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II

(Non-legislative acts)

INTERNATIONAL AGREEMENTS

COUNCIL DECISION (EU) 2020/947

of 26 June 2020

on the conclusion, on behalf of the Union and its Member States, of a Protocol amending the Common Aviation Area Agreement between the European Union and its Member States and the Republic of Moldova, to take account of the accession to the European Union of the Republic of Croatia

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) thereof,

Having regard to the Act of Accession of Croatia, and in particular the second subparagraph of Article 6(2) thereof,

Having regard to the proposal from the European Commission,

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

Whereas:

- (1) In accordance with Council Decision (EU) 2015/1389 ⁽²⁾, the Protocol amending the Common Aviation Area Agreement between the European Union and its Member States and the Republic of Moldova ⁽³⁾, to take account of the accession to the European Union of the Republic of Croatia ('the Protocol') has been signed, subject to its conclusion.
- (2) The Protocol should be approved,

HAS ADOPTED THIS DECISION:

Article 1

The Protocol amending the Common Aviation Area Agreement between the European Union and its Member States and the Republic of Moldova, to take account of the accession to the European Union of the Republic of Croatia ⁽⁴⁾ is hereby approved on behalf of the Union and its Member States.

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to deposit, on behalf of the Union and its Member States, the instrument of approval provided for in Article 3 of the Protocol.

⁽¹⁾ Consent of 17 June 2020 (not yet published in the Official Journal).

⁽²⁾ Council Decision (EU) 2015/1389 of 7 May 2015 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 and the Republic of Moldova, to take account of the accession to the European Union of the Republic of Croatia (OJ L 215, 14.8.2015, p. 1).

⁽³⁾ The text of the Agreement is published in OJ L 292, 20.10.2012, p. 3.

⁽⁴⁾ The text of the Protocol was published in OJ L 215 of 14 August 2015, together with the decision on its signing.

Article 3

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

Done at Brussels, 26 June 2020.

For the Council
The President
A. METELKO-ZGOMBIĆ

COUNCIL DECISION (EU) 2020/948**of 26 June 2020****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 point (a)(v) of the second subparagraph 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 has negotiated, on behalf of the European Union and its Member States, the Common Aviation Area Agreement with Georgia (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 ⁽²⁾.
- (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. The relevant Protocol of Accession of the Republic of Croatia was signed in November 2014.
- (4) The Agreement should 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 light of the judgement of the European Court of Justice of 28 April 2015 in case C-28/12 ⁽³⁾, the application of some those provisions should be discontinued. Having regard to the Treaties, neither new provisions on those matters nor provisions on information obligations of the Member States are necessary. Consequently, paragraphs 2 to 5 of Article 3 and Articles 4 and 5 of Decision 2012/708/EU should cease to apply on the date of entry into force of this Decision,

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 (the 'Agreement') is hereby approved on behalf of the Union ⁽⁴⁾.

⁽¹⁾ Consent of 17 June 2020 (not yet published in the Official Journal).

⁽²⁾ Decision 2012/708/EU of the Council and of the Representatives of the Governments of the Member States of the European Union, 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).

⁽³⁾ ECLI:EU:C:2015:282.

⁽⁴⁾ The text of the Agreement has been published in OJ L 321, 20.11.2012, p. 3 together with the decision on signature.

Article 2

The President of the Council shall, on behalf of the Union, give the notification provided for in Article 29 of 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, solely regarding 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 submitting it for consultation to the Council or its preparatory bodies, as the Council may decide.

Article 4

Paragraphs 2 to 5 of Article 3 and Articles 4 and 5 of Decision 2012/708/EU shall cease to apply on 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, 26 June 2020.

For the Council
The President
A. METELKO-ZGOMBIĆ

COUNCIL DECISION (EU) 2020/949**of 26 June 2020****on the conclusion, on behalf of the European Union and its Member States, 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**

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) thereof,

Having regard to the Act of Accession of Croatia, and in particular the second subparagraph of Article 6(2) thereof,

Having regard to the proposal from the European Commission,

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

Whereas:

- (1) In accordance with Council Decision 2014/928/EU ⁽²⁾, the 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 ⁽³⁾, to take account of the accession to the European Union of the Republic of Croatia ('the Protocol') has been signed, subject to its conclusion.
- (2) The Protocol should be approved,

HAS ADOPTED THIS DECISION:

Article 1

The 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 ⁽⁴⁾ is hereby approved on behalf of the Union and its Member States.

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to deposit, on behalf of the Union and its Member States, the instrument of approval provided for in Article 3 of the Protocol.

Article 3

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

Done at Brussels, 26 June 2020.

For the Council

The President

A. METELKO-ZGOMBIĆ

⁽¹⁾ Consent of 28 April 2016 (not yet published in the Official Journal).

