



Brussels, 13 May 2016
(OR. en)

8633/16

Interinstitutional File:
2016/0127 (NLE)

JAI 352
USA 26
DATAPROTECT 46
RELEX 355

'A' ITEM NOTE

From:	General Secretariat of the Council
To:	Council
No. prev. doc.:	8818/16
Subject:	Draft Council Decision on the signing, on behalf of the European Union, of an Agreement between the United States of America and the European Union on the protection of personal information relating to the prevention, investigation, detection, and prosecution of criminal offenses (Umbrella Agreement) - Adoption

1. On 3 December 2010, the Council authorised the Commission to open negotiations on behalf of the EU for an Agreement between the EU and the United States on the above-mentioned subject (hereafter "the Agreement"). The Council also decided that the negotiations should be conducted on the basis of the negotiating directives annexed to the Decision¹.

¹ 17480/10.

2. The **aim** of the Agreement is to provide a comprehensive high-level data protection framework for EU-US law enforcement cooperation. The Agreement does not itself authorise data transfers between the EU and the US. Instead, its purpose is to supplement existing agreements in the field of law enforcement concluded between EU-US and US and between the US and EU Member States. It will provide safeguards and guarantees to the lawfulness of data transfers. It will also create clear and harmonised data protection rules and set a high level of data protection for future agreements in this field.

During the negotiations the EU negotiators had made it clear that the signature and conclusion of the agreement would depend on the adoption by the US of the **Judicial Redress Bill**. This Bill is aimed at extending the protection of the US Privacy Act to EU citizens. On 24 February 2016, President Obama signed the Bill into law.

3. The Agreement was **initialled** on 8 September 2015.

4. On 29 April 2016, the Commission submitted to the Council two proposals: one for a Council Decision on the signing, on behalf of the European Union, of an Agreement between the United States of America and the European Union on the protection of personal information relating to the prevention, investigation, detection and prosecution of criminal offences² and another for a Council Decision on conclusion of this Agreement³.

5. At its meeting on 11 May 2016, the Permanent Representative Committee reached an agreement on the text of the draft Decision on the signing, subject to some amendments, in particular as regards recitals (4) and (5). This agreement is reflected in document 8818/16.

6. FR, FI and UK entered parliamentary reservations. AT indicated that it will abstain from voting.

² 8245/16 and 8245/16 ADD 1.

³ 8249/16 and 8249/16 ADD 1.

7. The Council is accordingly invited to:

- adopt, as an "A" item of the agenda of one of its forthcoming sessions, the Decision on the signing, verified by the lawyer-linguists, as set out in 8505/16;

The Decision on the signing together with the text of the Agreement will be published in the OJ in accordance with the applicable rules.

The European Parliament shall be informed about the adoption of this Decision.
