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European Union

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'I/A' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee (Part 2)/Council
No. Cion doc.:	8491/16
Subject:	Proposal for a Council Decision on the conclusion, 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 offences - Request for the consent of the European Parliament

1. On 3 December 2010, the Council authorised the Commission to open negotiations on behalf of the EU for an Agreement between the European Union and the United States of America 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 the EU and the 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 Judicial Redress Bill into law.

3. On 29 April 2016, the Commission submitted two proposals to the Council: 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.

4. In accordance with the Council Decision of 20 May 2016 on the signing of the 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 offences⁴ the Agreement was signed on 2 June 2016, subject to its conclusion at a later stage.

5. The Decision on the conclusion and the text of the Agreement have been verified by the lawyer-linguists. The verified texts are set out in 8523/16 and 8557/16 + COR 1 + REV 1 (hu), REV 1 COR 1 (hu) + REV 2 (ro) and REV 2 COR 1 (ro).

6. The Permanent Representatives Committee is accordingly invited to recommend that the Council decides to forward the draft Decision on the conclusion as set out in 8523/16 to the European Parliament for its consent (Article 218(6) TFEU).

² 8245/16 and 8245/16 ADD 1.

³ 8249/16 and 8249/16 ADD 1.

⁴ OJ L 154, 11.6.2016, p. 1.