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EUROPEAN COMMISSION

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Proposal for a

COUNCIL DECISION

on the fulfilment by the Republic of Croatia of the conditions for completing the first transitional period under the Multilateral Agreement between the European Community and its Member States, the Republic of Albania, Bosnia and Herzegovina, the Republic of Bulgaria, the Republic of Croatia, the Former Yugoslav Republic of Macedonia, the Republic of Iceland, the Republic of Montenegro, the Kingdom of Norway, Romania, the Republic of Serbia and the United Nations Interim Administration Mission in Kosovo¹ on the establishment of a European Common Aviation Area

¹

Pursuant to UN Security Council Resolution 1244 of 10 June 1999

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Grounds for and objectives of the proposal

In 2006, the Council adopted the European Common Aviation Area (ECAA) Multilateral Agreement between the European Community and eight Associated Parties making up the Western Balkan region, namely Albania, Bosnia and Herzegovina, Bulgaria, Croatia, the Former Yugoslav Republic of Macedonia, Romania, Serbia and Montenegro and the United Nations Interim Administration Mission in Kosovo² (the "Agreement") (Decision 2006/682/EC of the Council; OJ L 285 of 16.10.2006, p1).

The objective of the Agreement is to integrate the EU's neighbours into the European Union's existing internal aviation market involving all 27 Member States of the EU, Norway and Iceland. The eight South-East European Associated Parties agreed to the full application of the European Union's aviation law ("the European Union acquis"). Once the acquis is fully implemented, ECAA airlines will have open access to the enlarged European Single Market in aviation.

The Agreement grants airlines from all parties access to direct services between their own territory and those of the other Parties. Further rights are associated with completion of the individual associated party's specific transitional arrangements as set out in the agreement, which differ between the parties.

In the case of Croatia, completion of the first transitional phase requires implementation of elements of the core European aviation acquis, as well as, inter alia, ratification of the Montreal convention and the establishment of an independent air traffic management regulatory body. Confirmation of these steps triggers enhanced commercial rights for European and Croatian airlines, notably onward ("fifth freedom") services within certain territories covered by the Agreement.

Article 27(3) of the Agreement provides that the gradual transition of each Associated Party to the Agreement shall be subject to assessments by the European Union.

In November 2009, assisted by Taiex, a delegation of experts from Member States and the European Commission visited Zagreb to undertake an extensive assessment of the state of Croatia's implementation of the European Union's aviation acquis. The assessment confirmed that the Republic of Croatia had fulfilled the conditions for completing the first transitional period as set out in Protocol IV of the Agreement. The positive conclusions from that assessment have been shared with Member States and the Croatian Government and will be presented at the meeting of the ECAA Joint Committee scheduled to be held in December 2010.

² Pursuant to UN Security Council Resolution 1244 of 10 June 1999

- **General context**

The ECAA Agreement is expressly designed as an open framework accessible to European Countries which wish to fully integrate into the European single aviation market.

The benefits of the Agreement are significant, as it:

- Creates new market opportunities to reach the combined population of the Balkan region of the order of 52 million people, creating a single market for aviation consisting of 35 countries and more than 500 million people. Air traffic between the EU and South-East Europe has seen significant growth recently, 121% growth since 2001, and this trend would be accelerated through full integration in a common air transport market;
- Generates new opportunities for industry and consumers, especially as tourism is a major growth area in the coastal regions. Forecasts for aircraft movements in the region predict an average annual growth rate of more than 6% per annum between 2005 and 2011. There are potentially 414 airports in the region to operate to; therefore there is an opportunity for further growth to be attained. As a result, affordable air travel will be increasingly accessible to a greater number of people. In addition, the agreement will facilitate capital flow from both sides as a result of easing ownership and control rules present in bilateral agreements ;
- Commits all eight ECAA partners to continue harmonising legislation with EU laws, which should result in equal high standards in term of safety and security as well as fair competition across Europe;
- Removes the remaining market access restrictions on flights between the EU and Balkans, creating a level playing field between EU carriers;
- Removes existing blockages in air traffic management system, left over from the war period, which resulted in closure of airspace;
- Commits the region to work together and to improve inter-regional relationships, to the benefit of further European integration; and
- Establishes a Joint Committee which will be responsible for resolving questions relating to the interpretation or application of this Agreement;

Independent confirmation of Croatia's progress in implementing the acquis is good news in all these respects and bodes well for other Associated Parties as they transition to full accession to the European single aviation market.

- **Existing provisions in force in the area of the proposal**

Multilateral Agreement between the European Community and its Member States, Albania, Bosnia and Herzegovina, Bulgaria, Croatia, the Former Yugoslav Republic of Macedonia, Iceland, Montenegro, Norway, Romania, Serbia and the United Nations Interim Administration Mission in Kosovo on the establishment of a European Common Aviation Area (OJ L 285 of 16.10.2006, p3).