⁽²⁾ Council Decision 2014/928/EU 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⁾ The text of the Agreement is published in OJ L 321, 20.11.2012, p. 3.

⁽⁴⁾ The text of the Protocol was published in OJ L 365, 19.12.2014, p. 3, together with the decision on its signing.

COUNCIL DECISION (EU) 2020/950**of 26 June 2020**

on the conclusion, on behalf of the Union and its Member States, of a Protocol amending the Euro-Mediterranean Aviation Agreement between the European Union and its Member States, of the one part and the government of the State of Israel, of the other part, to take account of the accession to the European Union of the Republic of Croatia

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) thereof,

Having regard to the Act of Accession of Croatia, and in particular the second subparagraph of Article 6(2) thereof,

Having regard to the proposal from the European Commission,

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

Whereas:

- (1) In accordance with Council Decision (EU) 2015/372 ⁽²⁾, the Protocol amending the Euro-Mediterranean Aviation Agreement between the European Union and its Member States, of the one part and the government of the State of Israel, of the other part ⁽³⁾, to take account of the accession to the European Union of the Republic of Croatia ('the Protocol') has been signed, subject to its conclusion.
- (2) The Protocol should be approved,

HAS ADOPTED THIS DECISION:

Article 1

The Protocol amending the Euro-Mediterranean Aviation Agreement between the European Union and its Member States, of the one part, and the government of the State of Israel, of the other part, to take account of the accession to the European Union of the Republic of Croatia ⁽⁴⁾ is hereby approved on behalf of the Union and its Member States.

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to deposit, on behalf of the Union and its Member States, the instrument of approval provided for in Article 3 of the Protocol.

Article 3

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

⁽¹⁾ Consent of 28 April 2016 (not yet published in the Official Journal).

⁽²⁾ Council Decision (EU) 2015/372 of 8 October 2014 on the signing, on behalf of the Union and its Member States, and provisional application of a Protocol amending the Euro-Mediterranean Aviation Agreement between the European Union and its Member States, of the one part and the government of the State of Israel, of the other part, to take account of the accession to the European Union of the Republic of Croatia (OJ L 64, 7.3.2015, p. 1).

⁽³⁾ The text of the Agreement is published in OJ L 208, 2.8.2013, p. 3.

⁽⁴⁾ The text of the Protocol was published in OJ L 64 of 7 March 2015, together with the decision on its signing.

Done at Brussels, 26 June 2020.

For the Council
The President
A. METELKO-ZGOMBIĆ

COUNCIL DECISION (EU) 2020/951**of 26 June 2020****on the conclusion, on behalf of the Union, of the Common Aviation Area Agreement between the European Union and its Member States and the Republic of Moldova**

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 point (a)(v) of second subparagraph 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 Common Aviation Area Agreement between the European Union and its Member States and the Republic of Moldova ⁽²⁾ (the 'Agreement') was signed on 26 June 2012, subject to its conclusion, in accordance with Decision 2012/639/EU of the Council and of the Representatives of the Governments of the Member States, meeting within the Council ⁽³⁾.
- (2) The Agreement has been ratified by all Member States except for the Republic of Croatia, which accedes to the Agreement in accordance with the 2012 Act of Accession. The Protocol amending the Common Aviation Area Agreement between the European Union and its Member States and the Republic of Moldova, to take account of the accession to the European Union of the Republic of Croatia ⁽⁴⁾ was signed on 22 July 2015 in accordance with Council Decision (EU) 2015/1389 ⁽⁵⁾.
- (3) The Agreement should be approved on behalf of the Union.
- (4) Articles 4 and 5 of Decision 2012/639/EU contain provisions on decision-making and representation with regard to various matters set out in the Agreement. In view of the judgment of the Court of Justice of 28 April 2015 in Case C-28/12 ⁽⁶⁾, *Commission v Council*, the application of those provisions should be discontinued. Having regard to the Treaties, new provisions on those matters are not necessary and the provisions concerning the provision of information to the Commission set out in Article 6 of Decision 2012/639/EU are no longer necessary. Consequently, paragraphs 2 to 5 of Article 4 and Articles 5 and 6 of Decision 2012/639/EU should cease to apply on the date of entry into force of this Decision,

HAS ADOPTED THIS DECISION:

Article 1

The Common Aviation Area Agreement between the European Union and its Member States and the Republic of Moldova is hereby approved on behalf of the Union. ⁽⁷⁾

⁽¹⁾ Consent of 17 June 2020 (not yet published in the Official Journal).

⁽²⁾ OJ L 292, 20.10.2012, p. 3.

⁽³⁾ Decision 2012/639/EU of the Council and of the Representatives of the Governments of the Member States, meeting within the Council of 7 June 2012 on the signing, on behalf of the Union, and provisional application of the Common Aviation Area Agreement between the European Union and its Member States and the Republic of Moldova (OJ L 292, 20.10.2012, p. 1).

