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PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	27 October 2021
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2021) 651 final
Subject:	Proposal for a COUNCIL DECISION on the position to be taken on behalf of the European Union in the Joint Committee established by Article 63(1) of the Euro-Mediterranean Interim Association Agreement on trade and cooperation between the European Community, of the one part, and the Palestine Liberation Organization (PLO) for the benefit of the Palestinian Authority of the West Bank and the Gaza Strip, of the other part

Delegations will find attached document COM(2021) 651 final.

Encl.: COM(2021) 651 final



Brussels, 27.10.2021
COM(2021) 651 final

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Proposal for a

COUNCIL DECISION

on the position to be taken on behalf of the European Union in the Joint Committee established by Article 63(1) of the Euro-Mediterranean Interim Association Agreement on trade and cooperation between the European Community, of the one part, and the Palestine Liberation Organization (PLO) for the benefit of the Palestinian Authority of the West Bank and the Gaza Strip, of the other part

EXPLANATORY MEMORANDUM

1. SUBJECT MATTER OF THE PROPOSAL

This proposal concerns the decision establishing the position to be taken on the Union's behalf in the European Union-PLO Joint Committee ('Joint Committee') in connection with the envisaged adoption of a decision concerning the extension of the temporary amendments provided for by Point A of the Exchange of Letters between the European Union, of the one part, and the Palestinian Authority of the West Bank and the Gaza Strip, of the other part.

2. CONTEXT OF THE PROPOSAL

2.1. The Euro-Mediterranean Interim Association Agreement

The Euro-Mediterranean Interim Association Agreement on trade and cooperation between the European Community, of the one part, and the Palestine Liberation Organization (PLO) for the benefit of the Palestinian Authority of the West Bank and the Gaza Strip, of the other part ('the Interim Association Agreement') aims to promote trade and investment and harmonious economic relations between the Parties thereby fostering their sustainable economic development. The Agreement entered into force on 1 July 1997.

2.2. The European Union-PLO Joint Committee

The European Union-PLO Joint Committee ('the Joint Committee') has the power to take decisions in the cases provided for in the Interim Association Agreement as well as in other cases necessary for the purpose of attaining the objectives set out in the Interim Association Agreement. The Joint Committee acts by mutual agreement between the Union and the Palestinian Authority.

2.3. The Agreement in the form of an Exchange of letters

The Agreement in the form of an Exchange of Letters between the European Union, of the one part, and the Palestinian Authority of the West Bank and the Gaza Strip, of the other part, providing further liberalisation of agricultural products, processed agricultural products and fish and fishery products and amending the Euro-Mediterranean Interim Association Agreement on trade and cooperation between the European Community, of the one part, and the Palestine Liberation Organization (PLO) for the benefit of the Palestinian Authority of the West Bank and the Gaza Strip, of the other (the 'Agreement in the form of an Exchange of Letters') aims to further liberalise trade in agricultural products, processed agricultural products and fish and fishery products and amends the Interim Association Agreement. The Agreement in the form of an Exchange of Letters entered into force on 1 January 2012.

Point C, paragraph 1(a) of the Agreement in the form of an Exchange of Letters authorises the Joint Committee to extend by a decision the temporary amendments for an additional period. As of the Joint Committee on 10 December 2020, the Parties have expressed their intention to extend the temporary amendments.

2.4. The envisaged act of the Joint Committee

The Joint Committee is to adopt a decision regarding the extension of the Agreement in the form of an Exchange of Letters by 10 years ('the envisaged act').

The need to promote economic and social development in the West Bank and the Gaza Strip continues to exist. This is particularly the case following recent violence in and around Gaza. Promoting economic and social development in the West Bank and the Gaza Strip could contribute to enhancing political stability in the region. The Agreement in the form of an Exchange of Letters was originally concluded for a period of ten years. In view of the persisting economic hardship in the West Bank and the Gaza Strip and in order to maximize stability and planning reliability, an extension of the Agreement in the form of an Exchange of letters by another 10 years would be most effective. Therefore, the purpose of the envisaged act is to extend the temporary liberalisation for the trade of agricultural products, processed agricultural products and fish and fishery products for an additional 10 years.

The envisaged act will become binding on the parties in accordance with Article 63((2) of the Interim Association Agreement.

3. POSITION TO BE TAKEN ON THE UNION'S BEHALF

The position to be taken on behalf of the Union is the adoption of the draft decision of the Joint Committee, which is attached as Annex.

4. LEGAL BASIS

4.1. Procedural legal basis

4.1.1. Principles

Article 218(9) of the Treaty on the Functioning of the European Union (TFEU) provides for decisions establishing 'the positions to be adopted on the Union's behalf in a body set up by an agreement, when that body is called upon to adopt acts having legal effects, with the exception of acts supplementing or amending the institutional framework of the agreement.'

