



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 23 June 2006**

**10826/06**

**LIMITE**

**JAI 325  
ENFOPOL 135  
TRANS 173  
USA 55**

**"A" ITEM NOTE**

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from : Presidency

to : Council

No. Cion prop. : 10613/06 JAI 316 ENFOPOL 128 TRANS 169 USA 52

10681/06 JAI 319 ENFOPOL 131 TRANS 170 USA 53 **RESTREINT UE**

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Subject : - Termination of the 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  
- Authorisation to open negotiations for an agreement between the EU and the United States of America on the use of passenger name records (PNR) data to prevent and combat terrorism and transnational crime, including organised crime.

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1. At its meeting on 22 June 2006, Coreper examined the following proposals from the Commission :

- Termination of the 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

- Authorisation to open negotiations for an agreement between the EU and the United States of America on the use of passenger name records (PNR) data to prevent and combat terrorism and transnational crime, including organised crime.

2. On the basis of the discussion, Coreper agreed to invite the Council to:

- agree on the attached draft letter aimed at denouncing the Agreement between the USA and the European Community, as provided for by Article 7 of the said Agreement,
- authorise the Presidency, assisted by the Commission, to negotiate an Agreement on the use of Passenger Name Records (PNR) data to prevent and combat terrorism and transnational crime, including organised crime,
- adopt the negotiating directives contained in the addendum RESTREINT UE,
- task the Presidency, assisted by the Commission, to inform the European Parliament about the negotiations of the Agreement.

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## ANNEX

The Presidency of the Council of the European Union and the European Commission present their compliments to .... and have the honour to state the following.

The Court of Justice of the European Communities in its Judgment of 30 May 2006 in joined cases C-317/04 European Parliament v Council of the European Union and C-318/04 European Parliament v Commission of the European Communities has annulled the Council Decision 2004/496/EC of 17 May 2004 on the conclusion of the 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 (hereinafter as “the Agreement”), as well as the Commission Decision 2004/535/EC of 14 May 2004 (the so-called Adequacy Decision) which was closely linked to the Agreement. The Court has preserved the effects of this Decision until 30 September 2006.

The Council of the European Union and the European Commission hereby, pursuant to Article 7, denounce the Agreement. The termination shall take effect ninety (90) days from the date of this notification, i.e. on the 30 September 2006.

*(Diplomatic formula of politeness)*

For the Council of the European Union    For the European Commission

Presidency