⁽⁴⁾ OJ L 215, 14.8.2015, p. 3.

⁽⁵⁾ Council Decision (EU) 2015/1389 of 7 May 2015 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 and the Republic of Moldova, to take account of the accession to the European Union of the Republic of Croatia (OJ L 215, 14.8.2015, p. 1).

⁽⁶⁾ Judgment of the Court of Justice of 28 April 2015, *Commission v Council*, Case C-28/12, ECLI:EU:C:2015:282.

⁽⁷⁾ The text of the Agreement has been published in OJ L 292, 20.10.2012, p. 3, together with the decision on signature.

Article 2

The President of the Council shall, on behalf of the Union, give the notification provided for in Article 29(1) of the Agreement.

Article 3

The position to be taken on behalf of the Union as regards decisions of the Joint Committee under point (a) of Article 26(7) of the Agreement concerning the inclusion of Union legislation in Annex III to the Agreement, subject to any technical adjustments needed, shall be expressed by the Commission, after submitting it for consultation to the Council or its preparatory bodies, as the Council may decide.

Article 4

Paragraphs 2 to 5 of Article 4 and Articles 5 and 6 of Decision 2012/639/EU shall cease to apply on 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, 26 June 2020.

For the Council
The President
A. METELKO-ZGOMBIĆ

COUNCIL DECISION (EU) 2020/952**of 26 June 2020****on the conclusion, on behalf of the Union, of the Euro-Mediterranean Aviation Agreement between the European Union and its Member States, of the one part, and the government of the State of Israel, 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 point (a)(v) of second subparagraph 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 Euro-Mediterranean Aviation Agreement between the European Union and its Member States, of the one part, and the government of the State of Israel, of the other part, ⁽²⁾ (the "Agreement") was signed on 10 June 2013, subject to its conclusion, in accordance with Decision 2013/398/EU of the Council and the Representatives of the Governments of the Member States, meeting within the Council ⁽³⁾.
- (2) The Agreement has been ratified by all Member States, except for the Republic of Croatia, which accedes to the Agreement in accordance with the 2012 Act of Accession. The Protocol amending the Euro-Mediterranean Aviation Agreement between the European Union and its Member States, of the one part, and the government of the State of Israel, of the other part, to take account of the accession to the European Union of the Republic of Croatia ⁽⁴⁾ was signed on 19 February 2015 in accordance with Council Decision (EU) 2015/372 ⁽⁵⁾.
- (3) The Agreement should be approved on behalf of the Union.
- (4) The Agreement should be implemented in accordance with the Union's position that the territories which came under Israeli administration in June 1967 are not part of the territory of the State of Israel.
- (5) Articles 4 and 5 of Decision 2013/398/EU contain provisions on decision-making and representation with regard to various matters set out in the Agreement. In view of the judgment of the Court of Justice of 28 April 2015 in Case C-28/12 ⁽⁶⁾, *Commission v Council*, the application of those provisions should be discontinued. Having regard to the Treaties, new provisions on those matters are not necessary and the provisions concerning the provision of information to the Commission set out in Article 6 of Decision 2013/398/EU are no longer necessary. Consequently, paragraphs 2 to 5 of Article 4 and Articles 5 and 6 of Decision 2013/398/EU should cease to apply on the date of entry into force of this Decision,

HAS ADOPTED THIS DECISION:

Article 1

The Euro-Mediterranean Aviation Agreement between the European Union and its Member States, of the one part, and the government of the State of Israel, of the other part, is hereby approved on behalf of the Union. ⁽⁷⁾

⁽¹⁾ Consent of 17 June 2020 (not yet published in the Official Journal).

⁽²⁾ OJ L 208, 2.8.2013, p. 3.

⁽³⁾ Decision 2013/398/EU of the Council and of the Representatives of the Governments of the Member States, meeting within the Council, of 20 December 2012 on the signing, on behalf of the European Union, and provisional application of the Euro-Mediterranean Aviation Agreement between the European Union and its Member States, of the one part, and the Government of the State of Israel, of the other part (OJ L 208, 2.8.2013, p. 1).

⁽⁴⁾ OJ L 64, 7.3.2015, p. 3.

⁽⁵⁾ Council Decision (EU) 2015/372 of 8 October 2014 on the signing, on behalf of the Union and its Member States, and provisional application of a Protocol amending the Euro-Mediterranean Aviation Agreement between the European Union and its Member States, of the one part, and the government of the State of Israel, of the other part, to take account of the accession to the European Union of the Republic of Croatia (OJ L 64, 7.3.2015, p. 1).

⁽⁶⁾ Judgment of the Court of Justice of 28 April 2015, *Commission v Council*, Case C-28/12, ECLI:EU:C:2015:282.

