



Brussels, 22.1.2021
COM(2021) 13 final

2010/0112 (NLE)

Amended proposal for a

COUNCIL DECISION

on the conclusion, on behalf of the Union, 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.

EXPLANATORY MEMORANDUM

CONTEXT OF THE PROPOSAL

- **Reasons for and objectives of the proposal**

On 3 May 2010 the Commission adopted and subsequently submitted to the Council a proposal for a decision on the conclusion 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 (COM(2010) 208 final).

Following the judgement of the European Court of Justice of 28 April 2015 in Case C-28/12, this proposal modifies the initial proposal of the Commission. In order to ease the examination by the Council, the whole of the relevant text is submitted as an amended proposal.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

Not applicable.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

Not applicable.

4. BUDGETARY IMPLICATIONS

Not applicable.

5. OTHER ELEMENTS

Not applicable.

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on the conclusion, on behalf of the Union, 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.

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 Article 218 (6)(a) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament.

Whereas:

- (1) In accordance with Decision 2010/465/EU¹ the Protocol to amend the Agreement on Air Transport between the United States of America, of the one part, and the European Community and its Member States, of the other part ('the Protocol'), was signed on 24 June 2010, subject to its conclusion at a later date.
- (2) The Protocol has been ratified by all Member States, except for the Republic of Croatia. The Republic of Croatia should accede to the Protocol in accordance with Article 6(2) of the Act of Accession annexed the Treaty of accession of 5 December 2011².
- (3) The Protocol should be approved on behalf of the Union.
- (4) Articles 2, 3 and 4 of Decision 2010/465/EU contain provisions on decision making and representation with regard to various matters set out in the Agreement as amended by the Protocol. In view of the judgement of the European Court of Justice of 28 April 2015 in Case C-28/12, the application of those provisions should be discontinued. Having regard to the Treaties, new provisions on those matters are not necessary, nor are provisions on information obligations of the Member States, such as those set out in Article 5 of Decision 2010/465/EU. Consequently, Articles 2, 3, 4 and 5 of Decision 2010/465/EU should cease to apply at the date of entry into force of this Decision.

¹ 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).

² OJ L 112, 24.4.2012, p. 21.

HAS ADOPTED THIS DECISION:

Article 1

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 (hereinafter, the “Protocol”), is hereby approved on behalf of the Union.

The text of the Protocol is attached to Council Decision 2010/465/EU.

Article 2

The President of the Council shall designate the person empowered to proceed, on behalf of the Union, to the exchange of diplomatic notes provided for in Article 10 of the Protocol, in order to express the consent of the Union to be bound by the Protocol.

Article 3

Articles 2, 3, 4 and 5 of Decision 2010/465/EU shall cease to apply at the date of entry into force of this Decision.

Article 4

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

Done at Brussels,

*For the Council
The President*