EC/United States agreement: processing and transfer of passenger name record data (PNR) by air carriers

2004/0064(CNS) - 17/05/2004 - Final act

PURPOSE : to conclude the Agreement with the United States on the transfer of PNR data. LEGISLATIVE ACT : Council Decision 2004/496/EC 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. CONTENT : This Decision concludes the above-mentioned Agreement. It should be noted that the European Parliament has not given an Opinion within the time-limit which, pursuant to the first subparagraph of Article 300(3) of the Treaty, the Council laid down. The recitals to the Decision cite the urgent need to remedy the situation of uncertainty in which airlines and passengers found themselves, as well as to protect the financial interests of those concerned. With regard to the content of the Agreement, the main points are as follows: - The United States Bureau of Customs and Border Protection ('CBP') may electronically access Passenger Name Record ('PNR') data from air carriers' reservation/departure control systems ('reservation systems') located within the territory of the Member States of the EC until there is a satisfactory system in place allowing for transmission of such data by the air carriers. - Air carriers operating passenger flights in foreign air transportation to or from the United States will process PNR data contained in their automated reservation systems as required by CBP pursuant to US law and strictly in accordance with the Decision and for so long as the Decision is applicable. - CBP gives certain undertakings annexed to the Decision. - CBP must process PNR data received and treat data subjects concerned by such processing in accordance with applicable US laws and constitutional requirements, without unlawful discrimination, in particular on the basis of nationality and country of residence. - CBP and the European Commission will jointly and regularly review the implementation of this Agreement. - In the event that an airline passenger identification system is implemented in the EU which requires air carriers to provide authorities with access to PNR data for persons whose current travel itinerary includes a flight to or from the EU, the Department of Homeland Security will, strictly on the basis of reciprocity, actively promote the cooperation of airlines within its jurisdiction. - Either Party may terminate the Agreement at any time by notification through diplomatic channels. The termination shall take effect ninety days from the date of notification of termination to the other Party. This Agreement may be amended at any time by mutual written agreement.