Council of the European Union

Brussels, 13 July 2021
(OR. en)

10780/21

Interinstitutional File: 2021/0199(NLE)

UD 190
COMER 68
MED 24
WTO 181

PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	13 July 2021
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2021) 387 final
Subject:	Proposal for a COUNCIL DECISION on the position to be taken on behalf of the European Union within the Association Council established by the Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Hashemite Kingdom of Jordan, of the other part, as regards an amendment to Protocol 3 to that Agreement concerning the definition of the concept of 'originating goods' and methods of administrative cooperation

Delegations will find attached document COM(2021) 387 final.

Encl.: COM(2021) 387 final

EUROPEAN
COMMISSION

Brussels, 13.7.2021
COM(2021) 387 final

2021/0199 (NLE)

Proposal for a

COUNCIL DECISION

on the position to be taken on behalf of the European Union within the Association Council established by the Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Hashemite Kingdom of Jordan, of the other part, as regards an amendment to Protocol 3 to that Agreement concerning the definition of the concept of 'originating goods' and methods of administrative cooperation

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 Association Council established by the Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Hashemite Kingdom of Jordan, of the other part[1], in connection with the envisaged adoption of a Decision of the Association Council amending the provisions of Protocol 3 to the Euro-Mediterranean Agreement, concerning the definition of the concept of 'originating products' and the list of working or processing required to be carried out on non-originating materials in order for certain categories of products, manufactured in the territory of the Hashemite Kingdom of Jordan, and connected with generating employment for Syrian refugees and Jordanians, to obtain originating status.

2. CONTEXT OF THE PROPOSAL

2.1. The Euro-Mediterranean Agreement

The Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Hashemite Kingdom of Jordan, of the other part ('the Agreement') aims to establish the conditions for the gradual liberalisation of trade in goods, services and capital. The Agreement entered into force on 1 May 2002.

2.2. The Association Council

The Association Council established according to the provisions of Article 89 of the Agreement may decide to amend the provisions of Protocol 3of the Agreement concerning the definition of the concept of 'originating products' and methods of administrative cooperation (Article 4 of Protocol 3). The Association Council adopts its decisions and recommendations by agreement between the two Parties.

2.3. The envisaged act of the Association Council

On its next meeting or by exchange of letters, the Association Council is to adopt a Decision to amend the provisions of Protocol 3 concerning the definition of the concept of 'originating products' and methods of administrative cooperation ('the envisaged act').

The purpose of the envisaged act is to maintain the terms of the Decision 1/2016 of the EU-Jordan Association Committee of 19 July 2016[2] and Decision 1/2018 of the EU-Jordan Association Committee of 4 December 2018[3], amending the provisions of Protocol 3 to the Agreement concerning the definition of the concept of originating products' and the list of working or processing required to be carried out on non-originating materials in order for certain categories of products, manufactured in the territory of the Hashemite Kingdom of

[1] OJ L 129, 15.05.2002, p. 3
[2] OJ L 233, 30.08.2016, p. 6
[3] OJ L 9, 11.1.2019, p. 147

Jordan, and connected with generating employment for Syrian refugees and Jordanians, to obtain originating status .

The envisaged act will become binding on the parties in accordance with Article 91, paragraph 2 of the Association Agreement.

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

Decision 1/2016 of the EU-Jordan Association Committee of 19 July 2016 and Decision 1/2018 of the EU-Jordan Association Committee of 4 December 2018 introduced a simplified rules of origin regime envisaged to be applicable for 10 years (until 31 December 2030).

Such simplified regime covers products in 52 chapters of the Harmonised System. These represent a wide range of manufactured products and include items that Jordan currently exports in small volumes to the EU and others where currently there is no trade. The alternative rules of origin made available under this scheme are those applied by the EU to imports from Least-Developed Countries (LDCs) under the EU's Everything But Arms (EBA) initiative.

An amendment of Protocol 3 is necessary to maintain this simplified rules of origin regime by linking these rules to the new applicable rules of origin of Protocol 3 as last amended by the Decision 1/2021 of the EU-Jordan Association Council[4] .

The position to be taken by the EU within the Association Council should be established by the Council.

The proposed amendment is technical in nature and only aimed at enabling the continuation of the above-mentioned simplified rules of origin regime, as initially foreseen. Therefore, it does not require an impact assessment.

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. It also includes instruments that do not have a binding effect under international law, but that are '*capable of decisively influencing the content of the legislation adopted by the EU legislature*'[5].

---

4 OJ L 164/2021, pp. 1-101

5 Judgment of the Court of Justice of 7 October 2014, Germany v Council, C-399/12, ECLI:EU:C:2014:2258, paragraphs 61 to 64.

4.1.2. Application to the present case

The Association Council is a body set up by an agreement, namely the Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Hashemite Kingdom of Jordan, of the other part.

The act which the Association Council is called upon to adopt constitutes an act having legal effects. The envisaged act will be binding under international law in accordance with Article 91, paragraph 2 of the Association Agreement.

The envisaged act 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.

4.2.2. Application to the present case

The main objective and content of the envisaged act relate to the common commercial policy.

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

4.3. Conclusion

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

5. BUDGETARY IMPLICATIONS

There is no additional budgetary implications as this proposed amendment to Protocol 3 on rules of origin ensures the continuation of the Jordan simplified rules of origin scheme established by Decision 1/2016 of the EU-Jordan Association Committee of 19 July 2016 and Decision 1/2018 of the EU-Jordan Association Committee of 4 December 2018 as alternative set of rules of origin. This simplified rules of origin regime was envisaged to be applicable for 10 years (until 31/12/2030).

