



Brussels, 5.7.2016
COM(2016) 440 final

2016/0202 (NLE)

Proposal for a

COUNCIL DECISION

**on the conclusion, on behalf of the European Union, of the Protocol (2015) Amending
the Product Coverage Annex of the Agreement on Trade in Civil Aircraft**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The 1979 World Trade Organisation (WTO) plurilateral Agreement on Trade in Civil Aircraft ("ATCA") was adopted as part of the Tokyo Round.

It entered into force on 1 January 1980 and it now has 32 signatories (Albania; Austria; Belgium; Bulgaria; Canada; Chinese Taipei; Denmark; Egypt; Estonia; European Union; France; Georgia; Germany; Greece; Ireland; Italy; Japan; Latvia; Lithuania; Luxembourg; Macao, China; Malta; Montenegro; Netherlands; Norway; Portugal; Romania; Spain; Sweden; Switzerland; United Kingdom; United States).

It eliminates import duties on all aircraft, other than military aircraft, as well as on all other products covered by the agreement, in particular civil aircraft engines and their parts and components, all components and sub-assemblies of civil aircraft, and flight simulators and their parts and components.

It contains disciplines on government-directed procurement of civil aircraft and prohibition of inducements to purchase, as well as on government financial support for the civil aircraft sector.

An Annex to the ATCA lists the products that shall be accorded duty-free or duty-exempt treatment, if such products are for the use in civil aircraft or ground flying trainers and for incorporation therein, in the course of their manufacture, repair, maintenance rebuilding, modification or conversion. Products in the Annex of the Agreement are classified according to their respective tariff headings for customs purposes under the Harmonized Commodity Description and Coding System (hereinafter referred to as "the Harmonized System") developed by the World Customs Organization.

Since the adoption of the ATCA, different versions of Harmonized System have been adopted. Accordingly, the Annex of the ATCA has been amended several times with a view to transposing into the Annex the changes introduced in the new versions of the Harmonized System.

In November 2001, members adopted a Protocol Amending the Annex to the ATCA, transposing into the Annex the changes introduced in the 1992, 1996 and 2002 versions of the Harmonised System,

Another revision of the Harmonized System took place in 2007 and the WTO Civil Aircraft Committee has been working since 2008 to modify the product list in Annex to the ATCA to make it compatible with the 2007 version of the Harmonized System.

On 5 November 2015, after several years of discussions, the WTO Committee on Trade in Civil Aircraft agreed to open for acceptance the revised Product Coverage of the 1979 Agreement on Trade in Civil Aircraft via the Protocol amending the annex to the ATCA.

Member States that are members of the ATCA have been part of these discussions.

• Consistency with existing policy provisions in the policy area

In November 2001, members adopted a Protocol Amending the Annex to the ATCA, transposing into the Annex the changes introduced in the 1992, 1996 and 2002 versions of the Harmonised System.

The new Protocol open for acceptance on 5th November 2015 by the WTO Committee on Trade in Civil Aircraft will modify the 2001 Protocol to make it compatible with the 2007 version of the Harmonized System.

- **Consistency with other Union policies**

Consistent with the common commercial policy

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The protocol covers matters that fall under the common commercial policy and the amendment concerns a technical update of an international agreement without altering its scope or content.

Having regard to the Treaty on the Functioning of the European Union, Article 207(1) in conjunction Article 218(6)(a) are applicable.

- **Subsidiarity (for non-exclusive competence), proportionality and choice of the instrument**

The European Union as well as some Member States are part of the ATCA.

The protocol covers matters that fall under the common commercial policy and the amendment concerns a technical update of an international agreement without altering its scope or content.

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207(1) in conjunction Article 218(6)(a) thereof, the Commission is submitting a proposal to the Council for a decision on the conclusion of the Protocol amending the Product Coverage Annex of the ATCA.

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

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

As this Decision concerns a technical update of an existing international agreement without altering its scope or content, no ex-post evaluation or fitness checks were carried out.

- **Stakeholder consultations**

No stakeholder consultations carried out as such by the Commission. The Protocol was discussed for several years in the framework of the WTO Committee on Trade in Civil Aircraft.

Member States that are members of the ATCA and the European Commission have been part of these discussions.

- **Collection and use of expertise**

The Protocol was discussed for several years in the framework of the WTO Committee on Trade in Civil Aircraft.

- **Impact assessment**

As this Decision concerns a technical update of an existing international agreement without altering its scope or content, no impact assessment was carried out.

- **Regulatory fitness and simplification**

This Decision is neutral in terms of regulatory burden and simplification as it concerns a technical update of an existing international agreement without altering its scope or content.

- **Fundamental rights**

As this Decision concerns a technical update of an existing international agreement without altering its scope or content, there is no impact on fundamental rights.

4. BUDGETARY IMPLICATIONS

This proposal has no implications for the budget of the Union.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

This Protocol shall enter into force, for those Signatories who have accepted it, on 1 July 2016. Thereafter, for each other Signatory it shall enter into force on the 30th day following the date of its acceptance.

- **Explanatory documents (for directives)**

Not applicable.

- **Detailed explanation of the specific provisions of the proposal**

As explained in the Protocol, the objective of the amendment is the technical transposition into the Product Coverage Annex of the ATCA of the changes introduced in the 2007 version of the Harmonized System.

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207(1) in conjunction Article 218(6)(a) thereof, the Commission is submitting a proposal to the Council for a decision on the conclusion of the Protocol amending the Product Coverage Annex of the ATCA.

Proposal for a

COUNCIL DECISION

on the conclusion, on behalf of the European Union, of the Protocol (2015) Amending the Product Coverage Annex of the Agreement on Trade in Civil Aircraft

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207(1), in conjunction with Article 218(6)(a) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament,

Whereas:

- (1) Council Decision (80/271/EEC)¹ approved the conclusion of the GATT Agreement on Trade in Civil Aircraft (the “Agreement”),
- (2) Signatories to the Agreement, through their representatives, agreed to open for acceptance the Protocol (2015) Amending the Annex to the Agreement on Trade in Civil Aircraft (the “Protocol”) in Geneva on 5 November 2015, transposing into the Annex to the Agreement on Trade in Civil Aircraft the changes introduced in the 2007 version of the Harmonized Commodity Description and Coding System,
- (3) The Protocol should be concluded on behalf of the European Union,

HAS ADOPTED THIS DECISION:

Article 1

The Protocol (2015) amending the Annex to the Agreement on Trade in Civil Aircraft is hereby concluded on behalf of the European Union.

The text of the Protocol is attached to this Decision.

Article 2

The President of the Council shall designate the person(s) empowered to deposit, on behalf of the Union, the instrument of acceptance in order to express the consent of the Union to be bound by the Protocol².

Article 3

¹ OJ L 71, 17.3.1980, p. 1.

² The date of entry into force of the Protocol will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.

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

Done at Brussels,

*For the Council
The President*