



**COUNCIL OF
THE EUROPEAN UNION**

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LIMITE

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NOTE

From: Commission
To: JHA Counsellors/COREPER

Subject: Draft declarations regarding the draft Agreement on the use and transfer of Passenger Name Records by air carriers to the United States Department of Homeland Security

Delegations will find attached two draft declarations proposed by the Commission, regarding onward transfer (Annex I) and the composition of the PNR evaluation team (Annex II).

Regarding onward transfer, the Commission also proposes to add the following additional recital:

"Noting the interest of the parties, as well as EU Member States, in exchanging information regarding the transfer of PNR as set forth in the relevant article of this Agreement, and further noting the EU's interest in having this addressed in the context of the consultation and review mechanism set forth in this Agreement;"

Declaration by the EU on the Agreement on the use and transfer of Passenger Name Records by air carriers to the United States Department of Homeland Security (“the Agreement”), in respect of their obligations under Articles 17 and 23 of the Agreement.

1. In the context of the joint review and evaluation mechanism set out in Article 23 of the Agreement, and without prejudice to other matters that may be raised through this mechanism, the European Union will seek information from the US on the exchange of information where appropriate, regarding the transfers of European Union citizens' and residents' PNR data to the authorities of third countries as laid down in Article 17 of the Agreement;
2. In the context of the consultation and review mechanism set out in Article 23 of the Agreement, the EU will request from the US all appropriate information on the implementation of the conditions governing those transfers in accordance with the provisions of Article 17;
3. The EU, in the context of the consultation and review mechanism set out in Article 23 of the Agreement, will pay particular attention to the respect of all the safeguards for the implementation of the provisions of Article 17(2), so as to be satisfied that third countries receiving such data have agreed to afford to the data the privacy protections comparable to those provided to PNR by DHS under the Agreement.

Declaration by the European Commission on the Agreement on the use and transfer of Passenger Name Records by air carriers to the United States Department of Homeland Security (“the Agreement”), in respect of its obligations under Article 23 of the Agreement

The European Commission commits to inviting appropriate experts on data protection and law enforcement to participate in its joint review team for the purposes of Article 23(2) of the Agreement.
