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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
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To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
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Subject:	Recommendation for a COUNCIL DECISION authorising the Commission to negotiate, on behalf of the European Union, the revision of the Protocol to the 1979 Convention on Long-range Transboundary Air Pollution to Abate Acidification, Eutrophication and Ground-level Ozone, as amended in 2012 (Gothenburg Protocol)

Delegations will find attached document COM(2024) 315 final.

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EUROPEAN
COMMISSION

Brussels, 29.7.2024
COM(2024) 315 final

Recommendation for a

COUNCIL DECISION

authorising the Commission to negotiate, on behalf of the European Union, the revision of the Protocol to the 1979 Convention on Long-range Transboundary Air Pollution to Abate Acidification, Eutrophication and Ground-level Ozone, as amended in 2012 (Gothenburg Protocol)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

Reasons for and objectives of the proposal

The Protocol to the 1979 Convention on Long-range Transboundary Air Pollution to Abate Acidification, Eutrophication and Ground-level Ozone (also known as the Gothenburg Protocol, hereinafter ‘the Protocol’) was adopted on 30 November 1999 and entered into force on 17 May 2005. The Protocol aims to reduce harmful effects due to air pollution to protect human health and the environment. The objectives are reached by reducing emissions of sulphur, nitrogen oxides, volatile organic compounds and ammonia, by setting emission reduction targets at national level and emission limit values for certain industrial activities and products, among other things. The EU is a party to the Protocol following its accession thereto pursuant to Council Decision 2003/507/EC¹.

The Protocol was amended in 2012, with the amended version entering into force on 9 October 2019. The Council adopted a decision on the approval on behalf of the EU to the amended Protocol on 17 July 2017². On this basis, the EU approved the amended Protocol on 30 August 2017. There are currently 30 parties to the amended Protocol: 24 EU Member States and the EU, the United Kingdom, the United States, Switzerland, Canada and Norway.

At its 42nd session, the Executive Body of the Convention on Long-Range Transboundary Air Pollution adopted the final report on the review of the Protocol³. The expert group on policy option development of the Convention also reflected on the policy options to address the conclusions of the review⁴. At its 43rd session (Geneva, 11-14 December 2023), the Executive Body of the Convention decided to launch the process to revise the Protocol to address the conclusions of the 2023 report on the review of the Protocol⁵.

The revision process will include negotiations on, the following issues, among other things:

- new emission reduction commitments for the pollutants currently covered by the Protocol;
- potential changes to the technical annexes to the present Protocol, including with regard to their scope and level of ambition;
- how to deliver further reductions of black carbon emissions;
- whether and how to address methane emissions;
- how to achieve additional ammonia emission reductions;

¹ Council Decision 2003/507/EC of 13 June 2003 on the accession of the European Community, to the Protocol to the 1979 Convention on Long-Range Transboundary Air Pollution to Abate Acidification, Eutrophication and Ground-Level Ozone (OJ L 179, 17.7.2003, p. 1).

² Council Decision (EU) 2017/1757 of 17 July 2017 on the acceptance on behalf of the European Union of an Amendment to the 1999 Protocol to the 1979 Convention on Long-Range Transboundary Air Pollution to Abate Acidification, Eutrophication and Ground-Level Ozone (OJ L 248, 27.9.2017, p. 3).

³ Report of the Executive Body for the Convention on Long-Range Transboundary Air Pollution on the review of the Protocol to Abate Acidification, Eutrophication and Ground-level Ozone, as amended in 2012, 42nd session, Geneva, 12-16 December 2022 (ECE/EB.AIR/150/Add.2).

⁴ Expert group on policy option development, *Options to address the conclusions of the review of the Gothenburg Protocol, as amended in 2012*, 43rd session, Geneva, 11-14 December 2023 (ECE/EB.AIR/2023/9).

⁵ Decision 2023/5 in *Report of the Executive Body on its forty-third session*, Geneva, 11-14 December 2023 (ECE/EB.AIR/154).

- new forms of flexibility, and other approaches to better facilitate the ratification and subsequent implementation by current non-parties to the present Protocol;
- overarching, collective risk-based targets to reduce harmful effects to health and to ecosystems, including biodiversity loss in the United Nations Economic Commission for Europe region⁶; and
- how to achieve integrated approaches among climate, energy and air policies.

The decision of the Executive Body of the Convention sets the aim to conclude the revision by the 46th session of the Executive Body, i.e. by December 2026. To help achieve this ambition, the European Commission should be authorised to negotiate the revision of the Protocol on behalf of the EU.

