



**COUNCIL OF
THE EUROPEAN UNION**

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COVER NOTE

from : General Secretariat of the Council

to : Coreper/Council

Subject : Amendment of the Treaties
- Protocol on the concerns of the Irish people on the Treaty of Lisbon

Delegations will find attached a copy of a letter from Ambassador Rory MONTGOMERY, Permanent Representative of Ireland, to Ambassador Jan TOMBINSKI, President of the Committee of Permanent Representatives, relating to a proposal from the Irish Government, in accordance with Article 48(2) of the TEU, for the amendment of the Treaties concerning the addition of a Protocol on the concerns of the Irish people on the Treaty of Lisbon.

Encl.:



20 July 2011

H E Mr Jan Tombinski
Permanent Representative of Poland
President of the Committee of Permanent Representatives

Dear President

On 19 June 2009 the Heads of State or Government of the 27 Member States of the European Union, meeting within the European Council, adopted a Decision on the concerns of the Irish people on the Treaty of Lisbon in relation to the right to life, family and education; taxation; and security and defence.

The Heads of State or Government also declared that at the time of the conclusion of the next accession Treaty they would set out the provisions of the Decision in a Protocol to be attached, in accordance with their respective constitutional requirements, to the Treaty on European Union and the Treaty on the Functioning of the European Union.

As the accession negotiations with Croatia have now been formally concluded and it is expected that the Accession Treaty will be ready for signature at the December European Council, I am writing to you, in accordance with Article 48.2 of the Treaty on European Union, to propose that the Treaties be amended as agreed by the Heads of State or Government. I should be grateful if this proposal could be submitted to the European Council and notified to national Parliaments.

Attached please find for consideration a possible draft of the Protocol which reflects the text of the Decision of the Heads of State or Government.

Yours sincerely

Rory Montgomery
Permanent Representative

Cc Mr Uwe Corsepius, Secretary General of the Council
Mr Hubert Légal, Legal Adviser to the Council

PROTOCOL (...)

ON THE CONCERNS OF THE IRISH PEOPLE ON THE TREATY OF LISBON

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 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,
THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

hereinafter referred to as "THE HIGH CONTRACTING PARTIES",

RECALLING the Decision of the Heads of State or Government of the 27 Member States of the European Union, meeting within the European Council, on 18/19 June 2009, on the concerns of the Irish people on the Treaty of Lisbon;

RECALLING the declaration of the Heads of State or Government, meeting within the European Council, on 18/19 June 2009, that they will, at the time of the conclusion of the next Accession Treaty, set out the provisions of the aforementioned Decision in a Protocol to be attached, in accordance with their respective constitutional requirements, to the Treaty on European Union and the Treaty on the Functioning of the European Union;

[NOTING the signature by the High Contracting Parties of the Treaty between the High Contracting Parties and the Republic of Croatia concerning the accession of the Republic of Croatia to the European Union;]

HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union:

TITLE I
RIGHT TO LIFE, FAMILY AND EDUCATION

Article 1

Nothing in the Treaty of Lisbon attributing legal status to the Charter of Fundamental Rights of the European Union, or in the provisions of that Treaty in the area of Freedom, Security and Justice affects in any way the scope and applicability of the protection of the right to life in Article 40.3.1, 40.3.2 and 40.3.3, the protection of the family in Article 41 and the protection of the rights in respect of education in Articles 42 and 44.2.4 and 44.2.5 provided by the Constitution of Ireland.

TITLE II

TAXATION

Article 2

Nothing in the Treaty of Lisbon makes any change of any kind, for any Member State, to the extent or operation of the competence of the European Union in relation to taxation.

TITLE III

SECURITY AND DEFENCE

Article 3

The Union's action on the international scene is guided by the principles of democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law.

The Union's common security and defence policy is an integral part of the common foreign and security policy and provides the Union with an operational capacity to undertake missions outside the Union for peace-keeping, conflict prevention and strengthening international security in accordance with the principles of the United Nations Charter.

It does not prejudice the security and defence policy of each Member State, including Ireland, or the obligations of any Member State.

The Treaty of Lisbon does not affect or prejudice Ireland's traditional policy of military neutrality.

It will be for Member States - including Ireland, acting in a spirit of solidarity and without prejudice to its traditional policy of military neutrality - to determine the nature of aid or assistance to be provided to a Member State which is the object of a terrorist attack or the victim of armed aggression on its territory.

Any decision to move to a common defence will require a unanimous decision of the European Council. It would be a matter for the Member States, including Ireland, to decide, in accordance with the provisions of the Treaty of Lisbon and with their respective constitutional requirements, whether or not to adopt a common defence.

Nothing in this Title affects or prejudices the position or policy of any other Member State on security and defence.

It is also a matter for each Member State to decide, in accordance with the provisions of the Treaty of Lisbon and any domestic legal requirements, whether to participate in permanent structured cooperation or the European Defence Agency.

The Treaty of Lisbon does not provide for the creation of a European army or for conscription to any military formation.

It does not affect the right of Ireland or any other Member State to determine the nature and volume of its defence and security expenditure and the nature of its defence capabilities.

It will be a matter for Ireland or any other Member State, to decide, in accordance with any domestic legal requirements, whether or not to participate in any military operation.

TITLE IV

FINAL PROVISIONS

Article 4

This Protocol shall be ratified by the High Contracting Parties, in accordance with their respective constitutional requirements. The instruments of ratification shall be deposited with the Government of the Italian Republic.

This Protocol shall enter into force if possible on [.....], provided that all the instruments of ratification have been deposited, or, failing that, on the first day of the month following the deposit of the instrument of ratification by the last signatory State to take this step.

Article 5

This Protocol, drawn up in a single original in the Bulgarian, 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 text being equally authentic, shall be deposited in the archives of the Government of the Italian Republic, which shall transmit a certified copy to each of the governments of the other signatory States.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries have signed this Protocol.

Done at ... this day of in the year