



## **FOR INFO: EU-US Privacy Shield published**

Dear colleagues,

Please be informed that on Monday the European Commission published a draft "adequacy decision" as well as the texts that will constitute the EU-U.S. Privacy Shield. This includes the Privacy Shield Principles companies have to abide by. The Commission has also made public the United States (U.S.) Government's written commitments on the enforcement of the arrangement.

Please find all relevant documents [here](#).

### **Background**

On 26 July 2000 the European Commission adopted the "Safe Harbour Adequacy Decision" recognising the "Safe Harbour Privacy Principles" and "Frequently Asked Questions" issued by the Department of Commerce of the United States, as providing adequate protection for the purposes of relevant personal data transfers from the EU to the U.S.

The Safe Harbour agreement came under renegotiation after the 2013 EU Commission's Communication on the Functioning of the Safe Harbour from the Perspective of EU Citizens and Companies Established in the EU, in which the Commission identified 13 recommendations/questions. On the basis of these recommendations, the Commission held talks with U.S authorities since January 2014 with the aim of putting in place a renewed and stronger arrangement for transatlantic data exchanges.

On 6 October 2015 in case C-362/14 Maximilian Schrems v Data Protection Commissioner (also known as "Schrems") the European Court of Justice found that the European Commission should not have granted the U.S an adequacy finding in relation to the Safe Harbour due to concerns over a lack of proportionality and scope limitation on U.S intelligence gathering as set forth in the allegations of the case.

On 7 January 2016 the ICC Commission on the Digital Economy held a conference call to discuss the Schrem's decision and the Safe Harbour negotiations. The Commission decided to draft a letter to go under the ICC Secretary General's signature emphasizing the importance of the negotiations and encouraging governments to resolve this issue without due delay.

In the letter sent on 29 January 2016, ICC Secretary General John Danilovich urged both EU and U.S negotiating parties to intensify efforts to swiftly conclude the Safe Harbour to provide businesses with crucial guidance and legal certainty relating to transfer mechanisms to maintain cross-border data flows.

On 2 February 2016 the European Commission and the United States agreed on a new framework for the exchange of transatlantic data: the EU-US Privacy Shield. Read the ICC web story [here](#).