



EUROPEAN COMMISSION

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Proposal for a

COUNCIL DECISION

modifying the Decision of the Council and the Representatives of the Governments of the Member States of the European Union, meeting within the Council, on the signing and provisional application of the Agreement in the form of an Exchange of Letters between the European Community and its Member States, on the one part, and the Russian Federation, on the other part, on "Agreed Principles of the Modernisation of the Existing System of Utilisation of the Transsiberian Routes" and on the setting up of an Equalisation Mechanism by the Member States

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

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

On 24 November 2006, the Commission Vice-President Barrot and Mr. Levitin, Transport Minister of the Russian Federation, initialled an Agreement ("Agreed Principles of the Modernisation of the existing system of utilisation of the Transsiberian routes"). On 7 May 2007, the Council formally endorsed this agreement and approved its signature in form of an Exchange of Letters (Council Decision CS/2007/08202). Despite its previous commitment, however, the Russian Federation has not signed the Agreement yet.

The Commission has continuously addressed this issue with the Russian Federation over the last years and it has now been agreed to formally sign this agreement over the coming months.

Due to the important delays, two implementation dates of the 2006 Agreement occurred in the past. To rectify this situation, the Commission has proposed to the Russian Federation to adapt these dates before the Agreement is eventually signed. No further changes shall be made to the rest of the Agreement.

- **General context**

The Agreement shall be signed in due course and in any event in the run-up to Russia's upcoming accession to WTO. More precisely, the signature shall take place at the latest after the technical work on the WTO accession Working Party Report is completed and before the decision on Russia's accession is taken in the WTO General Council.

- **Existing provisions in the area of the proposal**

The provisions of Council Decision CS/2007/08202.

- **Consistency with the other policies and objectives of the Union**

The agreement solves the issue of Siberian overflight payments requested by the Russian Federation from EU carriers for overflights over Russian territory which remain an important stumbling block in EU-Russia relations. The payments are an EU-Russia trade irritant and must be solved before Russia's accession to WTO. The agreement will strengthen transport cooperation in the framework of the EU-Russia Common Economic Space.

2. CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

- **Consultation of interested parties**

Consultation methods, main sectors targeted and general profile of respondents

The proposed adaptation of the dates represent a minor change without any

implications on the substance of the original Council Decision. Nevertheless, the Commission has discussed this with both, representatives of the airline industry and the Member States.

Summary of responses and how they have been taken into account

The airline industry and the Member State representatives agree with the Commission proposal.

- **Collection and use of expertise**

There was no need for external expertise.

- **Impact assessment**

The signature of the Agreement will significantly improve the competitive situation of EU carriers on routes to destinations between the EU and Asia, in particular Japan, China, Hong Kong and South Korea through the gradual reduction of payments in the transition period and the abolishment of payments from 2014 onwards.

Without such an Agreement, EU carriers would have to continue paying for the right to transit the Russian Federation which would imply higher costs and reduced competitiveness for the airlines.

The proposed adaptation of the dates is necessary for the signature of the Agreement.

3. LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

Replacement of implementation dates that occur in the past by "From the first of the month following the signature of the Agreed Principles, (...)".

- **Legal basis**

Article 100(2) TFUE, in conjunction with the first sentence of the first subparagraph of Article 218(5) TFUE.

- **Subsidiarity principle**

Not applicable.

- **Proportionality principle**

Not applicable.

- **Choice of instruments**

For the signature and provisional application of an international agreement no other instruments are available.

4. BUDGETARY IMPLICATION

The proposal has no implication for the EU budget.

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THE COUNCIL OF THE EUROPEAN UNION AND THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES MEETING WITHIN 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(5),

Having regard to the proposal from the Commission,

Whereas:

- (1) By Council Decision CS/2007/08202 of 7 May 2007 (the "Council Decision"), the Council authorised the signature and provisional application of the "Agreed Principles of the modernisation of the existing system of utilisation of the Transsiberian routes" (hereinafter, "the Agreement") to solve the issue of Siberian overflight payments. This shall be done through an exchange of letters;
- (2) Due to unforeseen delays in the signing of the Agreement, the Commission and the Russian Federation have agreed to adapt some implementation dates of the Agreement before it is signed.

HAVE DECIDED AS FOLLOWS:

Article 1

Article 3 of the Council Decision shall be deleted in its entirety and replaced with the following:

'Pending its entry into force, the Agreement shall be applied provisionally by the Union and its Member States, in accordance with the applicable national law, from the date of signature of the Agreement.'

Article 2

Annex I of the Council Decision is amended as follows:

1. The second paragraph of Part A ("Letter from the European Union and its Member States") shall be deleted in its entirety and replaced with the following:

'We have the honour to propose that, upon the confirmation of your acceptance, this letter and its appendices together constitute an Agreement in the form of an Exchange of Letters between the European Union and its Member States, of the one part, and the Russian Federation, of the other part. The Agreement shall be applied provisionally by both parties, in accordance with the application of national law, from the date of signature and shall enter into force 10 days after the receipt of the later note in an exchange of diplomatic notes between the Parties confirming that all necessary procedures for entry into force of the Agreement have been completed.'

Part B ("Letter from the Russian Federation") shall be amended accordingly.

2. The words "From 1 January 2010" in the first sentence of Article III.2, of Appendix 1 to Part A ("Agreed Principles of the Modernisation of the Existing System of Utilisation of the Trans-Siberian routes") shall be deleted and replaced with "From the 1st day of the month following the signature of these Agreed Principles".

Done at Brussels,

*For the Council
The President*