



Brussels, 3 February 2020  
(OR. en)

5365/20

IXIM 5  
RELEX 35  
DATAPROTECT 8  
AVIATION 8  
JAI 35  
COASI 5  
ASIE 1

**'I/A' ITEM NOTE**

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

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Subject: Draft Council Decision authorising the opening of negotiations for an Agreement between the European Union and Japan for the transfer and use of Passenger Name Record (PNR) data

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1. On 27 September 2019, the Commission submitted to the Council the 'Recommendation for a Council Decision to authorise the opening of negotiations for an Agreement between the European Union and Japan for the transfer and use of Passenger Name Record (PNR) data to prevent and combat terrorism and other serious transnational crime', as well as the negotiation directives annexed to the recommendation (12759/19 + ADD 1).
2. On 11 October 2019, JHA Councillors discussed the recommendation and agreed to revise the proposal in order to adapt the wording to Council standards and, furthermore, to extend the procedural legal basis suggested by the Commission by a substantive one.

3. Complementing the legal basis by article 16(2) and, in particular, article 87(2)(a) triggered the application of Protocol 21 on the position of the United Kingdom and of Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on the European Union and to the Treaty on the Functioning of the European Union, with the effect that both had the right to define within a period of three months starting on the day of issuing the revised version, their position on whether they wanted to take part in the adoption and application of the Decision or not.
4. At the meeting on 14 November 2019, JHA Councillors discussed the revised version of the Commission proposal (12762/19 + ADD 1) and the Presidency invited delegations to submit further remarks by 19 November 2019 in order to address remaining issues on the revised text.
5. Since no comments were submitted by that date, the revised version was deemed agreed upon pending the position of the United Kingdom and Ireland.
6. With a view to speeding up procedural steps, Ireland waived its right to the full three months to consider its position and informed the Presidency on 16 January 2020 not to take part in the adoption and application of the Decision.
7. *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 (5378/20 + ADD 1), authorising the opening of negotiations for an agreement between the EU and Japan for the transfer and use of PNR data.*