

II

(Non-legislative acts)

INTERNATIONAL AGREEMENTS

COUNCIL DECISION

of 21 March 2011

on the conclusion, on behalf of the European Union, of an Agreement between the European Community and the Republic of Iceland, the Kingdom of Norway, the Swiss Confederation and the Principality of Liechtenstein on supplementary rules in relation to the External Borders Fund for the period 2007 to 2013

(2011/305/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 77(2)(d) 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,

Whereas:

- (1) According to Article 11 of Decision No 574/2007/EC of the European Parliament and of the Council of 23 May 2007 establishing the External Borders Fund for the period 2007 to 2013 as part of the General programme 'Solidarity and Management of Migration Flows' ⁽¹⁾ the third countries associated with the implementation, application and development of the Schengen *acquis* shall participate in the Fund in accordance with its provisions and arrangements should be concluded to specify supplementary rules necessary for such participation, including provisions ensuring the protection of the Community's financial interests and the power of audit of the Court of Auditors.
- (2) Following the authorisation given to the Commission on 20 December 2007, negotiations with the Republic of Iceland, the Kingdom of Norway, the Swiss Confederation and the Principality of Liechtenstein were concluded on 30 June 2009.

- (3) According to Council Decision 2010/374/EC of 30 November 2009 ⁽²⁾, and pending its conclusion at a later date, the Agreement between the European Community and the Republic of Iceland, the Kingdom of Norway, the Swiss Confederation and the Principality of Liechtenstein on supplementary rules in relation to the External Borders Fund for the period 2007 to 2013 (hereinafter referred to as 'the Agreement') was signed on 19 March 2010 on behalf of the Union, and applied on a provisional basis.

- (4) As a consequence of the entry into force of the Treaty of Lisbon on 1 December 2009, a Joint Declaration by the European Union and the Republic of Iceland, the Kingdom of Norway, the Swiss Confederation and the Principality of Liechtenstein on the Agreement between the European Community and the Republic of Iceland, the Kingdom of Norway, the Swiss Confederation and the Principality of Liechtenstein on supplementary rules in relation to the External Borders Fund for the period 2007 to 2013 has been agreed by all Parties at the time of the signature, and attached to the Agreement, stating that the European Union has replaced and succeeded the European Community.

- (5) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Decision and is not bound by it, or subject to its application. Given that this Decision builds upon the Schengen *acquis*, Denmark shall, in accordance with Article 4 of that Protocol, decide within a period of 6 months after the Council has decided on this Decision whether it will implement it in its national law.

⁽¹⁾ OJ L 144, 6.6.2007, p. 22.

⁽²⁾ OJ L 169, 3.7.2010, p. 22.

- (6) This Decision constitutes a development of the provisions of the Schengen *acquis* in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis* ⁽¹⁾. The United Kingdom is therefore not taking part in its adoption and is not bound by it or subject to its application.
- (7) This Decision constitutes a development of the provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* ⁽²⁾. Ireland is therefore not taking part in its adoption and is not bound by it or subject to its application.
- (8) The Agreement should be concluded,

HAS ADOPTED THIS DECISION:

Article 1

The Agreement between the European Community and the Republic of Iceland, the Kingdom of Norway, the Swiss Confederation and the Principality of Liechtenstein on supplementary

rules in relation to the External Borders Fund for the period 2007 to 2013 (hereinafter referred to as 'the Agreement') ⁽³⁾ and the Declarations thereto are hereby approved on behalf of the Union.

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to deposit on behalf of the Union the instrument of approval provided for in Article 13(2) of the Agreement in order to bind the Union.

Article 3

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

Article 4

This Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels, 21 March 2011.

For the Council
The President
MARTONYI J.

⁽¹⁾ OJ L 131, 1.6.2000, p. 43.

⁽²⁾ OJ L 64, 7.3.2002, p. 20.

⁽³⁾ The Agreement has been published in OJ L 169, 3.7.2010, p. 24 together with the decision on signature.