

II

(Non-legislative acts)

INTERNATIONAL AGREEMENTS

COUNCIL DECISION (EU) 2018/538

of 7 December 2017

on the signing, on behalf of the Union, and provisional application of Amendment 1 to Memorandum of Cooperation NAT-I-9406 between the United States of America and the European Union

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) and (7) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Commission has negotiated, on behalf of the Union, an amendment to Memorandum of Cooperation NAT-I-9406 between the United States of America and the European Union ⁽¹⁾ ('Memorandum of Cooperation NAT-I-9406'), in accordance with the Council Decision of 8 May 2017 authorising the Commission to open negotiations.
- (2) Amendment 1 to Memorandum of Cooperation NAT-I-9406 between the United States of America and the European Union ('Amendment 1') was initialled on 28 July 2017.
- (3) Amendment 1 should be signed on behalf of the Union, subject to its conclusion at a later date.
- (4) Amendment 1, including the addendum thereto, should be applied on a provisional basis, in accordance with Article II.A of Amendment 1, pending the completion of the procedures necessary for its entry into force.
- (5) It is necessary to lay down procedural arrangements for the participation of the Union in the executive management of Memorandum of Cooperation NAT-I-9406A between the United States of America and the European Union on air traffic management modernisation, civil aviation research and development and global interoperability ('Memorandum of Cooperation NAT-I-9406A'), which is set out in the addendum to Amendment 1 and replaces Memorandum of Cooperation NAT-I-9406.
- (6) Pursuant to Article 218(7) of the Treaty, it is appropriate for the Council to authorise the Commission to approve amendments to the Annexes to Memorandum of Cooperation NAT-I-9406A and to the Appendices to those Annexes, as well as the adoption of additional annexes and appendices, subject to the prior and timely consultation of the special committee designated by the Council,

HAS ADOPTED THIS DECISION:

Article 1

The signing on behalf of the Union of Amendment 1 to Memorandum of Cooperation NAT-I-9406 between the United States of America and the European Union is hereby authorised, subject to the conclusion of the said Amendment.

The text of Amendment 1 is attached to this Decision.

⁽¹⁾ Memorandum of Cooperation NAT-I-9406 between the United States of America and the European Union (OJ L 89, 5.4.2011, p. 3).

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to sign Amendment 1 on behalf of the Union.

Article 3

Amendment 1, including the addendum thereto, shall be applied on a provisional basis, in accordance with Article II.A of Amendment 1, as from the signature thereof ⁽¹⁾, pending the completion of the procedures necessary for its entry into force.

Article 4

The Commission, after consultation with a special committee designated by the Council, shall determine the positions to be taken by the Union in the executive management of Memorandum of Cooperation NAT-I-9406A and the Annexes thereto, as referred to in Article III of Memorandum of Cooperation NAT-I-9406A, with respect to:

- (a) the adoption of additional annexes to Memorandum of Cooperation NAT-I-9406A and appendices to the Annexes to Memorandum of Cooperation NAT-I-9406A; and
- (b) the adoption of amendments to the Annexes to Memorandum of Cooperation NAT-I-9406A and to the Appendices to those Annexes.

Article 5

Without prejudice to Article 4 of this Decision, the Commission may take any appropriate action under Articles III, IV, V, VII and VIII of Memorandum of Cooperation NAT-I-9406A.

Article 6

The Commission shall represent the Union in consultations under Article XI of Memorandum of Cooperation NAT-I-9406A.

Article 7

The Commission shall regularly inform the Council of progress made in the implementation of Memorandum of Cooperation NAT-I-9406A.

Article 8

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

Done at Brussels, 7 December 2017.

For the Council
The President
A. ANVELT

⁽¹⁾ The date of signature of Amendment 1 will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.