

II

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is not obligatory)

DECISIONS

COUNCIL

DECISION 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

(2007/339/EC)

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 establishing the European Community and in particular Article 80(2), in conjunction with the first sentence of the first subparagraph of Article 300(2) thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) The Commission has negotiated, on behalf of the Community and of the Member States, an Agreement on Air Transport with the United States of America (hereinafter, the 'Agreement') in accordance with the Council Decision authorising the Commission to open negotiations.
- (2) The Agreement was initialled on 2 March 2007.
- (3) The Agreement negotiated by the Commission should be signed and applied provisionally by the Community and the Member States, subject to its possible conclusion at a later date.
- (4) It is necessary to lay down procedural arrangements for deciding, if appropriate, how to discontinue the provisional application of the Agreement and suspend rights pursuant to Article 21(3) of the Agreement. It is also

necessary to lay down procedural arrangements for the participation of the Community and the Member States in the Joint Committee set up under Article 18 of the Agreement and in the arbitration procedures provided in Article 19 of the Agreement, as well as for implementing certain provisions of the Agreement, including those concerning security, safety, the granting and revocation of traffic rights and government support,

HAVE DECIDED AS FOLLOWS:

Article 1

Signature and provisional application

1. The signing 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, (hereinafter, the Agreement), is hereby approved on behalf of the Community, subject to a Council Decision concerning the conclusion of the Agreement. The text of the Agreement is attached to this Decision.

2. The President of the Council is hereby authorised to designate the person(s) empowered to sign the Agreement on behalf of the Community, subject to its conclusion.

3. Pending its entry into force, the Agreement shall be applied on a provisional basis by the Community and its Member States, in accordance with the application of national law, from 30 March 2008. This shall be confirmed on the occasion of the signing of the Agreement with the United States of America.

4. A decision to discontinue the provisional application of the Agreement and give notice thereof to the United States of America in accordance with Article 25(2) of the Agreement, and a decision to withdraw such notice, shall be taken by the Council, on behalf of the Community and of the Member States, acting unanimously in accordance with the relevant Treaty provisions.

Article 2

Suspension of traffic rights

1. If no second stage agreement has been reached within 12 months of the start of the review provided in Article 21(3) of the Agreement, any Member State may, within the following 15 days, notify to the Commission which traffic rights in relation to its territory, if any, it wishes to suspend. Such traffic rights may not include any rights specified in the agreements mentioned in Annex I to the Agreement.

2. On the basis of the notifications received from the Member States, the Commission shall establish a list of the traffic rights to be suspended and transmit it to the Council. The President of the Council, acting on behalf of the Community and its Member States, shall then give notice to the United States of America of the suspension of the traffic rights included in the list in accordance with Article 21(3) of the Agreement. The Member States concerned shall take the necessary measures in order to suspend such rights from the first day of the International Air Transport Association (IATA) traffic season that commences no less than 12 months after the date on which the notice of suspension is given.

3. Notwithstanding paragraph 2 of this Article, the Council, acting by unanimity on a proposal from the Commission, may decide not to give notice of suspension or subsequently to withdraw it.

Article 3

Joint Committee

1. The Community and the Member States shall be represented in the Joint Committee established under Article 18 of the Agreement by representatives of the Commission and of the Member States.

2. The position to be taken by the Community and its Member States within the Joint Committee as regards matters falling within Articles 14 or 20 of the Agreement or matters that do not require the adoption of a decision having legal effects shall be adopted by the Commission.

3. For other Joint Committee decisions concerning matters that fall within Community competence, the position to be taken by the Community and its Member States shall be adopted by the Council, acting by qualified majority, on a proposal from the Commission.

4. For other Joint Committee decisions concerning matters that fall within Member States' competence, the position to be taken by the Community and its Member States shall be adopted by the Council, acting by unanimity, on a proposal from the Commission or from Member States.

5. The position of the Community and of the Member States within the Joint Committee shall be presented by the Commission, except in areas that fall exclusively within Member States' competence, in which case it shall be presented by the Presidency of the Council or, if the Council so decides, by the Commission.

Article 4

Arbitration

1. The Commission shall represent the Community and the Member States in arbitration proceedings under Article 19 of the Agreement.

2. The decision to suspend the application of benefits pursuant to Article 19(7) of the Agreement shall be taken by the Council on the basis of a Commission proposal. The Council shall decide by qualified majority.

3. Any other appropriate action to be taken under Article 19 of the Agreement on matters which fall within the Community competence shall be decided upon by the Commission, with the assistance of a Special Committee of representatives of the Member States appointed by the Council.

Article 5

Information to the Commission

1. Member States shall promptly inform the Commission of any decision to refuse, revoke, suspend or limit the authorisations of an airline of the United States of America that they have adopted under Articles 4 or 5 of the Agreement.

2. Member States shall inform the Commission immediately of any requests or notifications made or received by them under Article 8 of the Agreement.

3. Member States shall inform the Commission immediately of any requests or notifications made or received by them under Article 9 of the Agreement.

*Article 6***Government subsidies and support**

1. Should a Member State believe that a subsidy or support being considered or provided by a governmental entity in the territory of the United States of America will have the adverse competitive effects referred to in Article 14(2) of the Agreement, it shall bring the matter to the attention of the Commission, which may approach such entity or request a meeting of the Joint Committee established under Article 18 of the Agreement.

2. Member States shall inform the Commission immediately when they are contacted by the United States of America under Article 14(3) of the Agreement.

Done at Luxembourg, 25 April 2007.

For the Council
The President
W. TIEFENSEE