



EUROPEAN COMMISSION

DG HOME

Directorate A
Organised Crime

Brussels, 7 February 2013

**Meeting with UAE Minister of State for Foreign Affairs,
Dr Anwar Gargash
Abu Dhabi, 11 February, 15:00**

**Briefing for the Director General
Mr Stefano MANSERVISI**

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*Dr Anwar Gargash, Minister of State for
Foreign Affairs*

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Introduction

In the absence of the relevant Civil Aviation authorities, which have recently contacted the Commission as regards PNR, you will meet with Minister of State for Foreign Affairs Dr Anwar Gargash. The objective of the meeting will be to discuss **the new PNR rules that UAE have announced**.

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Objectives:

→ **On PNR:** Get more details about the new PNR legislation in UAE, in particular with regard to the timing of its entry into force, and give a state of play on the discussions on the EU PNR proposal;

→ [Redacted]

[Redacted]

1 PNR

Objective

- Get more details about the new PNR legislation in UAE, in particular with regard to the timing of its entry into force.
- Give a state of play of the discussions on the EU PNR proposal. Indicate that, once it is adopted, UAE carriers will be required to transmit PNR data to EU MS authorities
- Indicate that to avoid having to negotiate PNR agreement with every third country, the EU is considering legislation on PNR transmitted to third countries which would replace bilateral negotiations between EU and third countries.

Scene setter

- In January 2013, the UAE authorities wrote to the Commission asking for bilateral discussions with the EU. They wish to ensure that passenger data provided by EU airlines comply with the highest international standards.
- The letter also said that airlines operating to UAE were informed already in November 2012 about the UAE's intention to deploy a state of the art border management system. This system would involve capturing and processing both API and PNR data.
- The UAE authorities say that they are working with SITA to use the same solution that was used for the EU-Canada PNR agreement.
- UAE Civil Aviation Authorities are responsible for implementing PNR legislation.
- The TTE (Transport) Council adopted conclusions in December 2012 which acknowledged Commission's intention to engage in an aviation dialogue with the Gulf States. PNR discussions could be part of this dialogue.
- Once the EU PNR proposal is adopted carriers operating flights from and to UAE (as well as other third countries) will be required to transmit the PNR of their passengers to the relevant MS law enforcement authorities. It is therefore important to inform UAE of this prospect and obtain a reaction from them on whether there would be any obstacles to their carriers transmitting the data.

Line to take

- Welcome that the UAE authorities have contacted the Commission to discuss their PNR rules that soon will enter into force.
- Inform that the major concern of the EU is often data protection aspects. The European Parliament usually questions the compliance of PNR agreements with third countries with fundamental rights.
- Therefore welcome that, as indicated by the UAE Civil Aviation Authorities, UAE PNR legislation will comply with European Parliament's resolution from 2010 on PNR agreements with third countries and with the Commission's Communication on PNR from 2010.
- On 2 February 2011, the Commission presented a proposal for a Directive on the use of PNR data to prevent, detect, investigate and prosecute terrorist offences and serious crime.
- This means that, once the proposal is adopted, all carriers operating flights in and out of the EU will have to send the PNR data of their passengers to the relevant MS law enforcement authorities.
- The proposal is currently being discussed by the European Parliament.
- PNR could be part of a wider dialogue with the Gulf States on aviation matters. This dialogue has not yet started yet.
- In the future, EU may seek alternatives to negotiate PNR agreements with every third country.
- One possibility could be a legal instrument setting the requirements for transmitting PNR data to third countries.

Background information

PNR in UAE

The UAE Civil Aviation Authorities are responsible for implementing the PNR legislation. In a letter dated 14 January 2013 they asked the Commission (Baldwin/MOVE.E) for a meeting to inform about their PNR system. Airlines operating to UAE were informed in November 2012 about the intention to introduce a system that would capture and process API and PNR data.

Discussions on PNR could be part of a wider discussion on aviation matters with the Gulf States. The TTE (Transport) Council adopted conclusions on 20 December 2012 that mentioned this dialogue:

"28. CONSIDERS that a tailored EU approach is now particularly appropriate in relation to Turkey, India, Russia, certain Gulf countries, ASEAN, and at the earliest opportunity to China, and therefore:

...

Taking note of the market developments in recent years between individual EU Member States and the Gulf countries identified in the Commission's Communication,
ACKNOWLEDGES the Commission's intention to engage in a dialogue with those countries, with a view to enhancing transparency and safeguarding fair competition;

..."