⁽⁷⁾ The text of the Agreement has been published in OJ L 208, 2.8.2013, p. 3, together with the decision on signature.

Article 2

The President of the Council shall, on behalf of the Union, give the notification provided for in Article 30(2) of the Agreement.

Article 3

The position to be taken on behalf of the Union as regards decisions of the Joint Committee under point (a) of Article 27(6) of the Agreement concerning the inclusion of Union legislation in Annex IV to the Agreement, subject to any technical adjustments needed, shall be expressed by the Commission, after submitting it for consultation to the Council or its preparatory bodies, as the Council may decide.

Article 4

Paragraphs 2 to 5 of Article 4 and Articles 5 and 6 of Decision 2013/398/EU shall cease to apply on 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, 26 June 2020.

For the Council
The President
A. METELKO-ZGOMBIĆ

COUNCIL DECISION (EU) 2020/953**of 26 June 2020****on the conclusion, on behalf of the Union, of the Euro-Mediterranean Aviation Agreement between the European Union and its Member States, of the one part, and the Hashemite Kingdom of Jordan, 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 point (a)(v) of the second subparagraph 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 Euro-Mediterranean Aviation Agreement between the European Union and its Member States, of the one part, and the Hashemite Kingdom of Jordan, of the other part ⁽²⁾ (the 'Agreement'), was signed on 15 December 2010, subject to its conclusion at a later date, in accordance with Decision 2012/750/EU of the Council and the Representatives of the Governments of the Member States, meeting within the Council ⁽³⁾.
- (2) The Agreement has been ratified by all Member States, except for the Republic of Croatia, which accedes to the Agreement in accordance with the 2012 Act of accession. The Protocol amending the Euro-Mediterranean Aviation Agreement between the European Union and its Member States, of the one part, and the Hashemite Kingdom of Jordan, of the other part, to take account of the accession to the European Union of the Republic of Croatia ⁽⁴⁾ was signed on 3 May 2016 in accordance with Council Decision (EU) 2016/803 ⁽⁵⁾.
- (3) The Agreement should be approved on behalf of the Union.
- (4) Articles 3 and 4 of Decision 2012/750/EU contain provisions on decision-making and representation with regard to various matters set out in the Agreement. In view of the judgment of the Court of Justice of 28 April 2015 in Case C-28/12 ⁽⁶⁾, *Commission v Council*, the application of those provisions should be discontinued. Having regard to the Treaties, new provisions on those matters are not necessary and the provisions concerning the provision of information to the Commission set out in Article 5 of Decision 2012/750/EU are no longer necessary. Consequently, paragraphs 2 to 5 of Article 3 and Articles 4 and 5 of Decision 2012/750/EU should cease to apply on the date of entry into force of this Decision,

⁽¹⁾ Consent of 17 June 2020 (not yet published in the Official Journal).

⁽²⁾ OJ L 334, 6.12.2012, p. 3.

⁽³⁾ Decision 2012/750/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 Euro-Mediterranean Aviation Agreement between the European Union and its Member States, of the one part, and The Hashemite Kingdom of Jordan, of the other part (OJ L 334, 6.12.2012, p. 1).

⁽⁴⁾ OJ L 132, 21.5.2016, p. 81.

⁽⁵⁾ Council Decision (EU) 2016/803 of 7 May 2015 on the signing, on behalf of the Union and its Member States, and provisional application of a Protocol amending the Euro-Mediterranean Aviation Agreement between the European Union and its Member States, of the one part, and the Hashemite Kingdom of Jordan, of the other part, to take account of the accession to the European Union of the Republic of Croatia (OJ L 132, 21.5.2016, p. 79).

⁽⁶⁾ Judgment of the Court of Justice of 28 April 2015, *Commission v Council*, Case C-28/12, ECLI:EU:C:2015:282.

HAS ADOPTED THIS DECISION:

Article 1

The Euro-Mediterranean Aviation Agreement between the European Union and its Member States, of the one part, and the Hashemite Kingdom of Jordan, of the other part, is hereby approved on behalf of the Union ⁽⁷⁾.

Article 2

The President of the Council shall, on behalf of the Union, give the notification provided for in Article 29(1) of the Agreement.

Article 3

The position to be taken on behalf of the Union as regards decisions of the Joint Committee under point (a) of Article 26(6) of the Agreement concerning the inclusion of Union legislation in Annex III to the Agreement, subject to any technical adjustments needed, shall be expressed by the Commission, after submitting it for consultation to the Council or its preparatory bodies, as the Council may decide.

Article 4

Paragraphs 2 to 5 of Article 3 and Articles 4 and 5 of Decision 2012/750/EU shall cease to apply on 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, 26 June 2020.

