Council of the European Union

Brussels, 27 July 2022
(OR. en)

11479/22
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'I' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee
Subject:	Proposal for a COUNCIL DECISION on the signing, on behalf of the Union, of the Comprehensive Air Transport Agreement between the Member States of the Association of Southeast Asian Nations, and the European Union and its Member States
	- Sataement by the Commission

Delegations will find attached a statement by the Commission to be included in the minutes of the

Permanent Representatives Committee.

The Commission considers that the provisions in Article 3 of the Decision on the signing of the Agreement are not in accordance with the Treaties.

In that regard the Commission notes that all acts of external representation in the process of treaty-making, including the signing of an international agreement and the subsequent expression of the consent to be bound by it, are in accordance with Article 17(1) TEU the institutional prerogatives of the Commission, with the exception of such acts pertaining to agreements falling exclusively or predominantly within the common and foreign security policy of the Union. Without prejudice to this exception, when the Commission and another actor designated by the Council co-sign an international agreement on behalf of the Union, only the signature of the Commission commits the Union.

Accordingly, the signing on behalf of the Union of the Record of statements is in accordance with Article 17(1) TEU the institutional prerogative of the Commission.

The Commission recalls that the Court of Justice has emphasised that consistent practice by Union institutions that is not in accordance with the Treaties "cannot alter the rules of the Treaties that the institutions are obliged to respect" (Case C-687/15 Commission v Council, EU:C:2017:803, para. 42).

The Commission consequently reserves all its rights in these regards.

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