The main issue in this dialogue would be the increased competition from airlines based in the Gulf States and competitive advantages of being based there.

UAE have the intention to comply with the Parliament's resolution of 5 May 2010 on the launch of negotiations for Passenger Name Record (PNR) agreements with the United States, Australia and Canada. Paragraph 9 of the resolution considers that a PNR agreement with a third country should meet the following minimum requirements:

- (a) PNR data may only be used for law enforcement and security purposes in cases of organised and transnational serious crime or terrorism of a cross-border nature, on the basis of the legal definitions laid down in Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism and in Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant;
- (b) the use of PNR data for law enforcement and security purposes must be in line with European data protection standards, in particular regarding purpose limitation, proportionality, legal redress, limitation of the amount of data to be collected and of the length of storage periods;
- (c) in no circumstances may PNR data be used for data mining or profiling; no 'no-fly' decision or decision to investigate or prosecute may ever be taken on the

- sole results of such automated searches or browsing of databases; use of data must be limited to specific crimes or threats, on a case-by-case basis;
- (d) in the case of the transfer of PNR data of EU citizens to third countries, the terms of such transfers shall be laid down in a binding international treaty, providing legal certainty and equal treatment for EU citizens and companies;
 - (e) the onward transfer of data by the recipient country to third countries shall be in line with EU standards on data protection, to be established by a specific adequacy finding; this will apply equally to any possible onward transfer of data by the recipient country to third countries;
 - (f) PNR data may only be provided on the basis of the PUSH method;
 - (g) Results will immediately be shared with the relevant authorities of the EU and of the Member States;

International PNR

The discussions on finding a solution at EU level for the transfer of API data to third countries seem to point towards a unilateral instrument allowing the data transfers to take place. These discussions could be used also to examine possible unilateral solutions for the transfer of PNR data to third countries. A unilateral approach would be in line with the principles outlined in the 2010 Communication.

A unilateral approach seems like the preferred option at the moment. It would be based on a separate legal instrument, which authorises the transfer of PNR data and which may outline the conditions to be respected by third countries, in line with those outlined in the 2010 Communication.

EU PNR

The Stockholm programme called upon the Commission to present an EU PNR proposal to prevent, detect and investigate terrorism and serious crime. On 2 February 2011 the Commission adopted a new proposal for a Directive on the use of PNR data to prevent, detect, investigate and prosecute terrorist offences and serious crime. A new Impact Assessment was also adopted for this proposal.

The main aspects of the proposal are the following:

- purpose limitation: terrorist offences and serious crime
- geographical scope: international flights – review on intra-EU flights to be done 2 years after the adoption of the instrument
- sensitive data: absolute prohibition to their use
- period of data retention: 30 days in full use and 5 years in a depersonalised database. Re-personalisation of the data permitted if there is a specific investigation
- data protection: the right of access, rectification, erasure, compensation, redress, data security and confidentiality of processing are taken from the Framework Decision of Data Protection. Oversight will be exercised by the national supervisory authority established by the Framework Decision of Data Protection.

- transfers to third countries: permitted but under very strict conditions
- transfers to private entities: absolute prohibition

The Council adopted a common approach on the file on 26 April 2012. The common approach is very close to the original commission proposal with 2 main changes: (i) voluntary inclusion of targeted intra-EU flights, (ii) extension of the fully personalised period of retention from 30 days to 2 years.

In the Parliament, LIBE is the lead committee. Mr Kirkhope (ECR/UK) is the rapporteur. LIBE has not voted yet. The rapporteur is very favourable to the proposal and has the support of the EPP. However, the other political groups aim to substantially limit the scope of the proposal while GUE, Greens and NI suggest to reject the proposal altogether (apparently several ALDE and S&D members are inclined to support this). The rapporteur finds it therefore very difficult to find majority for the compromise amendments and is wary of putting the proposal to a vote, fearing a negative vote in LIBE will lead to a rejection of the proposal in the plenary vote. At the same time, some MEPs are trying to link the discussions on this proposal with the discussions on the data protection framework.

