Council of the European Union

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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	29 June 2018
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2018) 495 final
Subject:	Amended proposal for a COUNCIL DECISION on the conclusion, on behalf of the Union, of the Common Aviation Area Agreement between the European Union and its Member States, of the one part, and Georgia, of the other part.

Delegations will find attached document COM(2018) 495 final.

Encl.: COM(2018) 495 final

EUROPEAN
COMMISSION

Brussels, 28.6.2018
COM(2018) 495 final

2010/0186 (NLE)

Amended proposal for a

COUNCIL DECISION

on the conclusion, on behalf of the Union, of the Common Aviation Area Agreement between the European Union and its Member States, of the one part, and Georgia, of the other part.

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

The Commission has negotiated, on behalf of the European Union and its Member States the Common Aviation Area Agreement (hereinafter the Agreement) with Georgia in accordance with the Council Decision authorising the Commission to open negotiations.

It is part of the EU neighbourhood policy to replace this network of bilateral agreements through the establishment of a Common Aviation Area between the EU and its neighbours. The Agreement aims at gradual market opening in terms of access to routes and capacity on a reciprocal basis; non-discrimination and level playing field for economic operators based on the principles of the EU Treaties; as well as alignment of the Georgian aviation legislation with EU legislation on issues such as safety, security and air traffic management.

The Agreement has beeen signed on 2 December 2010[1]. As regards the EU side, both the Union and its Member States are parties to this Agreement. The ratification process has been completed by all Member States on 9 February 2017, except for the Republic of Croatia.

The Republic of Croatia accedes to the Agreement in accordance with the procedure provided for in the Act of accession annexed to the Treaty of Accession of 5 December 2011 and the relevant Protocol of accession of the Republic of Croatia to this Agreements has been signed in November 2014[2].

With a view notably to take account of the entry into force of the Treaty of Lisbon, and following the judgement of the European Court of Justice of 28 April 2015 in Case C-28/12, this proposal modifies the initial proposal of the Commission (under COM(2010)339 final[3]), which was adopted on 28 June 2010 and subsequently submitted to the Council. In order to ease the examination by the Council, the whole of the relevant text is submitted as an amended proposal.

2. LEGAL BASIS

Article 100(2) TFEU in conjunction with Article 218(6)(a) (v) TFEU.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

Not applicable

4. BUDGETARY IMPLICATIONS

Not applicable

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[1] Decision 2012/708/EU of the Council and of the Representatives of the Governments of the Member States, meeting within the Council of 15 October 2010 on the signature and provisional application of the Common Aviation Area Agreement between the European Union and its Member States, of the one part, and Georgia, of the other part, OJ L 321, 20.11.2012, p.1.

[2] Council Decision 2014/928/UE of 8 October 2014 on the signing, on behalf of the Union and its Member States, and provisional application of a Protocol amending the Common Aviation Area Agreement between the European Union and its Member States, of the one part, and Georgia, of the other part, to take account of the accession to the European Union of the Republic of Croatia, OJ L 365, 19.12.2014, p.1.

[3] http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52010PC0339&from=EN

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

Not applicable

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COUNCIL DECISION

on the conclusion, on behalf of the Union, of the Common Aviation Area Agreement between the European Union and its Member States, of the one part, and Georgia, of the other part.

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(6)(a) (v) thereof

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament[4],

Whereas:

(1) The Commission has negotiated on behalf of the European Union and its Member States, the Common Aviation Area Agreement with Georgia (hereinafter, the "Agreement") in accordance with the Council Decision authorising the Commission to open negotiations.

(2) The Agreement was signed on 2 December 2010, subject to its conclusion at a later date, in accordance with Decision 2012/708/EU of the Council and of the Representatives of the Member States of the European Union meeting within the Council.[5]

(3) The Agreement has been ratified by all Member States, except for the Republic of Croatia. The Republic of Croatia accedes to the Agreement in accordance with the procedure provided for in the Act of accession annexed to the Treaty of Accession of 5 December 2011 and the relevant Protocol of accession of the Republic of Croatia to this Agreements has been signed in November 2014.

(4) The Agreement should now be approved on behalf of the Union.

(5) Articles 3 and 4 of Decision 2012/708/EU contain provisions on decision making and representation with regard to various matters set out in the agreement. In view of the judgement of the European Court of Justice of 28 April 2015 in case C-28/12, the application of those provisions should be discontinued. Having regard to the Treaties, new provisions on those matters are not necessary, nor are provisions on information obligations of the Member States. Consequently, Articles 3, 4 and 5 of Decision 2012/708/EU should cease to apply at the date of entry into force of this Decision.

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4 OJ C , , p. .

5 OJ L 321 of 20.11.2012.

HAS ADOPTED THIS DECISION:

Article 1

The Common Aviation Area Agreement between the European Union and its Member States, of the one part, and Georgia, of the other part, (hereinafter, the "Agreement") is hereby approved on behalf of the Union.

Article 2

The President of the Council shall designate the person(s) empowered to deposit, on behalf of the European Union, the instrument of approval provided for in Article 29 of the Agreement in order to express the consent of the Union to be bound by the Agreement.

Article 3

The position to be taken by the Union as regards decisions of the Joint Committee under Article 22 of the Agreement regarding merely the inclusion of Union legislation into Annex III (Rules applicable to civil aviation) to the Agreement, subject to any technical adjustments needed, shall be adopted by the Commission, after consultation of a Special Committee appointed by the Council.

Article 4

Articles 3, 4 and 5 of Decision 2012/708/EU shall cease to apply at the date of entry into force of this Decision.

Article 5

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

Done at Brussels,

For the Council
The President