

**Statement under Section 5 of the European Union Act 2011**

Statement made pursuant to section 5 of the European Union Act 2011 relating to the Treaty concerning the accession of the Republic of Croatia to the European Union.

*Presented to Parliament pursuant to Section 5 of the European Union Act 2011*

February 2012

## **Statement under Section 5 of the European Union Act 2011**

This statement is made pursuant to section 5 of the European Union Act 2011 (“the Act”) as to whether the Treaty concerning the accession of the Republic of Croatia to the European Union annexed hereto (“the Croatia Accession Treaty”) falls within section 4 of the Act.

### *The requirement for a statement*

Part I of the Act was brought into force on 19 August 2011.

Under section 2 of the Act, a treaty which amends or replaces the Treaty on European Union (TEU) or the Treaty on the Functioning of the European Union (TFEU) is not to be ratified unless the three steps in section 2 of the Act are met.

Those three steps are:

- (a) a statement relating to the treaty must be laid before Parliament in accordance with section 5;
- (b) the treaty must be approved by Act of Parliament; and
- (c) the referendum condition or the exemption condition must be met.

Section 5(3) of the Act provides that the required statement is a statement as to whether, in the Minister’s opinion, the treaty falls within section 4, which covers the circumstances in which the treaty would require a referendum about whether the treaty should be ratified.

Section 4(1) of the Act provides that, subject to section 4(4), a treaty falls within section 4 if it involves one or more of the cases set out in sub-paragraphs (a)-(m). Section 4(4) provides that a treaty does not fall within section 4 merely because it involves one or more of the purposes in subparagraphs (a)-(c) of section 4(4).

Section 4(4) (c) of the Act provides that a treaty does not fall within section 4 of the Act merely because it involves the accession of a new member State.

### *Accession of a new member State to the European Union*

Article 49 of the TEU provides that any European State which respects the values set out in Article 2 TEU and is committed to promoting them may apply to become a member of the European Union. Under Article 49, it is for the Council to decide by unanimity whether an applicant State should accede, after consulting with the Commission and having received the consent of the European Parliament.

Article 49 also provides that the conditions of admission, and the adjustments to the Treaties on which the Union is founded that such admission entails, shall be the subject of an agreement between the member States and the applicant State.

*Treaty concerning the accession of the Republic of Croatia to the European Union*

The Republic of Croatia applied to the Council to become a member State of the European Union in 2003, became a candidate country in 2004, and started accession negotiations in October 2005. The negotiations were successfully concluded on 30 June 2011, following the agreement of safeguards and additional pre-accession monitoring arrangements, on the basis that Croatia had reached a high level of preparedness for membership, and continued to make substantial progress in all areas. We expect Croatia to continue this momentum and to be in full alignment with the acquis before joining the European Union in July 2013.

The Commission delivered an Opinion on Croatia's application for accession to the European Union on 12 October 2011, and the European Parliament gave its consent to the accession on 1 December 2011.

The Council accepted the Republic of Croatia's application for accession in a Council Decision of 5 December 2011, which cited Article 49 TEU as the sole legal base and confirmed that the conditions of admission, and the adjustments to the TEU, the TFEU and the Treaty establishing the European Atomic Energy Community entailed by admission, were to be the subject of a treaty between the Republic of Croatia and the member States of the European Union.

The Croatia Accession Treaty itself was signed by all member States on 9 December 2011. It is similar in structure to that of earlier accession treaties. The main body of the Treaty is relatively short and provides for the Republic of Croatia to become a member of the European Union and party to the relevant treaties on which the Union is founded, with the detailed conditions and arrangements for accession set out in an act of accession and its annexes, which form an integral part of the Treaty.

*Whether the Treaty concerning the accession of the Republic of Croatia to the European Union falls within section 4 of the Act*

All of the provisions of the Croatia Accession Treaty relate to the accession of a new member State to the European Union and thus the Croatia Accession Treaty as a whole is subject to the exemption provided for in section 4(4)(c) of the Act.

**In my opinion the Treaty concerning the accession of the Republic of Croatia to the European Union of 9 December 2011 does not fall within section 4 of the Act and no referendum is required in the UK.**

THE RT HON WILLIAM HAGUE MP  
Secretary of State for Foreign and Commonwealth Affairs