**Meeting with UAE Minister of
State for Foreign Affairs Dr
Anwar Gargash**
Abu Dhabi, 11 February, 15:00

2. *Only if raised:* Defensive briefing on visa free

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3. Radicalisation – GCTF Center of Excellence on Countering Violent Extremism (CVE)

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4. Europol

In case asked about cooperation with Europol:

- *The Management Board of Europol agreed in its 84th meeting in October 2012 to recommend the inclusion of the UAE on the Council list of third countries with which Europol can engage in negotiations.*
- *The Council decided that the Parliament, though not legally required under the current legislation (but politically advisable), should be consulted on the opening of the list.*
- *The Parliament's opinion is now required before the Council can give its green light to add UEA to the Council list.*
- *The Commission awaits the outcome of the inclusion process. UAE need to be aware of the need to demonstrate that they possess an adequate data protection regime so as to allow for the possibility of one day either Europol or the Commission to conclude an agreement with them.*

(A3,)

**CV/biography of the DG's interlocutor or the "leader" of the
group if more of the same organisation**

Dr Anwar Mohammed Gargash



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UNITED ARAB EMIRATES - UAE

Head of State: President Khalifa bin Zayed al-Nahyan	Human Development Index: 30/169 (UNDP 2011)
Form of state: Federation of 7 emirates: Abu Dhabi, Dubai, Sharjah, Ajman, Ras al-Khaimah, Umm al-Qaiwain and Fujairah. Independence (from UK) in 1971.	Democracy Index: 149 out of 167 (EIU 2011)
Minister of Foreign Affairs: Sheikh Abdullah bin Zayed al-Nahyan	Corruption Perception index: 27/174 (TI 2012)
Capital: Abu Dhabi city	GDP per capita: \$47 700 (IMF, 2011)
Population: around 8 million (est. 2010) out of which only 15% UAE citizens (estimate)	Real GDP growth 2010-2011: 3.2% (IMF estim.)
Oil: 4 th largest world oil exporter (2009).	Literacy rate: 78%
Life expectancy at birth: 76.5 years	EU-UAE Trade 2011: Exports to UAE €33,3 bio; imports from UAE €8,930 bio (Eurostat) UAE: 17th largest trade partner (10th for exports)
Sunni/Shia ratio of Muslim population: 85/15 (est.)	Parliament: Unicameral Federal National Council of 20 appointed and 20 elected members representing the separate emirates; it has a consultative role only. Latest elections 24.09.2011

Political

The United Arab Emirates (UAE) are a **federation of seven emirates** (monarchies) of which Abu Dhabi is the most powerful, which is why the ruler of Abu Dhabi is also the President of the UAE. Dubai ranks second which is why its ruler is the UAE Prime Minister.

The Parliament has no real powers. Half of its 40 members are elected, but only by a small electorate selected by the government. Elections were held on 24 September 2011 but only a fraction (28%) of the some 130,000 voters cast their ballots. [REDACTED]

The UAE has escaped Arab Spring unrest so far, not least as the very small local population enjoys one of the world's highest GDP/capita. [REDACTED]

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[REDACTED]

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UAE views on key foreign policy issues

UAE has recently shown willingness to participate in contentious causes on the side of the West: it is a **strong US ally** and in Afghanistan the only Arab country undertaking full-scale operations. It was the only Muslim country to participate in the **Kosovo** peacekeeping force KFOR. UAE joined the coalition which carried out military operations in **Libya** on 24 March 2011. UAE contribution consisted of six F-16 Falcon and six Mirage 2000 fighter jets.

In **Bahrain**, UAE joined Saudi Arabia in spearheading the military GCC mission in support of the government. Abu Dhabi is generally closely aligned with Riyadh. The United Arab Emirates (UAE) and **Iran** have enjoyed strong bilateral relations for many years. In 2011, ties got strained by the UAE's increased cooperation with the international community in enforcing sanctions imposed against Iran. Relations were also hampered by the Iran's alleged support of Shia protestors in Bahrain and the UAE's denunciation of Iran's activities. Both countries are members of OPEC, the Non-Aligned Movement, and the Organization of the Islamic Conference and have cooperated extensively both inside and outside these multilateral forums. The UAE are concerned about Iran's nuclear programme and are ready to increase oil output in support of EU's sanctions.

Economy

Oil in Abu Dhabi and Dubai was historically the cornerstone of UAE's economic development. Nowadays, only Abu Dhabi has considerable oil resources which are also the pillar of its political power inside the UAE. Dubai successfully diversified into a trade, financial, logistical and tourism hub. However, Dubai's high-fly ambitions were dampened by the 2009 financial crisis and the need for a bail-out from Abu Dhabi. The UAE federal budget is mainly financed by Abu Dhabi.

The UAE is also the leading nation within the Gulf in preparing for a post-oil economy through renewable energy. In that vein, the Masdar initiative in Abu Dhabi must be mentioned as the most ambitious sustainability programme ever launched by a government. Masdar is partner in the EU-funded EU-GCC Clean Energy project.

