



**COUNCIL OF
THE EUROPEAN UNION**



Luxembourg, 16 October 2006
14006/06 (Presse 288)

Council adopts decision on signature of Agreement with the United States on the continued use of PNR data

The Council adopted today¹ a decision authorising the Presidency to sign an interim Agreement with the United States on the continued use of passenger name record (PNR) data.

The process of signature by both parties is due to be completed on 18 October.

On 6 October, the EU and the United States completed negotiations on the interim Agreement, which covers the processing and transfer of passenger name record (PNR) data by air carriers to the US Administration.

The interim Agreement provides legal certainty by replacing an Agreement of May 2004 between the European Community and the US, following the Court of Justice of the European Communities' judgment of 30 May 2006.

¹ The decision was adopted by the General Affairs and External Relations Council, without discussion.

P R E S S

The new Agreement will help to prevent and combat terrorism and serious transnational crime, whilst ensuring an equivalent level of protection of passengers' personal data in line with European standards on fundamental rights and privacy.

The interim Agreement enables PNR data in the reservation systems of air carriers to continue to be transferred to the US in the same way as under the previous Agreement. The US Administration may access electronically PNR data from air carriers' reservation/departure control systems located within the territory of the EU Member States, in accordance with specific undertakings. This system will be replaced in due course by one under which airlines in the EU will send the required data to the US.

Under the interim Agreement, the EU will ensure that air carriers operating passenger flights in foreign air transportation to or from the US process PNR data contained in their automated reservation systems as required by the US Administration.

The US Administration will continue to process PNR data received and treat data subjects concerned by such processing in accordance with undertakings given in 2004.

The Agreement will apply provisionally as of the date of signature. It will expire upon the date of application of any superseding agreement and in any event no later than 31 July 2007, unless extended by mutual written agreement.

In its judgment of 30 May 2006, the Court of Justice annulled Council Decision 2004/496/EC of 17 May 2004 on the approval by the European Community of the previous Agreement (on the processing and transfer of PNR data by air carriers to the US Administration), as well as Commission Decision 2004/535/EC of 14 May 2004 (the so-called Adequacy Decision), which was closely linked to it.

The Court annulled these Decisions on the grounds that they did not fall within the competence of the European Community; however, it did not rule that the Decisions infringed fundamental rights with regard to data protection.

In annulling the Decisions, the Court preserved the effects of the two Decisions, but only until 30 September 2006.

In consequence, the EU denounced the Agreement and negotiated the new one with the US, which falls within the competence of the European Union, and not the European Community.