Consistency with existing EU legislations in the policy area

The issues for negotiation in the context of the revision fall under Union competence and the EU has long-standing legislation in the area of air pollution, including:

- Directive (EU) 2016/2284 on national emission reduction commitments for certain atmospheric pollutants⁷, which introduces into EU law the national emission reduction commitments for 2020-2029 made under the Protocol, as amended in 2012, among other things;
- the Industrial Emissions Directive (IED)⁸, which covers several of the obligations under the Protocol, in particular the limit values for emissions from stationary sources (particulate matter, sulphur, nitrogen oxides and volatile organic compounds);
- legislation setting emission standards for key sources of air pollution, such as road transport vehicles⁹, domestic heating installations and industrial installations¹⁰; and
- the Ambient Air Quality Directives¹¹, which set quality standards for concentration levels of certain ambient air pollutants and are being revised.

⁶ The United Nations Economic Commission for Europe (UNECE) is one of five regional commissions of the United Nations. It includes 56 member States in Europe, North America and Asia.

⁷ Directive (EU) 2016/2284 of the European Parliament and of the Council of 14 December 2016 on the reduction of national emissions of certain atmospheric pollutants, amending Directive 2003/35/EC and repealing Directive 2001/81/EC (OJ L 344, 17.12.2016, p. 1).

⁸ Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (OJ L 334, 17/12/2010, p. 17).

⁹ Regulation (EC) No 715/2007 of the European Parliament and of the Council of 20 June 2007 on type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) (OJ L 171, 29.6.2007, p. 1).

¹⁰ Including Directive (EU) 2015/2193 on medium combustion plants; Directive 94/63/EC on Stage I petrol vapour recovery; Directive 2009/126/EC on Stage II petrol vapour recovery; Directive 2004/42/EC on paints and solvents; Regulation (EU) 2016/1628 on non-road mobile machinery; Directive 2009/30/EC on fuel quality; Regulation (EC) No 715/2007 on the Euro 5 and Euro 6 standards for light-duty vehicles; Regulation (EU) No 168/2013 on the Euro 4 and Euro 5 standards for L-category vehicles (motorbikes and others); and Directive 1999/96/EC and Regulation (EC) No 595/2009 on the Euro V and Euro VI standards for heavy-duty vehicles.

¹¹ Directive 2004/107/EC relating to arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air (OJ L 23, 26/01/2005, p. 3); and Directive 2008/50/EC on ambient air quality and cleaner air for Europe (OJ L 152, 11.6.2008, p. 1).

Consistency with other EU policies

The proposed recommendation is also consistent with other EU policies. As set out in the European Green Deal¹² and the Zero Pollution Action Plan¹³, the EU aims to reduce air pollution and streamline data-gathering measures underpinning its related policy initiatives. The 8th Environment Action Programme to 2030 also sets the priority objectives to achieve a toxic-free environment, including for air.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES 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

According to Article 37 of the Charter of Fundamental Rights of the European Union, a high level of environmental protection and the improvement of the quality of the environment must be integrated into the policies of the EU and ensured in accordance with the principle of sustainable development. The proposed recommendation seeks authorisation for the opening of negotiations with a view to address air pollution. This is expected to have a positive impact on the right to environmental protection, as enshrined in Article 37 of the Charter of Fundamental Rights of the European Union.

3. LEGAL ASPECTS OF THE PROPOSAL

Legal basis

The procedural legal basis for the proposed recommendation is Article 218(3) and (4) of the Treaty on the Functioning of the European Union (TFEU). Article 218(3) TFEU provides that the Commission must submit recommendations to the Council, which must adopt a decision authorising the opening of negotiations and nominating the EU negotiator. According to Article 218(4) TFEU, the Council may address directives to the negotiator and designate a special committee in consultation with which the negotiations must be conducted.

Subsidiarity and proportionality

Addressing air pollution cannot be sufficiently achieved at Member State level alone. This is due to the transboundary nature of air pollution: atmospheric modelling and measurements of

¹² COM(2019) 640.

¹³ COM(2021) 400.

air pollution demonstrate beyond doubt that the pollution emitted in one Member State contributes to measured pollution in other Member States.

The EU has already adopted legislation to implement the Protocol (as presented in Section 1). It is important to ensure that the revision of the Protocol remain consistent with and add value to existing and proposed EU legislation.

Therefore, it is essential that the EU's participation in the future negotiations and resulting international agreement is assured. The proposed recommendation does not go beyond what is necessary for achieving the objectives pursued.