EU – UAE relations

Formal relations between the EU and the UAE take place mostly in the context of the **1988 EU-Gulf Cooperation Council (GCC) Cooperation Agreement**. Bahrain currently holds the rotating Presidency of the Gulf Cooperation Council until December 2013, (last GCC Summit took place in Manama on 24-25 December).

Negotiations for a new EU-GCC Free Trade Agreement have been restarted in 2002. Negotiations were suspended by the GCC in 2008. Informal contacts between negotiators continue to take place.

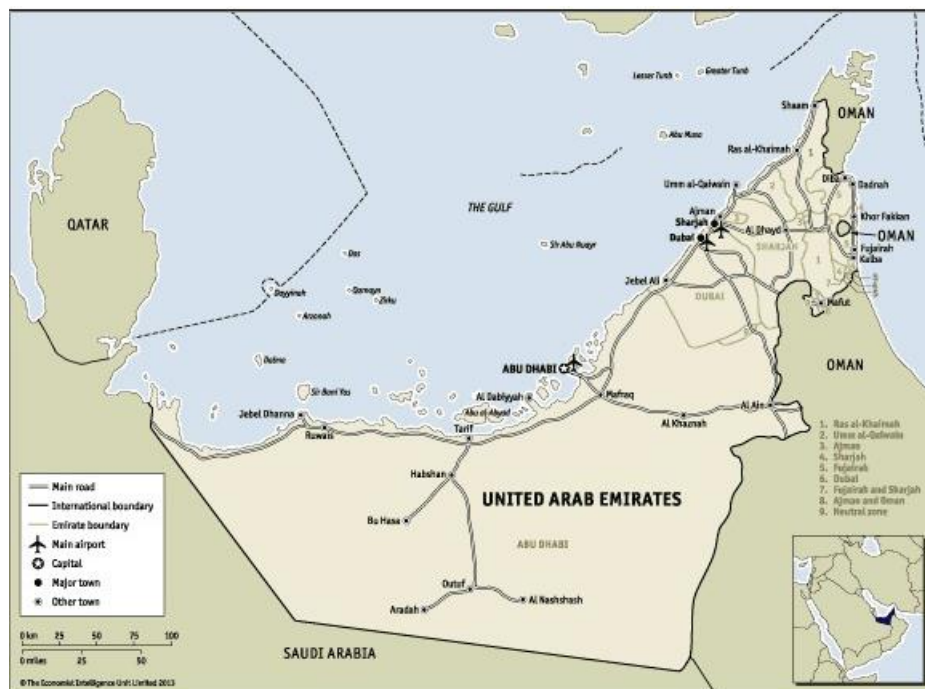
The EU and the GCC have agreed on a **JAP (Joint Action Program) for 2010-2013** guiding their collaboration. A Second Joint Action Program 2013-2016 is currently being considered. EU-GCC cooperation benefits from modest financial allocations under the ICI instrument. Programs have so far focused on clean energy, academic exchanges, public diplomacy, and business cooperation.

The **GCC Secretariat is based in Riyadh**. Its Secretary General is Abdullatif bin Rashid Al Zayani, a Bahraini national. The GCC Ambassador in Brussels is Ms. Amal Al-Hamad, a Kuwaiti national.

The next EU-GCC **Joint Cooperation Committee** will be held in Brussels on 23-24 April 2013. The 23rd annual Ministerial EU-GCC meeting should be held in Manama, Bahrain on 1 July 2013 (usually co-chaired by the HRVP).

The EU Head of Delegation in Riyadh (covering all six GCC countries) is **Mr. Adam Kulach** since 2012.

The EU will open its **second Delegation in the Gulf in the UAE** (Abu Dhabi) in 2013. In addition, the UAE will host a European Union CBRN (chemical, bacteriological, radiological and nuclear threats) Centre of Excellence. This initiative is funded by the EU instrument for Stability and the aim at developing, at national and regional levels, the necessary institutional capacity to fight against the CBRN risk.



Contact: [redacted] ; EEAS Arabian Peninsula, tel. + [redacted]
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30 January 2013

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Defensive Point: FTA negotiations

Q: Why can't the FTA be concluded?

A: The EU is committed to conclude the EU- Gulf Cooperation Council (GCC) Free Trade Agreement negotiations.

Formally, the only problem that remains is the issue of the prohibition of exports duties which is essentially a problem with Saudi Arabia. The EU has shown a great deal of flexibility but there are red lines that we cannot cross.