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From:	General Secretariat of the Council
To:	Delegations
No. Cion doc.:	ST 7668/21
Subject:	Amended proposal for a COUNCIL DECISION on the signing, on behalf of the European Union, and provisional application of the Common Aviation Area Agreement between the European Union and its Member States and Ukraine – Presidency Compromise

In preparation of the informal videoconference of the members of the Aviation Working Party of 29 April 2021, delegates may find below a Presidency compromise on the above mentioned proposal. The changes to the Commission's proposal are highlighted in **bold** for the additions and in ~~striketrough~~ for the deletions.

Amended proposal for a

COUNCIL DECISION

on the signing, on behalf of the European Union, and provisional application of the Common Aviation Area Agreement between the European Union and its Member States and Ukraine

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 (5) and (7) thereof,

Having regard to the proposal from the European Commission,

Whereas

- (1) On 12 December 2006, the Council authorised the Commission to open negotiations with Ukraine on the Common Aviation Area Agreement between the European Union and its Member States and Ukraine (the 'Agreement'). As a result of those negotiations, a first version of the Agreement was initialled on 28 November 2013.
- ~~(2) Following the departure of the United Kingdom from the European Union and the end of the transition period provided for in Articles 126 and 127 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, adaptations have been negotiated. Namely, the name of the United Kingdom as a signatory of the Agreement and references to Gibraltar in the definition of 'territory' have been removed. Ukraine agreed to those changes on 30 October 2020.~~
- (3) The Agreement should be signed on behalf of the Union **with respect to matters falling within EU exclusive competence insofar as the Agreement may affect common rules or alter their scope**, subject to its conclusion at a later date. **This Decision should not be interpreted as making use of the possibility for the Union to exercise its external competence with regard to areas covered by the Agreement falling within shared competence to the extent that such competence has not yet been exercised internally by the Union. The signing of the Agreement on behalf of the Union and its provisional application should not affect the allocation of competences between the Union and its Member States.**
- (4) In order to bring about the benefits of the Agreement as early as possible, it should be applied provisionally.

- (5) **It is appropriate to lay down the procedure to be followed with respect to the position to be taken on behalf of the Union as regards decisions of the Joint Committee under Article 15(3) of the Agreement concerning the inclusion of Union legislation into Annex I thereto,**

HAS ADOPTED THIS DECISION:

Article 1

The signing of the Common Aviation Area Agreement between the European Union and its Member States and Ukraine, is hereby approved on behalf of the Union, subject to the conclusion of the said Agreement.

The text of the Agreement to be signed is attached to this Decision.

Article 2

~~The Council Secretariat General shall establish the instrument of full powers to sign the Agreement, subject to its conclusion, for the person(s) indicated by the negotiator of the Agreement.~~ **The President of the Council is hereby authorised to designate the person(s) empowered to sign the Agreement on behalf of the Union.**

Article 3

The Agreement shall be applied provisionally in accordance with Article 38 (3) thereof, pending its entry into force.

Article 4

~~The Commission is authorised to adopt the position to be taken on behalf of by the Union as regards decisions of the Joint Committee under Article 15(3) of the Agreement concerning the revision of to amend Annex I thereto, insofar as it concerns the inclusion of by integrating Union legislation into that Annex, subject to any technical adjustments needed, shall be adopted by the Commission after consultation sufficiently in advance of a Special Committee appointed by the Council or its preparatory bodies, as the Council may decide.~~

Article 5

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

Done at Brussels,

*For the Council
The President
[...]*