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RELEX 584  
USA 9  
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**'I/A' ITEM NOTE**

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| From:    | General Secretariat of the Council                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| To:      | Permanent Representatives Committee/Council                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| Subject: | Proposal for a COUNCIL DECISION on the conclusion, on behalf of the Union, of the Air Transport Agreement between the United States of America, of the first part, the European Union and its Member States, of the second part, Iceland, of the third part, and the Kingdom of Norway, of the fourth part, and on the conclusion, on behalf of the Union, of the Ancillary Agreement between the European Union and its Member States, of the first part, Iceland, of the second part, and the Kingdom of Norway, of the third part, on the application of the Air Transport Agreement between the United States of America, of the first part, the European Union and its Member States, of the second part, Iceland, of the third part, and the Kingdom of Norway, of the fourth part<br>- Adoption |

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1. The Air Transport Agreement between the European Community and its Member States, of the one part, and the United States of America, of the other part ("the EU-US Air Transport Agreement") was signed on 25 and 30 April 2007<sup>1</sup> and amended by a Protocol of 24 June 2010<sup>2</sup>. The EU-US Air Transport Agreement has been in force since 29 June 2020. The Amending Protocol has been in force since 5 May 2022.
2. Subsequently, an agreement for the accession of Iceland and Norway to the EU-US Air Transport Agreement ("the Accession Agreement") and an ancillary agreement for the internal

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<sup>1</sup> Council Decision of 25 April 2007 on the signature and provisional application of the EU-US Air Transport Agreement (2007/339/EC), OJ L 134, 25.5.2007, p.4.

<sup>2</sup> OJ L 223, 25.8.2010, p.3.

arrangements between the Union, Norway and Iceland ("the Ancillary Agreement") were negotiated.

3. On 2 May 2011, the Commission adopted a proposal for a Council decision on signature and provisional application of those two agreements (ST 9849/11) and a proposal for a Council decision on conclusion of those two agreements (ST 9829/11).
4. Together with the Representatives of the Governments of the Member States of the European Union, meeting within the Council, the Council adopted a decision on the signing and provisional application of the Accession Agreement and the Ancillary Agreement on 16 June 2011 (Decision 2011/708/EU)<sup>3</sup>.
5. On 14 November 2014, the Council requested the consent of the European Parliament on the decision on the conclusion of the Accession Agreement and the Ancillary Agreement (ST 15260/11 REV 1).
6. In its judgment of 28 April 2015 in case *Commission v Council*, C-28/12<sup>4</sup> the Court of justice determined that the adoption by the Council of hybrid decisions, such as Decision 2011/708/EU, was incompatible with the Treaties and therefore annulled Decision 2011/708/EU. The Court decided to maintain the effects of the annulled decision until the entry into force, within a reasonable period of time, of a new decision to be adopted by the Council pursuant to Article 218(5) and (8) TFEU.
7. Further to that judgment, the Commission submitted a proposal for a new Council decision on the signing and provisional application of the Accession Agreement and the Ancillary Agreement (ST 11984/16 + ADD1 REV1 + ADD2 REV1) to replace the annulled decision.
8. The Council adopted a decision on the signing and provisional application of the Accession Agreement and the Ancillary Agreement on 20 March 2023 (Decision (EU) 2023/684)<sup>5</sup>.
9. The Council decision on the conclusion of the Accession Agreement and the Ancillary Agreement takes into account the above-mentioned case-law (C-28/12), as Decision (EU) 2023/684 already did.

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<sup>3</sup> OJ L 283, 29.10.2011, p. 1–15

<sup>4</sup> EU:C:2015:282.

<sup>5</sup> OJ L 89, 27.3.2023, p. 3–5

10. The Council decision also takes into account the judgment of 9 April 2024 in case *Commission v Council*, C-551/21<sup>6</sup> and Article 3 of the decision on the conclusion of the Accession Agreement and the Ancillary Agreement on which the consent of the European Parliament was requested (ST 15260/11 REV 1) has been deleted accordingly.
11. The Working Party on Aviation discussed the proposal on 5 September 2025. Delegations proposed editorial changes and based on those, the Presidency suggested the compromise set out in document ST 12913/25.
12. In accordance with Article 218(6), point a TFEU, the European Parliament gave its consent on the Council decision as set out in document ST 12913/25.
13. In light of the above, the Permanent Representatives Committee is invited to suggest to the Council, through an ‘A’ item, at one of its forthcoming meetings to adopt the Council decision as set out in document ST 12913/25.

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<sup>6</sup> EU:C:2024:281.