement as contained in J/L document 17434/11 JAI 862 USA 85 RELEX 1234 DATAPROTECT 139 + COR 1 (en) + COR 2 (fi) + COR 3 (bg) + COR 4 (fi, nl) + REV 1 (sl) + REV 2 (pl) to the European Parliament for its consent.
6. On 19 April 2012, the European Parliament gave its consent to the conclusion of the Agreement.
7. In view of the above, the Council is invited:
  - to adopt, with Germany and Austria abstaining from voting, the decision on the conclusion as contained in J/L document 17433/11 JAI 861 USA 84 RELEX 1233 DATAPROTECT 138 + COR 1; and
  - to decide to enter in the minutes of the Council the statements made by Denmark and Ireland upon adoption of this Decision, contained in Annexes I and II to this note.

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<sup>1</sup> 17432/11 JAI 860 USA 83 RELEX 1232 DATAPROTECT 137.

STATEMENT BY DENMARK

"In accordance with Article 27 of the Agreement the European Commission may notify the United States that Denmark has chosen to be bound by the Agreement. The European Commission's notification to United States concerning Denmark can only take place if Denmark, in accordance with its constitutional requirements, has taken the steps necessary for it to be bound by agreements of the European Union in the area of Freedom, Security and Justice. Until then Denmark is not bound by the Agreement or subject to its application in accordance with Protocol (No 22) on the position of Denmark annexed to the Treaty on European Union and the Treaty of the Functioning of the European Union."

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**DECLARATION BY IRELAND CONCERNING THE PROPOSAL FOR A COUNCIL  
DECISION ON THE CONCLUSION OF THE AGREEMENT BETWEEN THE  
EUROPEAN UNION AND THE UNITED STATES OF AMERICA ON THE USE AND  
TRANSFER OF PASSENGER NAME RECORDS TO THE UNITED STATES  
DEPARTMENT OF HOMELAND SECURITY**

"In the circumstances where Ireland has taken part in discussions over a long period of time concerning the Agreement and mindful of the very great importance of the Agreement, and in particular the need to ensure its speedy implementation in order to combat terrorism and serious transnational crime, Ireland declares its intention, subject to Parliamentary approval as required by the Constitution of Ireland, to exercise the option provided in Article 4 of Protocol 21 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 to indicate its acceptance of the measure after its adoption."

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