EUROPEAN
COMMISSION

Brussels, 14.11.2019
COM(2019) 585 final

2019/0258 (NLE)

Proposal for a

COUNCIL DECISION

on the conclusion, on behalf of the European Union and its Member States, of the Protocol amending the Air Transport Agreement between the United States of America and the European Community and its Member States signed on April 25 and 30, 2007 as amended by the Protocol to amend the Air Transport Agreement between the United States of America and the European Community and its Member States, signed on April 25 and 30, 2007, signed by the United States of America and the European Union and its Member States on 24 June 2010, to take account of the accession to the European Union of the Republic of Croatia

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

Under Article 6 (2) of the Act of Accession, Croatia has undertaken to accede to the agreements concluded or signed by the Union and the Member States with third countries. Among those agreements is the Air Transport Agreement between the United States of America and the European Community and its Member States ("the EU-US ATA").

That provision further provides that the accession of Croatia to those agreements shall be agreed by the conclusion of a protocol to the agreements between the Council, acting unanimously on behalf of the Member States, and the third country concerned. Moreover, the Commission shall negotiate those protocols on behalf of the Member States.

The Commission has accordingly negotiated a protocol amending the EU-US ATA to provide for the accession of Croatia to that agreement.

The objective of the present proposal is to obtain a Council decision, based on Article 218 (6) (a) of the Treaty on the Functioning of the European Union (the "TFEU") and Article 6 (2) of the Act of Accession, on the conclusion of the protocol on behalf of the Union and the Member States, subsequent to its signing.

• General context

The undertaking by Croatia under Article 6 (2) of the Act of Accession applies also to the Air Transport Agreement between the United States of America, the European Union and its Member States, Iceland and Norway, which extends the scope of the EU-US ATA to the latter countries, and the Ancillary Agreement between the European Union and its Member States, Iceland and Norway, which governs the relationship between those parties under the aforementioned agreement.

The Commission has consequently negotiated protocols amending also those agreements to provide for the accession of Croatia to them. Proposals for Council decisions on the signing and provisional application as well as for the conclusion of those protocols are presented in parallel with the present proposal, as is the the proposal for the Council decision on the signing and provisional application of the protocol amending the EU-US ATA.

• Consistency with existing policy provisions in the policy area

The EU-US ATA was the first comprehensive air transport agreement with a key aviation partner of the Union. It is the most important air transport agreement in the world, providing more than 80 million seats per year, and as such a cornerstone of the Union's external aviation policy. The protocol will enable Croatia to benefit from the EU-US ATA.

- **Consistency with existing provisions in the area of the proposal**

The protocol enables Croatia to fulfil its obligation under Article 6 (2) of the Act of Accession to accede to the EU-US ATA.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

Article 100 (2) in conjunction with Article 2018 (6) (a) of the TFEU, and Article 6 (2), second subparagraph, of the Act of Accession.

- **Subsidiarity (for non-exclusive competence)**

The Protocol will allow Croatia to benefit from the EU-US ATA which creates equal and uniform conditions for market access and serves as a basis for new arrangements for regulatory co-operation and convergence in fields essential for the safe, secure, and efficient operation of air services. These arrangements can only be achieved at Union level.

- **Proportionality**

The Protocol is limited to dealing with the issue at stake, namely the accession of Croatia to the EU-US ATA and does not address other matters.

- **Choice of the instrument**

International agreement.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

Not applicable.

- **Stakeholder consultations**

Not applicable.

- **Collection and use of expertise**

Not applicable.

- **Impact assessment**

Not applicable.

- **Regulatory fitness and simplification**

Not applicable.

- **Fundamental rights**

Not applicable.

4. BUDGETARY IMPLICATIONS

The proposal has no implication for the budget of the Union.

5. OTHER ELEMENTS

- **Summary of the proposed agreement**

The Protocol consists of a main body providing for the accession of Croatia to the EU-US ATA and the consequential amendments to that agreement, and a Joint Declaration on the authentication of additional language versions.

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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 Article 6 (2), second subparagraph, thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament,

Whereas:

(1) (1)In accordance with Council Decision [ ], the Protocol amending the Air Transport Agreement between the United States of America and the European Community and its Member States signed on April 25 and 30, 2007 as amended by the Protocol to amend the Air Transport Agreement between the United States of America and the European Community and its Member States, signed on April 25 and 30, 2007, signed by the United States of America and the European Union and its Member States on 24 June 2010, to take account of the accession to the European Union of the Republic of Croatia ("the Protocol") was signed on [ ], subject to its conclusion at a later date. The Protocol should be approved on behalf of the Union and its Member States.

HAS ADOPTED THIS DECISION:

Article 1

The Protocol amending the Air Transport Agreement between the United States of America and the European Community and its Member States signed on April 25 and 30, 2007 as amended by the Protocol to amend the Air Transport Agreement between the United States of America and the European Community and its Member States, signed on April 25 and 30, 2007, signed by the United States of America and the European Union and its Member States on 24 June 2010, to take account of the accession to the European Union of the Republic of Croatia ("the Protocol"), is hereby approved on behalf of the Union and its Member States.

Article 2

The President of the Council shall designate the person empowered to proceed, on behalf of the Union and its Member States, to the exchange of diplomatic notes provided for in Article 3 of the Protocol, in order to express the consent of the Union and its Member States to be bound by the Protocol.

Article 3

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

Done at Brussels,

For the Council
The President