Basic information

2004/0064(CNS) CNS - Consultation procedure Decision	Procedure completed
EC/United States agreement: processing and transfer of passenger name record data (PNR) by air carriers **Subject** 1.20.09 Protection of privacy and data protection 3.20.15.02 Air transport agreements and cooperation 7.30.20 Action to combat terrorism **Geographical area** United States	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
LIBE Citizens' Freedoms and Rights, Justice and Home Affairs	BOOGERD-QUAAK Johanna L.A. (ELDR)	19/05/2003

Committee for opinion	Rapporteur for opinion	Appointed
AFET Foreign Affairs, Human Rights, Common Security, Defense	BROK Elmar (PPE-DE)	18/03/2004

Council of the European Union

Council configuration	Meetings	Date
General Affairs	2581	2004-05-17
Justice and Home Affairs (JHA)	2574	2004-03-30

European Commission

Commission DG	Commissioner
External Relations	

Key events

Date	Event	Reference	Summary
17/03/2004	Decision by Parliament	COM(2004)0190	Summary
17/03/2004	Legislative proposal published	COM(2004)0190	Summary

29/03/2004	Committee referral announced in Parliament		
06/04/2004	Vote in committee		Summary
06/04/2004	Committee report tabled for plenary, 1st reading/single reading	A5-0271/2004	
20/04/2004	Debate in Parliament		
17/05/2004	Act adopted by Council after consultation of Parliament		
17/05/2004	End of procedure in Parliament		
20/05/2004	Final act published in Official Journal		

Technical information

Procedure reference	2004/0064(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	International agreement
Legislative instrument	Decision
Legal basis	EC Treaty (after Amsterdam) EC 300-p2 EC Treaty (after Amsterdam) EC 095
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/5/20831

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		A5-0271/2004	06/04/2004	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2004)0190	17/03/2004	Summary

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Decision 2004/0496
OJ L 183 20.05.2004, p. 0083-0083

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

2004/0064(CNS) - 17/03/2004 - Legislative proposal

PURPOSE : to conclude 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. PROPOSED ACT : Council Decision (Agreement). CONTENT : throughout 2003, the Commission has been working with the United States of America to try to put in place a sound legal framework for the transfers of PNR data to the United States Department of Homeland Security, Bureau of Customs and Border Protection (CBP). As outlined in the Communication from the Commission to the Council and the Parliament of 16 December 2003 (INI/2004/2011), this legal framework should take the form of a Decision by the Commission under Article 25 paragraph 6 of the Data Protection Directive (95/46/EC), accompanied by an international agreement between the European Community and the US. The latter is necessary to deal with such legal problems as are not addressed by the adequacy finding. On 23 February 2004, the Council of the European Community authorised the Commission to negotiate such an Agreement with the US and issued a series of negotiating guidelines. The Commission now calls on the Council to conclude the Agreement reached with the US. This is the purpose of the present proposal. The main principles of the proposed Agreement are as follows: - the importance of respecting fundamental rights and freedoms, notably privacy, and the importance of respecting these values, while preventing and combating terrorism and related crimes and other serious crimes that are transnational in nature, including organised crime; - statutes and regulations requiring each air carrier operating passenger flights in foreign air transportation to or from the United States to provide the Department of Homeland Security (DHS), Bureau of Customs and Border Protection (CBP) with electronic access to Passenger Name Record (PNR) data to the extent it is collected and contained in the air carrier's automated reservation/departure control systems; - CBP may electronically access the PNR data from air carriers' reservation/departure control systems ("reservation systems") located within the territory of the Member States of the European Community strictly in accordance with the Decision and for so long as the Decision is applicable and only 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 shall 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 shall process PNR data received and treat data subjects concerned by such processing in accordance with applicable U.S. laws and constitutional requirements, without unlawful discrimination, in particular on the basis of nationality and country of residence; - CBP and the European Commission shall jointly and regularly review the implementation of this Agreement; - in the event that an airline passenger identification system is implemented in the European Union which requires air carriersto provide authorities with access to PNR data for persons whose current travel itinerary includes a flight to or from the European Union, DHS shall, in so far as practicable and strictly on the basis of reciprocity, actively promote the cooperation of airlines within its jurisdiction. The Agreement also notes that air carriers with reservation /departure control systems located within the territory of the Member States of the European Community should arrange for transmission of PNR data to CBP as soon as this is technically feasible but that, until then, the US authorities should be allowed to access the data directly, in accordance with the provisions of this Agreement. In addition, it affirms that this Agreement does not constitute a precedent for any future discussions and negotiations between the United States and the European Community, or between either of the Parties and any State regarding the transfer of any other form of data. It takes account of the commitment of both sides to work together to reach an appropriate and mutually satisfactory solution, without delay, on the processing of Advance Passenger Information (API) data from the Community to the United States.

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.