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2016/0184 (NLE)

Proposal for a

COUNCIL DECISION

**on the conclusion on behalf of the European Union of the Paris Agreement adopted
under the United Nations Framework Convention on Climate Change**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The proposal is for a Council Decision, to be adopted pursuant to Article 218(6) of the Treaty on the Functioning of the European Union (TFEU), on the conclusion on behalf of the European Union, of the Paris Agreement adopted under the United Nations Framework Convention on Climate Change (UNFCCC).

At the 21st Conference of the Parties of the UNFCCC (known as COP 21), which took place in Paris from 30 November to 12 December 2015, the text of an agreement was adopted, concerning the strengthening of the global response to climate change. The Agreement will enter into force on the 30th day after the date on which at least 55 parties to the Convention accounting in total for at least an estimated 55% of global greenhouse gas emissions have deposited their instruments of ratification, acceptance, approval or accession.

In its communication assessing the implications of the Paris Agreement¹, the Commission stated that the Paris Agreement should be signed and ratified as soon as possible. The European Council welcomed the Commission communication and underlined the need for the European Union and its Member States to be able to ratify the Paris Agreement as soon as possible and on time so as to be Parties as of its entry into force². As a first step, the Agreement was signed by the Commission and Council on behalf of the European Union and by all 28 Member States on their behalf at the high-level signature ceremony which took place in New York on 22 April 2016.

The Paris Agreement is a global milestone for enhancing global collective action and accelerating the global transformation to a low-carbon and climate resilient society. It will replace the approach taken under the 1997 Kyoto Protocol, that contains commitments until the end of 2020. These commitments will not be continued beyond 2020.

The Paris Agreement presents an opportunity for economic transformation, jobs and growth. It is a central element in achieving broader sustainable development goals, as well as the EU's priorities of investment, competitiveness, circular economy, research, innovation and energy transition.

The Paris Agreement sets out a qualitative long-term emissions reduction goal in line with the objective to keep the global temperature increase well below 2°C and to pursue efforts to keep it to 1.5°C. In order to achieve this goal, the parties will prepare, communicate and maintain successive nationally determined contributions. Starting from 2023, parties will every 5 years undertake a global stocktake, based on the latest science and implementation to date, which will track progress and consider emission reductions, adaptation and support provided.

Ahead of COP 21, parties to the UNFCCC presented their intended nationally determined contributions to the Agreement. The European Union and its Member States were the first major economy to communicate their intended nationally determined contribution on 6 March 2015, reflecting the 2030 climate and energy policy framework set by the October 2014 European Council³ and the European Commission's blueprint for tackling global climate change beyond

¹ COM(2016)110 of 2 March 2016.

² European Council conclusions of 18 March 2016.

³ European Council conclusions of 24 October 2014.

2020⁴. The EU has set an ambitious economy-wide target of reducing greenhouse gas emissions at least 40% domestically by 2030.

The EU has already begun the process of implementation of the at least 40% greenhouse gas emission reduction target. As regards those sectors covered by the emissions trading system (ETS), the Commission adopted on 15 July 2015 a proposal for a directive of the European Parliament and the Council amending Directive 2003/87/EC to enhance cost-effective emission reductions and low-carbon investments. The proposal aims to deliver the above target in respect of those sectors covered by the EU ETS.

The European Union and its Member States have expressed the intention to act jointly under the Paris Agreement⁵ and this is reflected in Article 4 of the Paris Agreement. The Union and its Member States are therefore jointly responsible, pursuant to paragraph 18 of that Article, for preparing, communicating and maintaining successive nationally determined contributions they intend to achieve and for pursuing domestic mitigation measures with the aim of achieving the objectives of the nationally determined contribution under paragraph 2 of that Article.

Article 4, paragraph 16 of the Paris Agreement requires the secretariat to be notified of the joint action, including the emission level allocated to each party within the relevant time period. The respective emission level allocated to the Union covers emissions of greenhouse gases under Directive 2003/87/EC. The respective emission levels of the Member States, and the inclusion of land use, land-use change and forestry into the 2030 energy and climate change framework, will be determined in forthcoming legislation.

Norway and Iceland have expressed an intention to participate in the joint action by the Union and its Member States. The terms governing possible participation by Norway and Iceland will be laid down in accompanying legislation. This proposal is without prejudice to how Norway and Iceland will participate in the joint action.

- **Consistency with existing policy provisions in the policy area**

The Commission Communication of 2 March 2016 entitled the Road from Paris: assessing the implications of the Paris Agreement, emphasises that the global clean energy transition requires changes in investment behaviour and incentives across the entire policy spectrum. It is a key Union priority to establish a resilient Energy Union to provide secure, sustainable, competitive and affordable energy to its citizens. Achieving this requires continuation of ambitious climate action and progress on other aspects of the Energy Union.

- **Consistency with other Union policies**

The 2030 climate and energy policy framework for the EU sets an ambitious economy-wide target of reducing greenhouse gas emissions at least 40% domestically by 2030, as well as renewable energy and energy efficiency targets of at least 27%⁶. Implementing the 2030 energy and climate framework is a priority in follow up to the Paris Agreement. The Commission will later this year present proposals to adapt the EU's regulatory framework for energy efficiency and renewable energy, including the new energy market design.

⁴ COM(2015)81 of 25 February 2015.

⁵ Council conclusions of 18 September 2015.