For the Council
The President
A. METELKO-ZGOMBIĆ

⁽⁷⁾ The Agreement has been published in OJ L 334, 6.12.2012, p. 3 together with the decision on signature.

DECISIONS

COUNCIL DECISION (EU) 2020/954

of 25 June 2020

on the position to be taken on behalf of the European Union within the International Civil Aviation Organization as regards the notification of voluntary participation in the Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA) from 1 January 2021 and the option selected for calculating aeroplane operators' offsetting requirements during the 2021-2023 period

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Chicago Convention on International Civil Aviation ('the Chicago Convention') entered into force on 4 April 1947. It established the International Civil Aviation Organization (ICAO) and aims to regulate international air transport.
- (2) All Member States of the Union are contracting States of the Chicago Convention and members of the ICAO, whereas the Union has observer status in certain ICAO bodies.
- (3) In December 2015, the 21st Conference of the Parties to the United Nations Framework Convention on Climate Change adopted the Paris Agreement ⁽¹⁾. The objectives of the Paris Agreement include holding the increase in the global average temperature to well below 2 °C above pre-industrial levels and pursuing efforts to limit temperature increase to 1,5 °C above pre-industrial levels. All sectors of the economy should contribute to achieving emission reductions, including international aviation.
- (4) In 2016, by means of its Resolution A39-3, the 39th ICAO Assembly decided to implement a global market-based measure scheme in the form of the Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA) to limit greenhouse gas emissions from international aviation at their 2020 levels. The Union position in respect of the elaboration and adoption of that scheme and its various detailed elements has been established by Council Decision (EU) 2016/915 ⁽²⁾.
- (5) On 27 June 2018, at the tenth meeting of its 214th session, the ICAO Council adopted the First Edition of Annex 16, Volume IV to the Chicago Convention: Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA) ('Annex 16, Volume IV').

⁽¹⁾ OJ L 282, 19.10.2016, p. 4.

⁽²⁾ Council Decision (EU) 2016/915 of 30 May 2016 on the position to be taken on behalf of the European Union with regard to the international instrument to be drawn up within the ICAO bodies and intended to lead to the implementation from 2020 of a single global market-based measure for international aviation emissions (OJ L 153, 10.6.2016, p. 32).

- (6) In 2017, Regulation (EU) 2017/2392 of the European Parliament and of the Council ⁽³⁾ amended Directive 2003/87/EC of the European Parliament and of the Council ⁽⁴⁾. One of the purposes of that Regulation was to prepare for the implementation of CORSIA from 2021, to lay down requirements under Union law for the monitoring, reporting and verification for the purpose of CORSIA, and reporting on and the review of the implementation of CORSIA.
- (7) The rules contained in Annex 16, Volume IV are to become binding in accordance with, and within the limits set out in, the Chicago Convention. Those rules are also to become binding upon the Union and its Member States under existing international air transport agreements.
- (8) In order for ICAO to take full account of the current legal framework at Union level, differences have been notified by the Member States in accordance with Council Decision (EU) 2018/2027 ⁽⁵⁾. Under Decision (EU) 2018/2027, Directive 2003/87/EC, as it currently stands, applies irrespective of the nationality of the aeroplane operator and in principle covers flights which depart from or arrive in an aerodrome situated in the territory of a Member State to which the Treaty on the Functioning of the European Union ("TFEU") applies. Directive 2003/87/EC applies without distinction to flights within and between Member States and/or European Economic Area countries. At this stage, those rules apply both to monitoring, reporting and verification (MRV) requirements and offsetting requirements.
- (9) Subject to the differences notified in accordance with Decision (EU) 2018/2027, the MRV requirements which are set out in Annex 16, Volume IV and applicable as from 1 January 2019 have been incorporated into Union law by means of Commission Implementing Regulations (EU) 2018/2066 ⁽⁶⁾ and (EU) 2018/2067 ⁽⁷⁾ and Commission Delegated Regulation (EU) 2019/1603 ⁽⁸⁾. Under those Regulations, emissions data will be collected and transmitted to the ICAO Secretariat in respect of emissions during the pilot phase.
- (10) Pursuant to paragraphs 3.1.3 and 3.2.1 of Chapter 3 of Part II and Appendix 1 of Annex 16, Volume IV, contracting States are required to notify ICAO of their decision to voluntarily participate or to discontinue the voluntary participation in CORSIA from 1 January 2021. Contracting States are also required to notify ICAO of which option they have selected for calculating aeroplane operators' offsetting requirements during the 2021-2023 period. They are required to submit those notifications by 30 June 2020.
- (11) It follows from those provisions that certain legal effects of Annex 16, Volume IV depend on the submission of and the terms of relevant notifications to ICAO. Therefore, the adoption of a Union position in respect of such notifications falls within the scope of Article 218(9) TFEU.

