II

(Non-legislative acts)

INTERNATIONAL AGREEMENTS

COUNCIL DECISION (EU) 2020/1110

of 23 January 2018

on the conclusion on behalf of the European Union of the Air Transport Agreement between the European Community and its Member States, of the one part, and the United States of America, of the other part

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2), in conjunction with point (a) of the second subparagraph of Article 218(6) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament ([1]),

Whereas:

(1) The Commission has negotiated, on behalf of the European Community and of the Member States, the Air Transport Agreement between the European Community and its Member States, of the one part, and the United States of America, of the other part ('the Agreement'), in accordance with the Council Decision authorising the Commission to open negotiations.

(2) The Agreement was signed on 25 and 30 April 2007, and has been applied provisionally since 30 March 2008.

(3) The Agreement has been ratified by all Member States. It is intended that Croatia will accede to the Agreement in accordance with Article 6(2) of the Act of Accession annexed to the Treaty of Accession of 5 December 2011.

(4) The Agreement should be approved.

(5) The position to be taken, on behalf of the Union, within the Joint Committee set up pursuant to Article 18 of the Agreement as regards matters that are within the competence of the Union should be established on a case-by-case basis in accordance with the applicable Treaty provisions.

(6) Given that the Union and its Member States together are Party to the Agreement, close cooperation between them is essential. In order to ensure such close cooperation and unity of external representation in the Joint Committee, and without prejudice to the Treaties, in particular to Article 16(1) of the Treaty on European Union and Article 218(9) of the Treaty on the Functioning of the European Union, the positions to be taken, on behalf of the Union and the Member States, within the Joint Committee as regards matters that are within the competence of both the Union and the Member States should be coordinated prior to any meeting of the Joint Committee dealing with such a matter.

([1]) Consent of 12 December 2017 (not yet published in the Official Journal).

(7) Articles 3 to 6 of Decision 2007/339/EC of the Council and the Representatives of the Governments of the Member States of the European Union, meeting within the Council ([2]), and Articles 2, 3 and 4 of Decision 2010/465/EU of the Council and the Representatives of the Governments of the Member States of the European Union, meeting within the Council ([3]), contain provisions on decision-making by the Council with regard to various matters set out in the Agreement, as amended by the Protocol to amend the Air Transport Agreement between the United States of America and the European Community and its Member States, signed on 25 and 30 April 2007, as well as on the establishment of positions to be taken within the Joint Committee and on the information obligations of the Member States, during the provisional application of the Agreement. As the provisions on decision-making by the Council, which are set out in the Treaties, and the provisions on the information obligations of the Member States are no longer necessary, they should cease to apply on the date of entry into force of this Decision. Following the judgment of the Court of Justice of 28 April 2015 in Case C-28/12 ([4]), it is appropriate that the provisions on the establishment of positions to be taken within the Joint Committee also cease to apply on the date of entry into force of this Decision,

HAS ADOPTED THIS DECISION:

Article 1

1. The Air Transport Agreement between the European Community and its Member States, of the one part, and the United States of America, of the other part, is hereby approved on behalf of the European Union ([5]).

2. The President of the Council shall designate the person(s) empowered to deposit, on behalf of the Union, the instrument of approval provided for in Article 26 of the Agreement and shall make the following notification:

'As a consequence of the entry into force of the Treaty of Lisbon on 1 December 2009, the European Union has replaced and succeeded the European Community and from that date exercises all rights and assumes all obligations of the European Community. Therefore, references to "the European Community" in the text of the Agreement are, where appropriate, to be read as to "the European Union".'.

Article 2

Articles 3 to 6 of Decision 2007/339/EC and Articles 2, 3 and 4 of Decision 2010/465/EU shall cease to apply on 23 January 2018.

Article 3

This Decision shall enter into force on the date of its adoption.

Done at Brussels, 23 January 2018.

For the Council
The President
R. PORODZANOV

([2]) Decision 2007/339/EC of the Council and the Representatives of the Governments of the Member States of the European Union, meeting within the Council, of 25 April 2007 on the signature and provisional application of the Air Transport Agreement between the European Community and its Member States, on the one hand, and the United States of America, on the other hand (OJ L 134, 25.5.2007, p. 1).

([3]) Decision 2010/465/EU of the Council and the Representatives of the Governments of the Member States of the European Union, meeting within the Council, of 24 June 2010 on the signing and provisional application of the Protocol to Amend the Air Transport Agreement between the United States of America, of the one part, and the European Community and its Member States, of the other part (OJ L 223, 25.8.2010, p. 1).

([4]) Judgment of the Court of Justice of 28 April 2015, European Commission v Council of the European Union, C-28/12, ECLI:EU:C:2015:282.

([5]) The Agreement has been published in OJ L 134, 25.5.2007, p. 4, together with the decision on signature. The Protocol to amend the Air Transport Agreement between the United States of America and the European Community and its Member States, signed on 25 and 30 April 2007, has been published in OJ L 223, 25.8.2010, p. 3, together with the decision on signature.