



EUROPEAN
COMMISSION

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Proposal for a

COUNCIL DECISION

on the conclusion, on behalf of the European Union and its Member States, of the Protocol amending 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, signed on 16 and 21 June 2011, 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 Ancillary Agreement between the Union and its Member States, Iceland and Norway (“the Ancillary Agreement”) on the application of the Air Transport Agreement between the United States of America, the Union and its Member States, Iceland and Norway (“the Four Part Agreement”), which governs the relationship among the three European parties under that agreement. The Four Part Agreement in turn extends the scope of the Air Transport Agreement between the United States and the European Community and its Member States (“the EU-US ATA”) to Iceland and Norway.

Article 6 (2) of the Act of Accession further provides that the accession of Croatia to those agreements shall be agreed by the conclusion of a protocol to the agreement between the Council, acting unanimously on behalf of the Member States, and the third countries concerned. Moreover, the Commission shall negotiate those protocols on behalf of the Member States.

The Commission has accordingly negotiated a protocol amending the Ancillary Agreement 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 EU-US ATA and the Four Part Agreement; The Commission has consequently negotiated protocols also to those agreements to provide for Croatia's accession 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 proposal for the Council decision on the signing and provisional application of the protocol amending the Ancillary Agreement.

- **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 EU's external aviation policy. Its importance has increased by its extension to Iceland and Norway through the Four Part Agreement. The protocol will enable Croatia to benefit from that agreement.

- **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 Ancillary Agreement.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

Article 100 (2) in conjunction with Article 218 (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 Four Part Agreement, 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 Ancillary Agreement 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 provision on the accession of Croatia to the Ancillar Agreement and provisions on the entry into force and provisional application of the protocol.

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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) In accordance with Council decision [] the Protocol amending 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, signed on 16 and 21 June 2011, 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. .
- (2) The Protocol should be approved on behalf of the Union and its Member States.

HAS ADOPTED THIS DECISION:

Article 1

The Protocol amending 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, signed on 16 and 21 June 2011, 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