Choice of instrument

In accordance with Article 218(3) and (4) TFEU, a Council decision is necessary to authorise the opening of negotiations by the EU on the revision of the Protocol in order to address air pollution.

4. BUDGETARY IMPLICATION

The exact budgetary implications of this initiative are impossible to determine at this stage because its scope and key aspects have yet to be negotiated multilaterally.

5. OTHER ASPECTS

Implementation plans and monitoring, evaluation and reporting arrangements

The timetable, the deliverables from the work of the task forces, and the considerations to facilitate ratification and implementation of the Protocol by current non-parties were discussed at the meeting of the Working Group on Strategies and Review at its 62nd session from 27 to 31 May 2024 in Geneva, Switzerland.

Negotiations on the revision itself are expected to start at the 44th session of the Executive Body on 9-12 December 2024.

Explanatory documents (for directives)

Not applicable.

Detailed explanation of the specific provisions of the proposal

The Commission recommends that:

- the Council authorises the Commission to open and conduct negotiations for the revision of the Protocol;
- the Commission is nominated as EU negotiator;
- the Commission conducts the negotiations in consultation with the special committee designated by the Council in accordance with Article 218(4) TFEU; and
- the Council approves the negotiating directives annexed to this proposed recommendation.

Recommendation for a

COUNCIL DECISION

authorising the Commission to negotiate, on behalf of the European Union, the revision of the Protocol to the 1979 Convention on Long-range Transboundary Air Pollution to Abate Acidification, Eutrophication and Ground-level Ozone, as amended in 2012 (Gothenburg Protocol)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 218(3) and (4) thereof,

Having regard to the recommendation from the European Commission,

Whereas:

- (1) The Protocol to the 1979 Convention on Long-range Transboundary Air Pollution to Abate Acidification, Eutrophication and Ground-level Ozone (also known as the Gothenburg Protocol ('the Protocol'))¹⁴ was adopted on 30 November 1999 and amended in 2012.
- (2) The European Union is a Party to the 1999 Protocol and to the amended Protocol.¹⁵
- (3) The national emission reduction commitments of the Protocol are implemented into Union law through Directive (EU) 2016/2284 on the reduction of national emissions of certain atmospheric pollutants¹⁶.
- (4) The Convention Executive Body launched the process to revise the Protocol at its forty-third session in December 2023¹⁷. On this basis, negotiations on amendments to the Protocol are expected to start at the 44th session of the Executive Body on 9-12 December 2024.
- (5) The Commission is hereby authorised to negotiate, on behalf of the Union, the revision of the Protocol to the 1979 Convention on Long-range Transboundary Air Pollution to Abate Acidification, Eutrophication and Ground-level Ozone, as amended in 2012,

¹⁴ Convention on long-range transboundary air pollution (OJ L 171, 27.6.1981, p. 13).

¹⁵ Council Decision 2003/507/EC of 13 June 2003 on the accession of the European Community, to the Protocol to the 1979 Convention on Long-Range Transboundary Air Pollution to Abate Acidification, Eutrophication and Ground-Level Ozone, (OJ L 179, 17.7.2003, p. 1) and Council Decision (EU) 2017/1757 of 17 July 2017 on the acceptance on behalf of the European Union of an Amendment to the 1999 Protocol to the 1979 Convention on Long-Range Transboundary Air Pollution to Abate Acidification, Eutrophication and Ground-Level Ozone, (OJ L 248, 27.9.2017, p. 3).

¹⁶ Directive (EU) 2016/2284 of the European Parliament and of the Council of 14 December 2016 on the reduction of national emissions of certain atmospheric pollutants, amending Directive 2003/35/EC and repealing Directive 2001/81/EC (OJ L 344, 17.12.2016, p.1).

¹⁷ Decision 2023/5 launching a process to revise the Protocol to Abate Acidification, Eutrophication and Ground-level Ozone, as amended in 2012 and to address other conclusions of its review of the Executive Body of the Convention (ECE/EB.AIR/154), Geneva, 11–14 December 2023.

HAS ADOPTED THIS DECISION:

Article 1

The Commission is hereby authorised to negotiate, on behalf of the Union, the revision of the Protocol to the 1979 Convention on Long-range Transboundary Air Pollution to Abate Acidification, Eutrophication and Ground-level Ozone, as amended in 2012 (Gothenburg Protocol).

Article 2

The negotiating directives are set out in the Annex.

Article 3

The negotiations shall be conducted in consultation with the [\[name of the special committee to be inserted by the Council\]](#).

Article 4

This Decision is addressed to the Commission.

Done at Brussels,

*For the Council
The President*