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(Non-legislative acts)

INTERNATIONAL AGREEMENTS

DECISION 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

(2010/465/EU)

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

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 the first subparagraph of Article 218(8) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) 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, signed on 25 and 30 April 2007 (hereinafter, the 'Agreement'), included an obligation on both Parties to enter into second stage negotiations.
- (2) 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.
- (3) The Commission has negotiated on behalf of the Union and of the Member States a protocol to amend the Agreement (hereinafter, the 'Protocol') in accordance with Article 21 of that Agreement.
- (4) The Protocol was initialled on 25 March 2010.
- (5) The Protocol is fully consistent with the Union legislation, particularly with the EU Emissions Trading System.
- (6) The Protocol negotiated by the Commission should be signed and applied provisionally by the Union and the

Member States, to the extent permitted under domestic law, subject to its possible conclusion at a later date.

- (7) It is necessary to lay down procedural arrangements for deciding, if appropriate, how to discontinue the provisional application of the Protocol and how to take measures pursuant to Article 21(5) of the Agreement as amended by the Protocol. It is also necessary to lay down procedural arrangements for the suspension of the reciprocal recognition of regulatory determinations with regard to airline fitness and citizenship pursuant to Article 6 bis(2) of the Agreement as amended by the Protocol and for implementing certain provisions of the Agreement, including those concerning the environment pursuant to Article 15(5) of the Agreement as amended by the Protocol,

HAVE ADOPTED THIS DECISION:

Article 1

Signing and provisional application

1. The signing 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 (hereinafter the 'Protocol') is hereby approved on behalf of the Union, subject to the conclusion of the said Protocol.

The text of the Protocol is attached to this Decision.

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

3. Pending its entry into force, the Protocol shall be applied on a provisional basis by the Union and its Member States, to the extent permitted under domestic law, from the date of signing.

4. A decision to discontinue the provisional application of the Protocol and to give notice thereof to the United States of America in accordance with Article 9(2) of the Protocol, and a decision to withdraw such notice, shall be taken by the Council, on behalf of the Union and of the Member States, acting unanimously in accordance with the relevant Treaty provisions.

Article 2

Suspension of reciprocal recognition

A decision to suspend the reciprocal recognition of regulatory determinations with regard to airline fitness and citizenship and to inform the United States of America thereof in accordance with Article 6 *bis*(2) of the Agreement as amended by the Protocol shall be taken by the Council, on behalf of the Union and of the Member States, acting unanimously in accordance with the relevant Treaty provisions.

Article 3

Joint Committee

1. The Union and the Member States shall be represented in the Joint Committee established pursuant to Article 18 of the Agreement as amended by the Protocol by representatives of the Commission and of the Member States.

2. For matters that fall within the exclusive competence of the Union and do not require the adoption of a decision having legal effect, the position to be taken by the Union and its Member States within the Joint Committee shall be adopted by the Commission and shall be notified in advance to the Council and the Member States.

3. For decisions concerning matters that fall within the competence of the Union, the position to be taken by the Union and its Member States within the Joint Committee shall be adopted by the Council, acting by qualified majority on a proposal from the Commission, unless the applicable voting procedures set down in the Treaty provide otherwise.

4. For decisions concerning matters that fall within the competence of the Member States, the position to be taken by the Union and its Member States within the Joint

Committee shall be adopted by the Council, acting by unanimity on a proposal from the Commission or from any Member State, unless a Member State has informed the General Secretariat of the Council within one month of the adoption of that position that it can only consent to the decision to be taken by the Joint Committee with the agreement of its legislative bodies, notably due to a parliamentary scrutiny reserve.

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

Article 4

Decisions in accordance with Article 21(5) of the Agreement

A decision not to allow airlines of the other Party to operate additional frequencies or enter new markets under the Agreement and give notice thereof to the United States of America, or to agree to lift any such decision, taken in accordance with Article 21(5) of the Agreement as amended by the Protocol, shall be adopted by the Council, on behalf of the Union and of the Member States, acting unanimously in accordance with the relevant Treaty provisions.

Article 5

Information to the Commission

Member States shall inform the Commission immediately of any requests or notifications made or received by them pursuant to Article 15 of the Agreement as amended by the Protocol.

Done at Luxembourg, 24 June 2010.

For the Council
The President
J. BLANCO LÓPEZ