



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 2 September 2013

13238/13

**Interinstitutional File:
2013/0254 (NLE)**

**SM 6
ELARG 109
UD 212**

PROPOSAL

from:	European Commission
dated:	2 August 2013
No Cion doc.:	COM(2013) 530 final
Subject:	Proposal for a COUNCIL DECISION on the signing, on behalf of the European Union and its Member States, and provisional application of the Protocol to the Agreement on Cooperation and Customs Union between the European Community and Its Member States, of the one part, and the Republic of San Marino, of the other part, regarding the participation, as a contracting party, of the Republic of Croatia, following its accession to the European Union

Delegations will find attached a proposal from the Commission, submitted under a covering letter from Mr Jordi AYET PUIGARNAU, Director, to Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union.

Encl.: COM(2013) 530 final



Brussels, 2.8.2013
COM(2013) 530 final

2013/0254 (NLE)

Proposal for a

COUNCIL DECISION

on the signing, on behalf of the European Union and its Member States, and provisional application of the Protocol to the Agreement on Cooperation and Customs Union between the European Community and its Member States, of the one part, and the Republic of San Marino, of the other part, regarding the participation, as a contracting party, of the Republic of Croatia, following its accession to the European Union

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

The Republic of Croatia (hereinafter 'Croatia') will join the European Union on 1 July 2013. On 14 September 2012, the Council authorized the Commission to negotiate the adaptation, through a Protocol, of the Agreement on Cooperation and Customs Union between the European Community and its Member States, of the one part, and the Republic of San Marino (hereinafter 'San Marino'), of the other part¹ (hereinafter 'the Agreement'), regarding Croatia's participation as a contracting party, in view of the enlargement of the Union to include the latter.

2. LEGAL ELEMENTS OF THE PROPOSAL

The Agreement entered into force on 1 April 2002 and needs to be amended to include Croatia as a contracting party. Following the authorisation given to the Commission on 14 September 2012, negotiations have been concluded with San Marino on a Protocol to the Agreement.

Summary of the proposed action

This proposal consists of a draft Council Decision on the signing, on behalf of the European Union and its Member States, and provisional application of a Protocol to the Agreement (in annex), to provide for Croatia's participation as a contracting party following its accession to the European Union.

Legal basis

The Treaty on the Functioning of the European Union, and in particular Article 218(5), in conjunction with Article 218(3) and (4) thereof; the Treaty of Accession of Croatia²; and the Act of Accession of Croatia³, in particular the second subparagraph of Article 6(2) thereof.

Choice of instrument

Pursuant to Article 218(5) of the Treaty on the Functioning of the European Union, the Council shall adopt a Decision authorising the signing of the Agreement, and if necessary, its provisional application before entry into force. This is a proposal for such a Decision.

Proportionality

This proposal is in line with the principle of proportionality because its effects are strictly limited to what is necessary to provide for Croatia's participation in the Agreement as a contracting party following its accession to the European Union.

¹ OJ L 84, 28.3.2002, p. 43.

² OJ L 112, 24.4.2012, p. 10.

³ OJ L 112, 24.4.2012, p. 21.

Proposal for a

COUNCIL DECISION

on the signing, on behalf of the European Union and its Member States, and provisional application of the Protocol to the Agreement on Cooperation and Customs Union between the European Community and its Member States, of the one part, and the Republic of San Marino, of the other part, regarding the participation, as a contracting party, of the Republic of Croatia, following its accession to the European Union

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, in particular Article 207 and Article 352, in conjunction with Article 218(5) and the second subparagraph of Article 218(8) thereof,

Having regard to the Act of Accession of Croatia⁴, and in particular the second subparagraph of Article 6(2) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) On 14 September 2012, the Council authorised the Commission to open negotiations with the Republic of San Marino for the adaptation, through the negotiation of a Protocol, of the Agreement on Cooperation and Customs Union between the European Community and its Member States, of the one part, and the Republic of San Marino, of the other part⁵, regarding Croatia's participation as a contracting party, in view of its accession to the European Union.
- (2) The negotiations on the Protocol to the Agreement were conducted by the Commission and were recently concluded.
- (3) The Protocol should be signed on behalf of the European Union, subject to its conclusion at a later date.
- (4) In view of Croatia's forthcoming accession to the Union and to ensure its participation as a contracting party to the Agreement from its date of accession, the Protocol to the Agreement should be applied provisionally from the said date.