- **Consistency with the other policies and objectives of the Union**

This proposal is coherent with the European Union's air transport policy for developing the agenda for the Community's external aviation policy (COM (2005) 79 final), most notably with regard to its neighborhood policy.

2. CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

- **Consultation of interested parties**

Consultation is not necessary as part of the implementation of the existing ECAA Agreement, but all Member States and Associated Parties to the Agreement are involved on an on-going basis.

- **Collection and use of expertise**

Principal organisations/experts consulted

As part of the monitoring of the Republic of Croatia's progress towards implementation of the Aviation acquis, a thorough assessment visit was undertaken in November 2009, which confirmed that country's fulfillment of the conditions necessary for completion of the first transitional period. The delegation visit involved Member State experts in the fields of economic regulation, safety, security, and air traffic management (ATM), as well as Commission staff from DG MOVE and Taix.

- **Impact assessment**

An impact assessment is not applicable.

3. LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

The proposal will fulfill the obligations arising from the adoption of the ECAA Agreement by the European Union and its Member States.

- **Legal basis**

Article 27(4) and Protocol IV of the Multilateral Agreement between the European Community and its Member States, Albania, Bosnia and Herzegovina, Bulgaria, Croatia, the Former Yugoslav Republic of Macedonia, Iceland, Montenegro, Norway, Romania, Serbia and the United Nations Interim Administration Mission in Kosovo on the establishment of a European Common Aviation Area.

- **Subsidiarity principle**

The principle of subsidiarity applies insofar as the proposal does not affect a field falling within the exclusive competence of the Union.

The objectives of the proposal cannot be achieved adequately by the action of the Member States for the following reasons.

The Multilateral ECAA Agreement has been concluded at Union level and any decision on the functioning of that Agreement can only be done at Union level.

The proposal is therefore in conformity with the principle of subsidiarity.

- **Proportionality principle**

The proposal complies with the proportionality principle for the following reason(s):

- The proposal will help encourage further legal convergence between the European Union and the Republic of Croatia in the area of air service provision, and facilitate safe, efficient air travel.
- Member States and the Republic of Croatia will continue to undertake the traditional administrative tasks in the context of international air transport, but under common rules applied uniformly.

- **Choice of the instruments**

Proposed instrument: Council Decision.

Other means would not be adequate for the following reasons:

Article 27(4) and Protocol IV of the Multilateral Agreement foresees such a decision by the Council upon confirmation that the Republic of Croatia has met the conditions for completing the first transitional period.

4. BUDGETARY IMPLICATION

The proposal has no implications for the Union budget.

5. ADDITIONAL INFORMATION

- Members of the EEA.

As co-signatories to the Multilateral Agreement, this decision has implications for EEA Members, Norway and Iceland.

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(Text with EEA relevance)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Multilateral Agreement between the European Community and its Member States, the Republic of Albania, Bosnia and Herzegovina, the Republic of Bulgaria, the Republic of Croatia, the Former Yugoslav Republic of Macedonia, the Republic of Iceland, the Republic of Montenegro, the Kingdom of Norway, Romania, the Republic of Serbia and the United Nations Interim Administration Mission in Kosovo⁴ on the establishment of a European Common Aviation Area ("the Agreement"), and in particular Article 27 (4) thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) Article 27(1) of the Agreement provides for transitional arrangements between the Parties.
- (2) Protocol IV to the Agreement lays down transitional arrangements between the European Union and its Member States, on one hand, and the Republic of Croatia, on the other hand.
- (3) Article 27(3) of the Agreement provides that the gradual transition of each Associated Party to the full application of the ECAA Agreement shall be subject to assessments by the European Union.
- (4) Assessments organised by the European Commission have confirmed that the Republic of Croatia has fulfilled the conditions for completing the first transitional period as set out in Protocol IV to the Agreement.

³ Pursuant to UN Security Council Resolution 1244 of 10 June 1999

⁴ Pursuant to UN Security Council Resolution 1244 of 10 June 1999

- (5) Article 27(4) provides that if the European Union determines that the conditions for completing a transitional period by an Associated Party are fulfilled it shall decide that the Associated Party concerned qualifies for passing to the next transitional period or for full inclusion in the European Common Aviation Area as the case may be.
- (6) The Council is satisfied that the Republic of Croatia has fulfilled the conditions for completing the first transitional period as set out in Protocol IV to the Agreement,

HAS DECIDED AS FOLLOWS:

Sole Article

The Republic of Croatia qualifies for passing to the second transitional period under Protocol IV to the Multilateral Agreement between the European Community and its Member States, the Republic of Albania, Bosnia and Herzegovina, the Republic of Bulgaria, the Republic of Croatia, the Former Yugoslav Republic of Macedonia, the Republic of Iceland, the Republic of Montenegro, the Kingdom of Norway, Romania, the Republic of Serbia and the United Nations Interim Administration Mission in Kosovo⁵ on the establishment of a European Common Aviation Area.

Done at Brussels, [...]

For the Council

⁵ Pursuant to UN Security Council Resolution 1244 of 10 June 1999