The concept of 'acts having legal effects' includes acts that have legal effects by virtue of the rules of international law governing the body in question.

4.1.2. Application to the present case

The Joint Committee is a body set up by an international agreement. It has been established by Article 63 of the Interim Association Agreement.

The act which the Joint Committee is called upon to adopt will be binding under international law in accordance with Article 63(2) of the Interim Association Agreement and therefore constitutes an act having legal effects.

The envisaged decision does not supplement or amend the institutional framework of the Agreement.

Therefore, the procedural legal basis for the proposed decision is Article 218(9) TFEU.

4.2. Substantive legal basis

4.2.1. Principles

The substantive legal basis for a decision under Article 218(9) TFEU depends primarily on the objective and content of the envisaged act in respect of which a position is taken on the Union's behalf. If the envisaged act pursues two aims or has two components and if one of those aims or components is identifiable as the main one, whereas the other is merely incidental, the decision under Article 218(9) TFEU must be founded on a single substantive legal basis, namely that required by the main or predominant aim or component.

4.2.2. Application to the present case

The main objective and content of the envisaged act relate to the trade of goods and are thus fully covered by the scope of the common commercial policy set out in Article 207 TFEU. The power to conclude international agreements is set out paragraph 4, first subparagraph of that Article.

Therefore, the substantive legal basis of the proposed decision is Article 207(4), first subparagraph TFEU.

4.3. Conclusion

The legal basis of the proposed decision should be the first subparagraph of Article 207(4), TFEU in conjunction with Article 218(9) TFEU.

5. PUBLICATION OF THE ENVISAGED ACT

As the act of the Joint Committee will amend the Agreement in the form of an Exchange of Letters, it is appropriate to publish it in the Official Journal of the European Union after its adoption.

Proposal for a

COUNCIL DECISION

on the position to be taken on behalf of the European Union in the Joint Committee established by Article 63(1) of the Euro-Mediterranean Interim Association Agreement on trade and cooperation between the European Community, of the one part, and the Palestine Liberation Organization (PLO) for the benefit of the Palestinian Authority of the West Bank and the Gaza Strip, of the other part

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207(4), first subparagraph, in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Euro-Mediterranean Interim Association Agreement on trade and cooperation between the European Community, of the one part, and the Palestine Liberation Organization (PLO) for the benefit of the Palestinian Authority of the West Bank and the Gaza Strip, of the other part ('the Interim Association Agreement') was concluded by the Union by Council Decision of 2 June 1997¹ and entered into force on 1 July 1997.
- (2) Article 63 of the Interim Association Agreement established a Joint Committee with the power to take binding decisions in the cases provided for in the Interim Association Agreement.
- (3) The Agreement in the form of an Exchange of Letters between the European Union, of the one part, and the Palestinian Authority of the West Bank and the Gaza Strip, of the other part, providing further liberalisation of agricultural products, processed agricultural products and fish and fishery products and amending the Interim Association Agreement (the 'Agreement in the form of an Exchange of Letters') was concluded by the Union by Council Decision of 20 October 2011² and entered into force on 1 January 2012. The temporary amendments to the Interim Association Agreement will come to an end on 31 December 2021.
- (4) Pursuant to Point C, paragraph 1(a) of the Agreement in the form of an Exchange of Letters, the Joint Committee established by the Interim Association Agreement may adopt an extension of the temporary amendments of the Interim Association Agreement by the Agreement in the form of an Exchange of Letters.

¹ OJ L 187, 16.7.1997, p. 1.

² OJ L 328, 10.12.2011, p. 5.

- (5) The need to promote economic and social development in the West Bank and the Gaza Strip continues to exist. This is particularly the case following recent violence in and around Gaza. Promoting economic and social development in the West Bank and the Gaza Strip could contribute to enhancing political stability in the region. The Agreement in the form of an exchange of letters was originally concluded for a period of ten years. In view of the persisting economic hardship in the West Bank and the Gaza Strip and in order to maximize stability and planning reliability, an extension of the Agreement in the form of an Exchange of letters by another 10 years would be most effective. It is therefore appropriate to extend the temporary amendments for an additional 10 years.
- (6) The Joint Committee is to adopt a decision on the extension of the temporary amendments of the Agreement in the form of an Exchange of Letters by ten years.
- (7) It is appropriate to establish the position to be taken on the Union's behalf in the Joint Committee, as the decision will be binding on the Union,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf in the Joint Committee shall be based on the draft decision of the Joint Committee attached to this Decision.

Article 2

This Decision is addressed to the Commission.

Done at Brussels,

*For the Council
The President*