⁶ The energy efficiency target will be reviewed by 2020, having in mind an EU level of 30%.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

The proposal is made under Article 192(1) together with Article 218(6) TFEU. Article 218 TFEU lays down the procedure for the negotiation and conclusion of agreements between the European Union and third countries or international organisations. In particular, paragraph 6 thereof provides for the Council, on a proposal from the Commission as negotiator, to adopt a decision authorising the conclusion of an agreement on behalf of the European Union.

In accordance with Article 191 and 192(1) TFEU, the European Union shall contribute to the pursuit, *inter alia*, of the following objectives: preserving, protecting and improving the quality of the environment; promoting measures at international level to deal with regional or worldwide environmental problems, and in particular combating climate change.

There exists legislation in the Union implementing these objectives that will have to be revised in order to implement the Paris Agreement and this can only be achieved through Union legislation.

Proposal for a

COUNCIL DECISION

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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 Articles 192(1), in conjunction with 218(6)(a) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament,

Whereas:

- (1) At the 21st Conference of the Parties to the United Nations Framework Convention on Climate Change (UNFCCC), which took place in Paris from 30 November to 12 December 2015, the text of an agreement was adopted, concerning the strengthening of the global response to climate change.
- (2) In accordance with Council Decision (EU) 2016/590 of 11 April 2016⁷, the Paris Agreement was signed on 22 April 2016.
- (3) The Paris Agreement will enter into force on the 30th day after the date on which at least 55 parties to the UNFCCC accounting in total for at least an estimated 55% of total greenhouse gas emissions, have deposited their instruments of ratification, acceptance, approval or accession. Parties to the UNFCCC include the Union and its Member States. In its conclusions of 18 March 2016, the European Council underlined the need for the European Union and its Member States to conclude the Paris Agreement as soon as possible and on time so as to be parties as of its entry into force.
- (4) The Paris Agreement replaces the approach taken under the 1997 Kyoto Protocol.
- (5) The Paris Agreement, inter alia, sets out a long-term goal in line with the objective to keep the global temperature increase well below 2°C above pre-industrial levels and to pursue efforts to keep it to 1.5°C above pre-industrial levels. In order to achieve this goal, the parties will prepare, communicate and maintain successive nationally determined contributions.
- (6) Under the Paris Agreement, as of 2023, parties are to every 5 years undertake a global stocktake, based on the latest science and implementation to date, which will track progress and consider emission reductions, adaptation and support provided, and each party's successive contribution is to represent a progression beyond the party's then current contribution and reflect its highest ambition.
- (7) A binding target of at least a 40% domestic reduction in economy-wide greenhouse gas emissions by 2030 compared to 1990 was endorsed in the Conclusions of the European Council of 23-24 October 2014 on the 2030 climate and energy policy

⁷ OJ L 103, 19.4.2016, p.1.

framework⁸. The Council meeting on 4 March 2015 formally approved this contribution of the Union and its Member States as their Intended Nationally Determined Contribution, which was submitted to the Secretariat of the UNFCCC on 6 March 2015⁹.

- (8) In the Communication accompanying the proposal for the Union to sign the Paris Agreement¹⁰ it is emphasised that the global clean energy transition requires changes in investment behaviour and incentives across the entire policy spectrum. It is a key Union priority to establish a resilient Energy Union to provide secure, sustainable, competitive and affordable energy to its citizens. Achieving this requires continuation of ambitious climate action and progress on other aspects of the Energy Union.¹¹
 - (9) The Council confirmed in its conclusions of 18 September 2015 that the Union and its Member States intend to act jointly under the Paris Agreement and welcomed the intention of Norway and Iceland to participate in this joint action.
 - (10) The joint action by the Union and the Member States will be agreed in due course and will cover the respective emission level allocated to the Union under Directive 2003/87/EC and the respective emission levels of the Member States.
 - (11) Article 4 (16) of the Paris Agreement requires the secretariat to be notified of the joint action, including the emission level allocated to each party within the relevant time period.
 - (12) The Paris Agreement is in conformity with the environmental objectives of the Union as referred to in Article 191 of the Treaty, namely preserving, protecting and improving the quality of the environment; protecting human health; and promoting measures at international level to deal with regional or worldwide environmental problems, and in particular combating climate change.
 - (13) The Paris Agreement should therefore be concluded on behalf of the Union,
- HAS ADOPTED THIS DECISION:

Article 1

The Paris Agreement adopted on 12 December 2015 under the United Nations Framework Convention on Climate Change, is hereby approved on behalf of the European Union.

The text of the Paris Agreement is attached to this Decision as Annex I.

The attached Declaration of Competence in Annex II is also approved on behalf of the Union.

Article 2

The President of the Council shall designate the person(s) empowered to deposit, on behalf of the Union, the instrument of ratification with the Secretary-General of the United Nations, in accordance with Article 20, paragraph 1 of the Paris Agreement, together with the declaration of competence.

⁸ EUCO 169/14

⁹ <http://www4.unfccc.int/submissions/indc/Submission%20Pages/submissions.aspx>

¹⁰ COM(2016)110 of 2 March 2016.

¹¹ COM(2015)80 of 25 February 2015.

Article 3

1. The instrument of ratification of the Union shall be deposited with the Depository.

Member States shall endeavour to take the necessary steps with a view to depositing simultaneously with the Union.

2. Member States shall inform the Commission of their decisions on ratification of the Paris Agreement, or according to the circumstances, of the probable date of completion of the necessary procedures.

Article 4

This Decision is addressed to the Member States.

Done at Brussels,

*For the Council
The President*