



Treaty Series No. 6 (2022)

Exchange of Notes

between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United States of America on the Protection of Personal Information relating to the Prevention, Investigation, Detection, and Prosecution of Criminal Offenses.

London, 21 July 2022

[The Exchange of Notes entered into force on 21 July 2022]

*Presented to Parliament
by the Secretary of State for Foreign, Commonwealth and Development Affairs
by Command of His Majesty
November 2022*



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**EXCHANGE OF NOTES BETWEEN THE GOVERNMENT OF THE
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND
AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA ON
THE PROTECTION OF PERSONAL INFORMATION RELATING TO
THE PREVENTION, INVESTIGATION, DETECTION, AND
PROSECUTION OF CRIMINAL OFFENSES.**

Note No. 1

*Embassy of the United States of America to the Foreign, Commonwealth and
Development Office*

London

21 July 2022

Note Verbale Number: 018/22

The Embassy of the United States of America ("Embassy") presents its compliments to the Foreign, Commonwealth and Development Office of the United Kingdom of Great Britain and Northern Ireland ("United Kingdom") and has the honor to refer to the beneficial ongoing law-enforcement cooperation between the Government of the United States of America and the Government of the United Kingdom. Further, the Embassy has the honor to refer to 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 Offenses, done at Amsterdam on June 2, 2016 ("U.S.-EU Data Protection and Privacy Agreement" or "U.S.-EU DPPA"), and the U.S. Note Verbale to the EU dated January 16, 2017, regarding entry into force of the U.S.-EU DPPA, copies of which are enclosed. Recognizing that the United Kingdom ceased to be a Member State of the European Union on January 31, 2020, and that the transition period concluded on December 31, 2020, in order to promote legal certainty regarding the safeguards that are applied by the Government of the United States and the Government of the United Kingdom (the "Parties") with respect to personal information transferred for law enforcement purposes, the Embassy proposes the following:

Without prejudice to other agreements between the United States and the United Kingdom that incorporate the U.S.-EU DPPA *mutatis mutandis*, the Government of the United States of America and the Government of the United Kingdom shall apply the U.S.-EU DPPA *mutatis mutandis* to all personal information transferred between the Competent Authorities of one Party and the Competent Authorities of the other Party, or otherwise transferred in accordance with an agreement concluded between the Parties, for the prevention, detection, investigation, and prosecution of criminal offences, including terrorism. Additionally, the Government of the United States and the Government of the United Kingdom intend to apply to this Agreement the understanding reflected in the January 16, 2017 U.S. Note Verbale regarding U.S. law enforcement agencies considered

Competent Authorities for purposes of the U.S.-EU DPPA. For the avoidance of doubt, Article 29(1) of the U.S.-EU DPPA shall not be incorporated into this Agreement.

If the foregoing is acceptable to the Government of the United Kingdom, the Embassy of the United States of America has the honor to propose that this Note and your Note in reply shall constitute an agreement between our two Governments that shall enter into force on the date of your Note in reply.

The Embassy of the United States of America avails itself of this opportunity to reiterate to the Foreign, Commonwealth and Development Office of the United Kingdom assurances of its highest consideration.

Note No. 2

Foreign, Commonwealth and Development Office to the Embassy of the United States of America

London

21 July 2022

The National Security Directorate of the Foreign, Commonwealth and Development Office of the United Kingdom of Great Britain and Northern Ireland has the honour to acknowledge receipt of the Note from the Embassy of the United States of America, dated 21 July 2022, concerning 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 Offenses, done at Amsterdam on 2 June 2016. The Embassy's Note states as follows:

The Embassy of the United States of America ("Embassy") presents its compliments to the Foreign, Commonwealth and Development Office of the United Kingdom of Great Britain and Northern Ireland ("United Kingdom") and has the honor to refer to the beneficial ongoing law-enforcement cooperation between the Government of the United States of America and the Government of the United Kingdom. Further, the Embassy has the honor to refer to 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 Offenses, done at Amsterdam on June 2, 2016 ("U.S.-EU Data Protection and Privacy Agreement" or "U.S.-EU DPPA"), and the U.S. Note Verbale to the EU dated January 16, 2017, regarding entry into force of the U.S.-EU DPPA, copies of which are enclosed. Recognizing that the United Kingdom ceased to be a Member State of the European Union on January 31, 2020, and that the transition period concluded on December 31, 2020, in order to promote legal certainty regarding the safeguards that are applied by the Government of the United States and the Government of the United Kingdom (the "Parties") with respect to

personal information transferred for law enforcement purposes, the Embassy proposes the following:

Without prejudice to other agreements between the United States and the United Kingdom that incorporate the U.S.-EU DPPA *mutatis mutandis*, the Government of the United States of America and the Government of the United Kingdom shall apply the U.S.-EU DPPA *mutatis mutandis* to all personal information transferred between the Competent Authorities of one Party and the Competent Authorities of the other Party, or otherwise transferred in accordance with an agreement concluded between the Parties, for the prevention, detection, investigation, and prosecution of criminal offences, including terrorism. Additionally, the Government of the United States and the Government of the United Kingdom intend to apply to this Agreement the understanding reflected in the January 16, 2017 U.S. Note Verbale regarding U.S. law enforcement agencies considered Competent Authorities for purposes of the U.S.-EU DPPA. For the avoidance of doubt, Article 29(1) of the U.S.-EU DPPA shall not be incorporated into this Agreement.

If the foregoing is acceptable to the Government of the United Kingdom, the Embassy of the United States of America has the honor to propose that this Note and your Note in reply shall constitute an agreement between our two Governments that shall enter into force on the date of your Note in reply.

The Embassy of the United States of America avails itself of this opportunity to reiterate to the Foreign, Commonwealth and Development Office of the United Kingdom assurances of its highest consideration.

The National Security Directorate of the Foreign, Commonwealth and Development Office has the honour to inform the Embassy of the United States of America that it agrees with the proposal set forth in the Embassy's Note and that the Embassy's Note, together with this Note in reply, shall constitute an agreement that shall enter into force on the date of this Note.

The National Security Directorate of the Foreign, Commonwealth and Development Office avails itself of this opportunity to reiterate to the Embassy of the United States of America assurances of its highest consideration.

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