



**Brussels, 30 June 2021
(OR. en)**

**Interinstitutional File:
2010/0112(NLE)**

**6365/1/21
REV 1**

**AVIATION 38
RELEX 130
USA 3**

'I/A' ITEM NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

Subject: COUNCIL DECISION (EU) 2021/... of ... on the conclusion, on behalf of the European Union, of the Protocol to amend the Air Transport Agreement between the United States of America and the European Community and its Member States

- Agreement in principle
- Request for consent of the European Parliament

1. On 5 June 2003, the TTE Council granted the Commission a mandate to negotiate a comprehensive air transport agreement with the United States of America¹. The First Stage EU-US Air Transport Agreement was signed on 25 and 30 March 2007, ratified by all parties and is now in force since 29 June 2020. Following the launch of second stage negotiations in May 2008, the Second Stage Agreement (in the form of the above-mentioned Protocol) was initialled in Brussels on 25 March 2010.
2. On 3 May 2010, the Commission presented to the Council its proposals for Council Decisions on the signing and on the conclusion of the Second Stage Agreement (9296/10 and 9435/10 REV 1 respectively).
3. The Decision on the signature of the Agreement was adopted by the Council on 24 June 2010, and the Agreement was signed, in Luxembourg, on the same day, subject to its conclusion at a later date.

¹ doc. 11322/03 RESTREINT UE

4. The Decision on the signature of the Agreement and the Agreement itself were published in the Official Journal on 25 August 2010².
5. The ratification process was completed by all Member States on 4 June 2019, except for the Republic of Croatia, but it is intended that the Republic of Croatia will accede to the Agreement in accordance with the procedure provided for in the Act of Accession annexed to its Treaty of Accession of 5 December 2011.
6. On 22 January 2021, the Commission submitted an amended proposal on the conclusion of the above agreement, with a view notably to take into account the judgement of the European Court of Justice of 28 April 2015 in case C-28/12.
7. The Aviation Working Party examined the draft Council Decision on the conclusion and agreed on it at its informal videoconference on 23 February 2021.
8. Following the examination at working party level, the text of the Council Decision on the conclusion has been revised by the Council's legal-linguistic services.
9. It is noted that, in accordance with Article 129 of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (hereafter the "Withdrawal Agreement"), the United Kingdom was treated as a Member State of the Union and of Euratom for the purposes of international agreements concluded by the Union, or by Member States acting on behalf of the Union, or by the Union and its Member States jointly during the transition period established in Article 126 of the Withdrawal Agreement, and was bound by the obligations stemming from those agreements. At the end of the transition period on 31 December 2020, the present Protocol ceased to apply to the United Kingdom. From that date, references to the United Kingdom in the Protocol therefore no longer have any effect.

² OJ L 223, 25.8.2010, p. 1.

10. With a view to preparing for the conclusion of the Agreement, the Permanent Representatives Committee is invited to suggest that the Council, in part "A" of the agenda of a forthcoming meeting, decides to forward the draft decision on conclusion, as contained in J/L document 6385/21, as well as the text of the Agreement as contained in J/L document 9913/10 to the European Parliament for its consent.
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