



**Brussels, 6 December 2017  
(OR. en)**

**14763/1/17  
REV 1**

**DAPIX 416  
CDN 14  
DATAPROTECT 209  
AVIATION 177  
RELEX 1079  
CT 157  
JAI 1168**

**'I/A' ITEM NOTE**

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From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
No. prev. doc.:	13490/17
Subject:	Council Decision authorising the opening of negotiations for an Agreement between the European Union and Canada for the transfer and use of Passenger Name Record (PNR) data, and the Addendum thereto

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1. At their meeting on 27 October 2017, JHA counsellors discussed the Commission Recommendation<sup>1</sup> for a Council Decision authorising the opening of negotiations for an Agreement between the EU and Canada for the transfer and use of Passenger Name Record (PNR) data, ("EU Canada PNR Agreement") and the Addendum thereto containing the Directives for the negotiation for said Agreement.

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<sup>1</sup> Recommendation for a Council Decision authorising the opening of negotiations on an Agreement between the European Union and Canada for the transfer and use of Passenger Name Record (PNR) data to prevent and combat terrorism and other serious transnational crime.

2. With regard to Article 3 of Protocol No 21, annexed to the Treaty on the European Union and to the Treaty of the Functioning of the European Union, the United Kingdom notified by letter of 5 December 2017<sup>2</sup> its wish to take part in the adoption and application of the above Decision.
3. With regard to Articles 1 and 2 of Protocol No 21, annexed to the Treaty on the European Union and to the Treaty of the Functioning of the European Union, Ireland stated that it will not insist upon its right to have 3 months within which to exercise Ireland's option to notify the President of the Council of its wish to participate in the adoption and application of the proposed Council Decision. The statements of the Irish delegation is annexed to this note.
4. *On this basis, COREPER is requested to invite the Council*
  - *to adopt as an "A" item on its agenda the draft Council Decision authorising the opening of negotiations for an Agreement between the EU and Canada for the transfer and use of Passenger Name Record (PNR) data, ("EU Canada PNR Agreement"), as set out in 13672/1/17 REV 1 CDN 7 DAPIX 350 DATAPROTECT 170 AVIATION 145 RELEX 905 JAI 966 CT 114 and the Addendum thereto containing the Directives for the negotiation for said Agreement, as set out in 13672/1/17 REV 1 ADD1 CDN 7 DAPIX 350 DATAPROTECT 170 AVIATION 145 RELEX 905 JAI 966 CT 114;*
  - *to insert the statement of the Irish delegation set out in Annex I to this note into the Council minutes;*
  - *to insert the statement of the UK delegation set out in Annex II to this note into the COREPER and Council minutes.*

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<sup>2</sup> 15485/17

**Statement by Ireland:**

The Irish delegation notes that it is intended that the Council will make a decision authorising the opening of negotiations for an Agreement between the European Union and Canada for the transfer and use of Passenger Name Record less than 3 months after presentation of this proposed decision to the Council.

In these exceptional circumstances, mindful of the importance of the proposed Council Decision and in acknowledgement of the need to allow its speedy adoption, the Irish delegation will not insist, in this instance, upon its right to have 3 months within which to exercise Ireland's option to notify the President of the Council of its wish to participate in the adoption and application of the proposed Council Decision in accordance with the provisions of Article 3 of Protocol 21 on the Position of the United Kingdom and Ireland in respect of the area of Freedom, Security and Justice annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union.

**Statement by the United Kingdom:**

The United Kingdom and Ireland have a special position under Protocol 21 to the Treaty on the Functioning of the European Union. Article 3 of Protocol 21 provides the United Kingdom and Ireland with a period of 3 months to consider whether to take part in a measure.

That Protocol applies to the proposed Council Decision authorising the opening of negotiations on an Agreement between the European Union and Canada for the transfer and use of Passenger Name Record (PNR) data to prevent and combat terrorism and other serious transnational crime.

The United Kingdom regrets that it has not been given the full three months, in accordance with the Treaties, to take a decision on whether to participate in this measure.

Nevertheless, in this case, the United Kingdom has informed the Presidency that it is taking part in the adoption of the Council Decision.

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