6. PUBLICATION OF THE ENVISAGED ACT

As the act of the EU-Jordan Association Council will amend Protocol 3 of the EU-Jordan Association Agreement concerning the definition of the concept of 'originating products' and methods of administrative cooperation, as amended by Decision n°1/2021 of the EU-Jordan Association Council of 15 April 2021, it is appropriate to publish it in the Official Journal of the European Union after its adoption.

2021/0199 (NLE)

Proposal for a

COUNCIL DECISION

on the position to be taken on behalf of the European Union within the Association Council established by the Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Hashemite Kingdom of Jordan, of the other part, as regards an amendment to Protocol 3 to that Agreement concerning the definition of the concept of 'originating goods' and methods of administrative cooperation

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

Whereas:

(1) The Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Hashemite Kingdom of Jordan, of the other part ('the Agreement'), was concluded by the Union by Council and Commission Decision 2002/357/EC, ECSC and entered into force on 1 May 2002.

(2) The Agreement includes Protocol 3 concerning the definition of the concept of 'originating products' and methods of administrative cooperation ('Protocol 3'). Pursuant to Article 4 of Protocol 3, the Association Council established by Article 89 of the Agreement ('the Association Council') may decide to amend the provisions of Protocol 3

(3) The Regional Convention on pan-Euro-Mediterranean preferential rules of origin ('the PEM Convention') was concluded by the Union by Council Decision 2013/94/EU[6] and entered into force in relation to the Union on 1 May 2012. It lays down provisions on the origin of goods traded under relevant bilateral free trade agreements concluded between the Contracting Parties to the PEM Convention, which apply without prejudice to the principles laid down in those bilateral agreements.

(4) Following the Council Decision establishing the EU position to be taken within the Association Committee as regards an amendment to Protocol 3 in December 2020, the EU-Jordan Association Council adopted Decision 1/2021[7] on 15 April 2021 to replace Protocol 3

---

6 Council Decision 2013/94/EU of 26 March 2012 on the conclusion of the Regional Convention on pan-Euro-Mediterranean preferential rules of origin (OJ L 54, 26.2.2013, p. 3).

7 OJ L 164/2021, pp. 1-101.

(5) Protocol 3 contains on the one hand a dynamic link to the PEM Convention that will make it applicable between the Union and Jordan, and on the other hand the transitional rules that will apply as an alternative set of rules to those of the current PEM Convention as of 1 September 2021.

(6) As part of the Union's support for Jordan in the context of the Syrian refugee crisis, the Union and Jordan jointly agreed in July 2016 to temporarily relax rules of origin applying to exports of Jordanian products to the Union under the EU-Jordan Association Agreement.

(7) Decision 1/2016[8] of the EU-Jordan Association Committee of 19 July 2016 amended the provisions of Protocol 3 to the Agreement, concerning the definition of the concept of originating products' and supplemented the list of working or processing required to be carried out on non-originating materials in order for certain categories of products, manufactured in the territory of the Hashemite Kingdom of Jordan, connected with generating employment for Syrian refugees and Jordanians, to obtain originating status.

(8) Decision 1/2018[9] of the EU-Jordan Association Committee further amended the provisions of Protocol 3, establishing additional flexibilities and extending the validity of the scheme until 31 December 2030. That Decision entered into force on 4 December 2018.

(9) To maintain the application of Decision 1/2016 and Decision 1/2018 it will be necessary to link them to the new rules of origin applicable after 1 September 2021. This requires amending Protocol 3 to the Agreement in order for the facilities contained in Decisions 1/2016 and 1/2018 to remain applicable. Such a decision has to be adopted by the Association Council. It is therefore appropriate to establish the position to be taken on the Union's behalf in the EU-Jordan Association Council to amend Protocol 3.

(10) The application of Annex 1 of the draft Joint Decision of the Association Council attached to this Decision should be accompanied by appropriate monitoring and reporting obligations and may be suspended if the conditions for its application are no longer fulfilled or if the conditions for safeguard measures are met.

(11) In order to ensure continuity in the application of Decision 1/2016 and Decision 1/2018 and thus avoid economic losses for authorized exporters under Decision 1/2016 of the EU-Jordan Association Committee of 19 July 2016, the draft Joint Decision of the Association Council includes a retroactivity clause, to ensure legal continuity of the derogating measure, should it be impossible for the Association Council to adopt it before 1 September 2021.

(12) The position of the Union in the Association Council should therefore be based on the draft decision attached to this Decision. This is without prejudice to the existing possibility of non-substantial minor changes, which may be agreed by the representatives of the Union in the Association Council without another decision of the Council.

---

8 OJ L 233, 30.08.2016, p. 6

9 OJ L 9, 11.1.2019, p. 147

(13) The position of the Union within the Association Council should therefore be based on the draft decision,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf within the Association Council established by the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Hashemite Kingdom of Jordan, of the other part, as regards the amendment of that Agreement by amending Protocol 3 thereto, shall be based on the draft decision of the Association Council.

Article 2

This Decision shall enter into force on the date of its adoption and shall expire on 31 December 2023.

Article 3

This Decision is addressed to the Commission.

Done at Brussels,

For the Council
The President