⁽³⁾ Regulation (EU) 2017/2392 of the European Parliament and of the Council of 13 December 2017 amending Directive 2003/87/EC to continue current limitations of scope for aviation activities and to prepare to implement a global market-based measure from 2021 (OJ L 350, 29.12.2017, p. 7).

⁽⁴⁾ Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a system for greenhouse gas emission allowance trading within the Union and amending Council Directive 96/61/EC (OJ L 275, 25.10.2003, p. 32).

⁽⁵⁾ Council Decision (EU) 2018/2027 of 29 November 2018 on the position to be taken on behalf of the European Union within the International Civil Aviation Organization in respect of the First Edition of the International Standards and Recommended Practices on Environmental Protection – Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA) (OJ L 325, 20.12.2018, p. 25).

⁽⁶⁾ Commission Implementing Regulation (EU) 2018/2066 of 19 December 2018 on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council and amending Commission Regulation (EU) No 601/2012 (OJ L 334, 31.12.2018, p. 1).

⁽⁷⁾ Commission Implementing Regulation (EU) 2018/2067 of 19 December 2018 on the verification data and on the accreditation of verifiers pursuant to Directive 2003/87/EC of the European Parliament and of the Council (OJ L 334, 31.12.2018, p. 94).

⁽⁸⁾ Commission Delegated Regulation (EU) 2019/1603 of 18 July 2019 supplementing Directive 2003/87/EC of the European Parliament and of the Council as regards measures adopted by the International Civil Aviation Organisation for the monitoring, reporting and verification of aviation emissions for the purpose of implementing a global market-based measure (OJ L 250, 30.9.2019, p. 10).

- (12) In this respect, it is appropriate to establish the position to be taken on the Union's behalf within the ICAO, having regard to the notification requirements under Annex 16, Volume IV, in particular because the voluntary participation in CORSIA and the choice of the option under paragraph 3.2.1 of Annex 16, Volume IV may decisively influence rights and obligations in an area covered by Union law, notably Directive 2003/87/EC and, to a certain extent, Directive (EU) 2018/2001 of the European Parliament and of the Council ⁽⁹⁾.
- (13) The Union and the Member States have repeatedly declared ⁽¹⁰⁾ that they are willing to participate in CORSIA from 1 January 2021.
- (14) Voluntary participation in CORSIA implies that, in accordance with paragraph 3.2.1 of Annex 16, Volume IV, an option must be selected for calculating aeroplane operators' offsetting requirements during the 2021-2023 period. In this respect, it is appropriate to base the calculations on the emissions during 2021, 2022 and 2023, respectively. That option is likely to entail a greater environmental and international transport benefit than the other option available, which is to base the calculations on the emissions during 2020, since the emissions from international aviation are expected to be higher during 2021, 2022 and 2023 than during 2020 thus leading to greater offsetting requirements. It would also ensure greater continuity, bearing in mind that, for the years from 2024, paragraph 3.2.2 of Annex 16, Volume IV equally provides for a calculation based on the respective year.
- (15) The selection of emissions during 2021, 2022 and 2023, respectively, for the calculation of aeroplane operators' offsetting requirements would apply during the 2021-2023 period to all aeroplane operators that have been attributed to the Member State concerned in line with the latest edition of the ICAO document 'CORSIA Aeroplane Operator to State Attributions' ⁽¹¹⁾.
- (16) The framework of Directive 2003/87/EC currently differs from Annex 16, Volume IV in certain ways. Under Article 28b(2) of Directive 2003/87/EC, within 12 months of the adoption by ICAO of the relevant instruments and before CORSIA becomes operational, the Commission is to present a report to the European Parliament and to the Council in which it is to consider ways for those instruments to be implemented in Union law through a revision of Directive 2003/87/EC and in which it is to examine, amongst other things, the ambition and overall environmental integrity of CORSIA, including its general ambition in relation to targets under the Paris Agreement, the level of participation, its enforceability, transparency, the penalties for non-compliance, the processes for public input, the quality of offset credits, monitoring, reporting and verification of emissions, registries, accountability as well as rules on the use of biofuels. Under Article 28b(3) of Directive 2003/87/EC, where appropriate, the Commission is to accompany the report with a proposal to the European Parliament and to the Council to amend, delete, extend or replace the derogations provided for in Article 28a of that Directive, that is consistent with the Union economy-wide greenhouse gas emission reduction commitment for 2030 with the aim of preserving the environmental integrity and effectiveness of Union climate action.
- (17) The Commission has not yet presented the report. There is therefore an urgent need for the Commission to present the report referred to Article 28b(2) of Directive 2003/87/EC, accompanied by the corresponding proposal to the European Parliament and to the Council, as soon as possible and before the end of 2020.
- (18) In this context, it is necessary to ensure that current and possible future differences between Union law and Annex 16, Volume IV be taken into account effectively, with a view to preserving the Union legal framework as necessary, including the legislator's latitude to decide on the future Union scheme applicable to the area concerned.
- (19) The relevant notifications to ICAO should therefore include a reference to the difference notified in accordance with Decision (EU) 2018/2027, which applies to the matters covered by the voluntary participation. Since such difference, insofar as still relevant, merely concerns the attribution of competence of States vis-à-vis the different operators, the relevant notifications to ICAO should also reserve the possibility to notify additional differences.

