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IXIM 53
JAI 251
ENFOPOL 69
CRIMORG 25
JAIEX 16
AVIATION 32
DATAPROTECT 80

'I/A' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Draft Council Decision authorising the opening of negotiations for an agreement between the European Union and Switzerland on the transfer of Passenger Name Record (PNR) data - <i>Adoption</i>

1. On 6 September 2023, the Commission submitted to the Council the 'Recommendation for a Council Decision authorising the opening of negotiations for an agreement between the European Union and the Swiss Confederation on the transfer of Passenger Name Record data from the EU to the Swiss Confederation for the prevention, detection, investigation and prosecution of terrorist offences and serious crime', as well as the negotiation directives annexed to the recommendation (12803/23 + ADD 1).
2. The proposal was first presented at the JHA Information Exchange (IXIM) Working Party on 5 October 2023.

3. At the JHA Counsellors meeting on 25 October 2023, delegations examined the draft Council Decision and considered the addition of Article 16(2) and Article 87(2)(a) TFEU as a legal basis. On 7 November 2023, delegations confirmed their agreement to the addition of the legal basis through an informal consultation procedure.
4. At its meeting on 17 November 2023, working on the basis of 14481/23, the Permanent Representatives Committee (part 2) approved the addition of Article 16(2) and Article 87(2)(a) TFEU to the legal basis of the draft Council Decision. The date of the approval of this addition by Coreper marked, for this file, the commencement of the opt-in period provided for in Article 3 of Protocol 21 to the Treaties. It also triggered the application of Protocol 22 to the Treaties.
5. On 15 February 2024 Ireland notified the General Secretariat of the Council that it wishes to take part in the adoption and application of the Decision (6671/24).
6. *On this basis, COREPER / Council is invited to adopt as a I/A item at a forthcoming meeting the draft Decision, as set out in the LL version (5385/24 + ADD 1), authorising the opening of negotiations for an agreement between the EU and Switzerland for the transfer and use of PNR data.*
