

II

(Non-legislative acts)

INTERNATIONAL AGREEMENTS

COUNCIL DECISION (EU) 2019/392

of 4 March 2019

on the conclusion, on behalf of the European Union, of the Treaty establishing the Transport Community

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91 and Article 100(2), in conjunction with point (a) of Article 218(6) and Article 218(7) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament ⁽¹⁾,

Whereas:

- (1) The Commission negotiated, on behalf of the Union, a Treaty establishing the Transport Community ('the Transport Community Treaty') between the European Union and the Republic of Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Kosovo *, Montenegro and the Republic of Serbia.
- (2) The Transport Community Treaty was signed on behalf of the Union on 9 October 2017, subject to its conclusion at a later date, in accordance with Council Decision (EU) 2017/1937 ⁽²⁾, and it has been applied on a provisional basis in accordance with Article 41(3) of the Transport Community Treaty.
- (3) The Transport Community Treaty furthers the development of transport between the Union and the South East European Parties on the basis of the provisions of the Union *acquis*.
- (4) Meetings of the Ministerial Council or the Regional Steering Committee established, respectively, under Articles 21 and 24 of the Transport Community Treaty, should be properly prepared within the Council, based on proposals and other documents from the Commission, in accordance with the relevant provisions of the Treaty on the Functioning of the European Union (TFEU). The Commission should be empowered to approve, on behalf of the Union, amendments to the lists of Union acts set out in Annex I to the Transport Community Treaty, in accordance with point (a) of Article 20(3) thereof and after appropriate consultation.
- (5) The Transport Community Treaty should be approved,

⁽¹⁾ Consent of 13 February 2019 (not yet published in the Official Journal).

* This designation is without prejudice to positions on status, and is in line with UNSCR 1244(1999) and the ICJ Opinion on the Kosovo declaration of independence.

⁽²⁾ Council Decision (EU) 2017/1937 of 11 July 2017 on the signing, on behalf of the European Union, and provisional application of the Treaty establishing the Transport Community (OJ L 278, 27.10.2017, p. 1).

HAS ADOPTED THIS DECISION:

Article 1

The Treaty establishing the Transport Community is hereby approved on behalf of the European Union ⁽¹⁾ ⁽²⁾.

Article 2

1. Without prejudice to paragraph 2, the Commission shall, as soon as possible before meetings of the Ministerial Council or the Regional Steering Committee, submit to the Council or its preparatory bodies, in the appropriate format, for adoption or consultation as the case may be, in accordance with the TFEU and the Treaty on European Union, and in particular in compliance with the principle of sincere cooperation, draft Union positions and statements on the matters that will be discussed at the respective meeting.

2. The position to be taken by the Union as regards decisions of the Regional Steering Committee, in accordance with point (a) of Article 20(3) of the Transport Community Treaty, regarding merely the updating of Union acts set out in Annex I to the Transport Community Treaty shall be adopted by the Commission. Before adopting any such decision, the Commission shall consult the Council on the anticipated position sufficiently in advance and by means of a written preparatory document.

Any adjustments to Union acts to be incorporated into Annex I to the Transport Community Treaty shall be limited to technical adjustments necessary for the purposes of such incorporation.

Article 3

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

Done at Brussels, 4 March 2019.

For the Council

The President

A. ANTON

⁽¹⁾ The text of the Transport Community Treaty has been published in OJ L 278 of 27.10.2017, p. 3, together with the decision on signature and provisional application.

⁽²⁾ The date of entry into force of the Transport Community Treaty will be published in the Official Journal by the General Secretariat of the Council.

COMMISSION STATEMENT

1. The Commission underlines that the intention of the Transport Community Treaty (TCT) is to progressively establish a transport community between the European Union and the South East European Parties on the basis of the relevant EU acquis and thus create an effective transport network with EU neighbours.
 2. The Commission notes that the TCT does not include provisions on market access concerning road haulage transport, neither in the Treaty text nor in its Annexes, so that Article 1(2) and (3) of Regulation (EC) No 1072/2009 continue to apply at this stage, in respect of the South East European parties. As long as this situation is not modified, bilateral agreements between Member States and South East European Parties, including the permits contained in those Agreements, may be maintained, in accordance with these provisions and subject to compliance with EU law.
 3. In the event that the European Union and the South East European Parties would envisage reinforcing their cooperation by setting up EU-wide opportunities for market access in the road haulage sector, the corresponding agreements would be negotiated, signed and concluded in accordance with Article 218 TFEU.
 4. Bilateral agreements that Member States may have with South East European Parties on other transport modes covered by this Treaty, may be initially maintained if compliant with Union law, without prejudice to the division of competences between the Union and its Member States.
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JOINT STATEMENT BY THE FEDERAL REPUBLIC OF GERMANY, FRANCE, ITALY AND AUSTRIA

Germany, France, Italy and Austria support the objective being pursued with the Western Balkans Transport Treaty of progressively establishing a transport community and a transport network between the European Union and the Southeastern European Parties on the basis of the relevant EU acquis. Germany, France, Italy and Austria stress that the gradual opening of the market for transport sectors concerned on the basis of the most favoured nation principle necessarily implies that there cannot be a more favourable treatment of third countries, including third country nationals as compared to EU nationals.

For Germany, France, Italy and Austria it is important that existing bilateral transport agreements between Member States and the Southeastern European Parties can continue to be applied and, if necessary, be adapted, and in this context they welcome the commitments made by the European Union during the negotiations on the Western Balkans Transport Treaty and recorded in a statement in the minutes.

Bearing in mind the division of competences between the European Union and the EU Member States, Germany, France, Italy and Austria also point out that the Western Balkans Transport Treaty is without prejudice to the division of competences between the European Union and its Member States and that this Western Balkans Transport Treaty does not create a precedent for transport agreements with non-EU Member States.