⁽⁹⁾ Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (OJ L 328, 21.12.2018, p. 82).

⁽¹⁰⁾ E.g. 'Bratislava Declaration', ICAO A39- WP/414 (<https://data.consilium.europa.eu/doc/document/ST-12029-2016-INIT/en/pdf>) and ICAO A40-WP/102 (<https://data.consilium.europa.eu/doc/document/ST-10227-2019-REV-1/en/pdf>).

⁽¹¹⁾ <https://www.icao.int/environmental-protection/CORSIA/Pages/CCR.aspx>

- (20) The positions to be taken on the Union's behalf within the ICAO should be expressed by each Member State of the Union that is a member of the ICAO,

HAS ADOPTED THIS DECISION:

Article 1

1. The position to be taken on the Union's behalf within the International Civil Aviation Organization (ICAO) as regards the notification to the ICAO in respect of the voluntary participation of the Member States in the Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA) from January 2021 shall be the following: each Member State that is a member of the ICAO shall notify ICAO the following text, by 30 June 2020:

'Pursuant to paragraph 3.1.3 of Chapter 3 of Part II and Appendix 1 of Annex 16, Volume IV to the Chicago Convention on International Civil Aviation: Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA), [Member State] notifies the ICAO of its voluntary participation in CORSIA from 1 January 2021.'

2. The position to be taken on the Union's behalf within the ICAO as regards the notification to the ICAO in respect of the option selected for calculating aeroplane operators' offsetting requirements during the 2021-2023 period shall be the following: each Member State that is a member of the ICAO shall notify ICAO the following text, by 30 June 2020:

'Pursuant to paragraph 3.2.1 of Chapter 3 of Part II and Appendix 1 of Annex 16, Volume IV to the Chicago Convention on International Civil Aviation: Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA), [Member State] notifies the ICAO that for the purpose of calculating aeroplane operators' offsetting requirements during the 2021-2023 period the selected option is OE = Aeroplane operator's CO₂ emissions covered by 3.1 in the given year y.'

3. The notifications referred to in paragraphs 1 and 2 of this Article shall be accompanied by the following text:

'This notification is without prejudice to differences, under Article 38 of the Chicago Convention, with the provisions of Annex 16, Volume IV to the Chicago Convention.'

Article 2

The positions referred to in Article 1 shall be expressed by each Member State of the Union that is a member of the ICAO.

Article 3

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

Done at Brussels, 25 June 2020.

For the Council
The President
A. METELKO-ZGOMBIĆ

COUNCIL DECISION (CFSP) 2020/955**of 30 June 2020****amending Joint Action 2005/889/CFSP on establishing a European Union Border Assistance Mission for the Rafah Crossing Point (EU BAM Rafah)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 42(4) and Article 43(2) thereof,

Having regard to the proposal from the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

- (1) On 25 November 2005, the Council adopted Joint Action 2005/889/CFSP ⁽¹⁾, which established a European Union Border Assistance Mission for the Rafah Crossing Point (EU BAM Rafah).
- (2) On 28 June 2019, the Council adopted Decision (CFSP) 2019/1115 ⁽²⁾, which amended Joint Action 2005/889/CFSP and extended it until 30 June 2020.
- (3) On 16 April 2020, the Political and Security Committee ('PSC') agreed that, due to the COVID-19 pandemic, EU BAM Rafah should be extended with the same mandate for a further period of 12 months, until 30 June 2021, with the understanding that the Mission will be subject to a Strategic Review as soon as circumstances allow.
- (4) EU BAM Rafah should be granted a financial reference amount for this new one-year period.
- (5) Joint Action 2005/889/CFSP should be amended accordingly.
- (6) EU BAM Rafah will be conducted in the context of a situation which may deteriorate and could impede the achievement of the objectives of the Union's external action as set out in Article 21 of the Treaty,

HAS ADOPTED THIS DECISION:

Article 1

Joint Action 2005/889/CFSP is amended as follows:

- (1) in Article 13(1), the following subparagraph is added:

'The financial reference amount intended to cover the expenditure related to EU BAM Rafah for the period from 1 July 2020 to 30 June 2021 shall be EUR 2 180 000,00';

- (2) in Article 16, the second paragraph is replaced by the following:

'It shall expire on 30 June 2021.'.

