Basic information

2005/0095(CNS) CNS - Consultation procedure Decision	Procedure completed
EC/Canada agreement: air transport and right to privacy, processing of advance passenger information (API) and passenger name record (PNR) data **Subject** 1.20.09 Protection of privacy and data protection 3.20.01 Air transport and air freight 3.20.15.02 Air transport agreements and cooperation **Geographical area** Canada	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
LIBE Civil Liberties, Justice and Home Affairs	IN 'T VELD Sophia (ALDE)	13/06/2005

Committee for opinion	Rapporteur for opinion	Appointed
AFET Foreign Affairs	The committee decided not to give an opinion.	

Committee for opinion on the legal basis	Rapporteur for opinion	Appointed
JURI Legal Affairs	MEDINA ORTEGA Manuel (PSE)	20/09/2004

Council of the European Union

Council configuration	Meetings	Date
General Affairs	2674	2005-07-18

European Commission

Commission DG	Commissioner
External Relations	

Key events

Date	Event	Reference	Summary
19/05/2005	Legislative proposal published	COM(2005)0200	Summary
22/06/2005	Committee referral announced in Parliament		
04/07/2005	Vote in committee		
04/07/2005	Committee report tabled for plenary, 1st reading/single reading	A6-0226/2005	
07/07/2005	Decision by Parliament	T6-0294/2005	Summary
07/07/2005	Results of vote in Parliament		
18/07/2005	Act adopted by Council after consultation of Parliament		
18/07/2005	End of procedure in Parliament		
21/03/2006	Final act published in Official Journal		

Technical information

Procedure reference	2005/0095(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	International agreement
Legislative instrument	Decision
Legal basis	EC Treaty (after Amsterdam) EC 300-p2-a1 EC Treaty (after Amsterdam) EC 095
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/6/28261

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Amendments tabled in committee		PE360.151	24/06/2005	
Committee report tabled for plenary, 1st reading/single reading		A6-0226/2005	04/07/2005	
Committee opinion	JURI	PE360.233	04/07/2005	
Text adopted by Parliament, 1st reading/single reading		T6-0294/2005 OJ C 157 06.07.2006, p. 0406-0464 E	07/07/2005	Summary

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2005)0200	19/05/2005	Summary

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
OS	Document attached to the procedure	N6-0017/2005 OJ C 218 06.09.2005, p. 0006-0010	15/06/2005	

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Decision 2006/0230
OJ L 082 21.03.2006, p. 0014-0019 Summary

EC/Canada agreement: air transport and right to privacy, processing of advance passenger information (API) and passenger name record (PNR) data

2005/0095(CNS) - 18/07/2005 - Final act

PURPOSE : to conclude the agreement between the European Community and the Canadian government on the processing of airline passenger data (API/PNR).

LEGISLATIVE ACT : Council Decision 2006/230/EC.

CONTENU : on 7 March 2005, the Council authorised the Commission to negotiate on behalf of the Community an Agreement with Canada on the processing and transfer of Advance Passenger Information (API) and Passenger Name Record (PNR) data by air carriers to the Canada Border Services Agency (CBSA).

The purpose of this Agreement is to ensure that API/PNR data of persons on eligible journeys is provided in full respect of fundamental rights and freedoms, in particular the right to privacy. An eligible journey is a passage by an air carrier from the territory of one Party to the territory of the requesting Party.

EC/Canada agreement: air transport and right to privacy, processing of advance passenger information (API) and passenger name record (PNR) data

2005/0095(CNS) - 19/05/2005 - Legislative proposal

PURPOSE : to conclude an agreement with Canada for the processing and transfer of Advanced Passenger Information (API) and Passenger Name Record (PNR) data for journeys by air carriers between the EU and Canada.

PROPOSED ACT : Council Decision.

CONTENT : the background to this proposal is as follows: after September 11 2001, Canada adopted legislation authorising the Canada Border Services Agency to obtain API and PNR data relating to all persons on board flights bound for Canada. CBSA phased in the requirement to provide PNR data relating to persons on board flights bound for Canada between March 2003 and September 2004, and from February 2005 introduced a system of monetary penalties for non-compliance. The EU has a temporary derogation from this requirement until 1 July 2005, in order to allow negotiations on an international agreement with Canada to take place. The Canadian measures potentially conflicted with Community and Member

States' legislation on privacy and data protection, and in particular with Directive 95/46/EC. From July 2005, airlines will potentially face sanctions for non-compliance on both sides, without being able to solve the legal problems at stake. A solution is thus urgently required which will avoid legal uncertainty for airlines while ensuring the protection of citizens' personal privacy as well as their physical security.

The Commission has proposed a legal framework based on three elements:

- the Commitments made by CBSA with respect to the additional protection to be afforded to API/PNR data;

- a Commission Decision finding protection adequate under Article 25 paragraph 6 of the Data Protection Directive (95/46/EC), and

- a bilateral agreement between the European Community and Canada.

The proposed agreement provides a legitimate basis for the transfer of data to Canada in accordance with the requirements of Article 7 of Directive 95 /46/EC, that is, the creation of a legal obligation within the Community to obey requirements under Canadian law. The application of this legal obligation is subject to the Commission Decision on adequacy being in force, in such a way as to ensure that any persistent non-compliance by Canada with its Commitments would lead to suspension of the Decision and automatically to suspension of the agreement.

The proposed agreement also enshrines the general principles of non-discrimination and reciprocity, and provides for annual joint review of its implementation.

The agreement does not create additional financial burdens for the Community or national governments. The administrative requirement to hold an annual Joint Review of the implementation of the agreement is proportional to its aim of providing for the processing and transfer of API/PNR data consistent with data privacy and security requirements, and will be fulfilled using existing staff resources.

EC/Canada agreement: air transport and right to privacy, processing of advance passenger information (API) and passenger name record (PNR) data

2005/0095(CNS) - 07/07/2005 - Text adopted by Parliament, 1st reading/single reading

By 321 votes for, 53 against and 192 abstentions, the European Parliament adopted the report by Sophia **IN'T VELD** (ADLE, NL) which aimed to reject the EU-Canada agreement on the use of personal data provided by airlines to the border authorities of Canada.

Parliament felt that the signature of such an agreement should be postponed until the Court of Justice takes a final decision on a very similar procedure between the EU and USA on the transfer of data, even if they agreed in principle with the content of the Canada agreement.

Parliament also claimed that for this kind of agreement, the assent procedure should be used instead of the consultation procedure as is the case now.

It should be noted that even if they decided to reject the Council initial proposal for these procedural reasons, the House considers the content of the agreement with Canada to be an "acceptable balance" between ensuring security and protecting personal data. It was argued during the debates in the Civil Liberties Committee that the agreement to transfer personal information from citizens who travel into Canada would be acceptable, since Canada has a good legislative system on data protection and because the use of such data would be strictly limited.

The negotiation approach by the European Parliament is similar to that regarding the EU-USA agreement. In 2003 and 2004, MEPs adopted a number of critical resolutions, expressing serious concerns with regard to the use of PNR data. In particular, the Parliament stressed that using PNR data is far from being effective in the fight against terrorism and that there was a serious risk of violating the data protection principles.

Subsequently, in August 2004 the European Parliament brought an action before the Court of Justice for the annulment of the EU-US agreement, judgement on which is still pending.