

Frits Bolkestein
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Brussels, **11.09.03** **4756**
SB - D 19

Dear Secretary,

Thank you for your letters of 7 August and 9 September. You will be aware that I recently made a public statement about the transfer of PNR data to the US before the European Parliament's Citizens' Rights and Freedoms Committee and there is therefore no need for me to set out here in full the Commission's present position. Before the Parliament, I was able to draw attention to the progress made in the dialogue and to the constructive tone of your August letter (I had not by then received the more recent one), but I reported also to the Committee the Commission's conclusion that US undertakings do not yet provide the basis for a solution, even with the very welcome improvement regarding sensitive data announced in your first letter and the other clarifications provided.

I received the Committee's full support for continuing to seek a solution with you. As I told them, the Commission's view is that the first step must be to persevere in our efforts to secure from the US authorities concerned the improved undertakings we need in order to consider them as meeting our "adequate protection" requirement. Mr Asa Hutchinson's visit to Brussels on 22 September seems to provide an excellent opportunity to take things forward and – in response to your remarks to Loyola de Palacio in Italy last weekend – we shall try to let you have some clear proposals about how you could meet our concerns. If necessary, you and I could perhaps meet when I am in Washington DC on 13-15 October (mostly on Treasury and SEC business).

In the meantime, I hope we can avoid any rise in the temperature as would result from adding to the existing data transfers to US CBP. We are aware that several European airlines that received requests to supply PNR more recently (i.e. since March 5th) have been asked by US CBP to do so by 12 September. For at least some of these, providing the data within that deadline would present very considerable difficulties and I trust that a way can be found of putting US CBP's requests on hold until we can see a solution emerging to the overall problem. Nothing is more likely to make our task even more difficult than it already is than the introduction of "secondary inspections" or other sanctions against airlines that face the legal dilemma we are trying to resolve together. Thank you in advance for your understanding in this regard, which is essential to keeping the present process of constructive dialogue on track for a mutually satisfactory solution.

At the European Parliament earlier this week there was a clear consensus that a solution must be found – and fast. I therefore look forward to making good progress towards a solution in the next weeks, both in my talks with Mr Hutchinson and if necessary with you in October.

Yours truly

Frits Bolkestein

Mr. Tom Ridge
Secretary
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