⁽¹⁾ Council Joint Action 2005/889/CFSP of 25 November 2005 on establishing a European Union Border Assistance Mission for the Rafah Crossing Point (EU BAM Rafah) (OJ L 327, 14.12.2005, p. 28).

⁽²⁾ Council Decision (CFSP) 2019/1115 of 28 June 2019 amending Joint Action 2005/889/CFSP on establishing a European Union Border Assistance Mission for the Rafah Crossing Point (EU BAM Rafah) (OJ L 176, 1.7.2019, p. 6).

Article 2

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

It shall apply from 1 July 2020.

Done at Brussels, 30 June 2020.

For the Council
The President
A. METELKO-ZGOMBIĆ

CORRIGENDA

Corrigendum to Directive (EU) 2019/878 of the European Parliament and of the Council of 20 May 2019 amending Directive 2013/36/EU as regards exempted entities, financial holding companies, mixed financial holding companies, remuneration, supervisory measures and powers and capital conservation measures

(Official Journal of the European Union L 150 of 7 June 2019)

1. On page 261, the second subparagraph of the new Article 21a(2):

for: '... In that case, the assessment period referred to in the second subparagraph of Article 22(3) shall be suspended for a period exceeding 20 working days until the procedure set out in this Article is complete.'

read: '... In that case, the assessment period referred to in the second subparagraph of Article 22(2) shall be suspended for a period exceeding 20 working days until the procedure set out in this Article is complete.'

2. On page 264, the new Article 21b(8):

for: '8. By way of derogation from paragraph 1, third-country groups operating through more than one institution in the Union and with a total value of assets equal to or greater than EUR 40 billion on 27 June 2019 ...',

read: '8. By way of derogation from paragraph 1, third-country groups operating through more than one institution in the Union and with a total value of assets in the Union equal to or greater than EUR 40 billion on 27 June 2019 ...'.

3. On page 276, the new Article 104a(4):

for: '4. The institution shall meet the additional own funds requirement imposed by the competent authority under point (a) of Article 104(1) with own funds that satisfy the following conditions:
(a) at least three quarters of the additional own funds requirement shall be met with Tier 1 capital;
(b) at least three quarters of the Tier 1 capital referred to in point (a) shall be composed of Common Equity Tier 1 capital.

By way of derogation from the first subparagraph, the competent authority may require the institution to meet its additional own funds requirement with a higher portion of Tier 1 capital or Common Equity Tier 1 capital, where necessary, and having regard to the specific circumstances of the institution.

...',

read: '4. The institution shall meet the additional own funds requirement imposed by the competent authority under point (a) of Article 104(1) to address risks other than the risk of excessive leverage with own funds that satisfy the following conditions:
(a) at least three quarters of the additional own funds requirement shall be met with Tier 1 capital;
(b) at least three quarters of the Tier 1 capital referred to in point (a) shall be composed of Common Equity Tier 1 capital.

The institution shall meet the additional own funds requirement imposed by the competent authority under point (a) of Article 104(1) to address the risk of excessive leverage with Tier 1 capital.

By way of derogation from the first and the second subparagraphs, the competent authority may require the institution to meet its additional own funds requirement with a higher portion of Tier 1 capital or Common Equity Tier 1 capital, where necessary, and having regard to the specific circumstances of the institution.

...’.

4. On page 290, point (b) of the second subparagraph of the amended Article 141(2):

for: ‘(b) create an obligation to pay variable remuneration or discretionary pension benefits or pay variable remuneration if the obligation to pay was created at a time when the institution failed to meet the combined buffer requirements; or’,

read: ‘(b) create an obligation to pay variable remuneration or discretionary pension benefits or pay variable remuneration if the obligation to pay was created at a time when the institution failed to meet the combined buffer requirement; or’.

5. On page 291, point (d) of the first subparagraph of the amended Article 141(6):

for: ‘(d) where the Common Equity Tier 1 capital maintained by the institution which is not used to meet the own funds requirements set out in points (b) and (c) of Article 92(1) of Regulation (EU) No 575/2013 and ...’,

read: ‘(d) where the Common Equity Tier 1 capital maintained by the institution which is not used to meet the own funds requirements set out in points (a), (b) and (c) of Article 92(1) of Regulation (EU) No 575/2013 and ...’.

6. On page 292, point (b) of the second subparagraph of the new Article 141b(2):

for: ‘(b) create an obligation to pay variable remuneration or discretionary pension benefits or pay variable remuneration if the obligation to pay was created at a time when the institution failed to meet the combined buffer requirements; or’,

read: ‘(b) create an obligation to pay variable remuneration or discretionary pension benefits or pay variable remuneration if the obligation to pay was created at a time when the institution failed to meet the leverage ratio buffer requirement; or’.

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