Council of the European Union

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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	14 November 2019
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2019) 586 final
Subject:	Proposal for a COUNCIL DECISION on the signing, on behalf of the European Union and its Member States, of the Protocol amending 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 June 16 and 21, 2011, to take account of the accession to the European Union of the Republic of Croatia

Delegations will find attached document COM(2019) 586 final.

Encl.: COM(2019) 586 final

EUROPEAN
COMMISSION

Brussels, 14.11.2019
COM(2019) 586 final

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Proposal for a

COUNCIL DECISION

on the signing, on behalf of the European Union and its Member States, of the Protocol amending 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 June 16 and 21, 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 Air Transport Agreement between the United States of America, the European Union and its Member States, Iceland and Norway ("the Four Part Agreement"), which 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 those two countries.

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 countries concerned. Moreover, the Commission shall negotiate those protocols on behalf of the Member States.

The Commission has accordingly negotiated a protocol amending the Four Part 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 (5) of the Treaty on the Functioning of the European Union ("the TFEU") and Article 6 (2) of the Act of Accession, authorising the signing of the protocol on behalf of the Union and the Member States and its provisional application by them in accordance with Article 6 thereof, subject to its conclusion at a later date.

• General context

The undertaking by Croatia under Article 6 (2) of the Act of Accession applies also to the EU-US ATA and to the Ancillary Agreement between the European Union and its Member states, Iceland and Norway, which governs the relationship between those parties under the Four Part 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 a proposal for a Council decision on the conclusion of the protocol amending the Four Part 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 Four Part Agreement.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

Article 100 (2) in conjunction with Article 218 (5) 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, 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 Four Part 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 main body providing for the accession of Croatia to the Four Part Agreement 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 (5) 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,

Whereas:

(1) The Commission has negotiated a Protocol amending 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 June 16 and 21, 2011, to take account of the accession to the European Union of the Republic of Croatia ("the Protocol"), in accordance with Council Decision 13351/12 of 14 September 2012 authorising the Commission to open negotiations.

(2) The negotiations were successfully concluded by the initialling of the Protocol on 8 March 2019.

(3) The Protocol should be signed and applied provisionally by the Union and its Member States in accordance with Article 6 thereof, subject to its conclusion at a later date.

HAS ADOPTED THIS DECISION:

Article 1

The signing of the Protocol amending 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 June 16 and 21, 2011, to take account of the accession to the European Union of the Republic of Croatia ("the Protocol"), is hereby authorised on behalf of the Union and its Member States, subject to the conclusion of the Protocol.

The text of the Protocol is attached to this Decision.

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to sign the Protocol on behalf of the Union and its Member States.

Article 3

Pending its entry into force, the Protocol shall be provisionally applied by the Union and its Member States in accordance with Article 6 thereof.

Article 4

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

Done at Brussels,

For the Council
The President