HAS ADOPTED THIS DECISION:

Article 1

The signing on behalf of the Union and its Member States of the Protocol to the Agreement on Cooperation and Customs Union between the European Community and the Republic of San Marino, regarding Croatia's participation as a contracting party, following its accession to the European Union, is hereby authorized, subject to the conclusion of the said Protocol.

The text of the Protocol is attached to this Decision.

⁴ OJ L 112, 24.4.2012, p. 21.

⁵ OJ L 84, 28.3.2002, p. 43.

Article 2

The Council Secretariat-General shall establish the instrument of full powers to sign the Protocol, subject to its conclusion, for the person(s) indicated by the negotiator.

Article 3

Subject to its conclusion at a later date and pending its entry into force, the Protocol shall be applied provisionally, in accordance with its Article 5, as from the date of accession of Croatia to the Union.

Article 4

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

Done at Brussels,

*For the Council
The President*

ANNEX

PROTOCOL

to the Agreement on Cooperation and Customs Union between the European Community and its Member States, of the one part, and the Republic of San Marino, of the other part, regarding the Republic of Croatia's participation as a contracting party following its accession to the European Union

THE KINGDOM OF BELGIUM,

THE REPUBLIC OF BULGARIA,

THE CZECH REPUBLIC,

THE KINGDOM OF DENMARK,

THE FEDERAL REPUBLIC OF GERMANY,

THE REPUBLIC OF ESTONIA,

IRELAND,

THE HELLENIC REPUBLIC,

THE KINGDOM OF SPAIN,

THE FRENCH REPUBLIC,

THE ITALIAN REPUBLIC,

THE REPUBLIC OF CROATIA,

THE REPUBLIC OF CYPRUS,

THE REPUBLIC OF LATVIA,

THE REPUBLIC OF LITHUANIA,

THE GRAND DUCHY OF LUXEMBOURG,

THE REPUBLIC OF HUNGARY,

MALTA,

THE KINGDOM OF THE NETHERLANDS,

THE REPUBLIC OF AUSTRIA,

THE REPUBLIC OF POLAND,

THE PORTUGUESE REPUBLIC,

ROMANIA,

THE REPUBLIC OF SLOVENIA,

THE SLOVAK REPUBLIC,

THE REPUBLIC OF FINLAND,

THE KINGDOM OF SWEDEN, AND

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

and

THE EUROPEAN UNION,

of the one part,

and

THE REPUBLIC OF SAN MARINO,

of the other part,

Having regard to the Agreement on Cooperation and Customs Union between the European Community and its Member States, of the one part, and the Republic of San Marino, of the other part, of 16 December 1991 ('the Agreement'), which entered into force on 1 April 2002,

Having regard to the Republic of Croatia's accession to the European Union on 1 July 2013,

Whereas the Republic of Croatia is to become a contracting party to the Agreement,

HAVE AGREED AS FOLLOWS:

Article 1

The Republic of Croatia hereby accedes as Party to the Agreement.

Article 2

This Protocol shall be an integral part of the Agreement.

Article 3

1. This Protocol shall be approved by the Contracting Parties, in accordance with their respective procedures.

2. The Parties shall notify each other of the completion of these procedures. The instruments of approval shall be deposited with the General Secretariat of the Council of the European Union.

Article 4

This Protocol shall enter into force on the first day of the first month following the date of deposit of the last instrument of approval.

Article 5

This Protocol shall apply provisionally from 1 July 2013.

Article 6

The text of the Agreement and the Declarations annexed to it are drawn up in the Croatian language.

They are attached to this Protocol and are equally authentic with the texts in the other languages in which the Agreement and the Declarations annexed to it are drawn up.

Article 7

This Protocol is drawn up in duplicate in the Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages, each of these texts being equally authentic.

Done at [Brussels] on the [.....] day of [...] in the year two thousand and thirteen.

[...]

For the Member States

[...]

For the European Union

[...]

For the Republic of San Marino

[...]