



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 7 April 2014
(OR. en)**

**8260/14
ADD 1**

**Interinstitutional File:
2011/0295 (COD)**

**CODEC 929
EF 106
ECOFIN 314
DROIPEN 48**

"I/A" ITEM NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

Subject: Proposal for a Regulation of the European Parliament and of the Council on insider dealing and market manipulation (market abuse) **(first reading)**
- Adoption of the legislative **(LA + S)**
= Statement

Statement by Sweden and Austria

The agreement means that administrative authorities will be able to access data traffic records held by providers of public electronic communications networks. This amounts to a serious interference with the right to respect of private and family life and the right to protection of personal data. Issues of privacy and surveillance are highly sensitive topics that need to be dealt with in a consistent manner across all EU policy areas. We welcome that the recitals clarify that Member States should have adequate and effective safeguards, i.e. prior judicial authorization, for the exercise of those powers. We would have preferred that the requirement of adequate and effective judicial safeguards was reflected in the Article as well. In this context the opinion of the EDPS should be duly considered. Further, we assume, and strongly suggested that it was explicitly mentioned, that the access does not cover data retained for the purposes of Directive 2006/24/EC (the Data Retention Directive), as this would circumvent the requirement in the Data Retention Directive of retention only for the purposes of investigating, detecting and prosecuting serious crimes. Any expansion in the access to traffic data outside judicial procedures would set a dangerous precedent for other EU dossiers.