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COVER NOTE

From: Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director

date of receipt: 30 July 2025

To: Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union

No. Cion doc.: COM(2025) 436 final

Subject: Recommendation for a COUNCIL DECISION amending Council Decision (EU) 2020/2059 of 7 December 2020 on the position to be taken on behalf of the European Union in the Trade Committee established under the Interim Partnership Agreement between the European Community, of the one part, and the Pacific States, of the other part, as regards the amendment of certain provisions of Protocol II concerning the definition of the concept of 'originating products' and methods of administrative cooperation, as regards cumulation with neighbouring developing countries

Delegations will find attached document COM(2025) 436 final.

Encl.: COM(2025) 436 final



Brussels, 30.7.2025
COM(2025) 436 final

Recommendation for a

COUNCIL DECISION

amending Council Decision (EU) 2020/2059 of 7 December 2020 on the position to be taken on behalf of the European Union in the Trade Committee established under the Interim Partnership Agreement between the European Community, of the one part, and the Pacific States, of the other part, as regards the amendment of certain provisions of Protocol II concerning the definition of the concept of 'originating products' and methods of administrative cooperation, as regards cumulation with neighbouring developing countries

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The Partnership Agreement between the European Community, of the one part, and the Pacific States of the other part ('the Agreement') aims to (a) enable Pacific States to benefit from the improved market access offered by the European Union ('the EU'); (b) promote sustainable economic development and the gradual integration of Pacific States into the world economy; (c) establish a free trade areas between the European Union and the Pacific States based on common interest, through the progressive liberalisation of trade in a manner compliant with applicable WTO rules and the principle of asymmetry, taking account of the specific needs and capacity constraints of the Pacific States, in terms of levels and timing for commitments; (d) set up the appropriate dispute settlement arrangements; and (e) to set up the appropriate institutional arrangements.

On 13 July 2009 the EU signed the Agreement¹, which has been provisionally applied by Papua New Guinea and the Republic of Fiji since 20 December 2009 and 28 July 2014, respectively. Following their accessions, the Independent State of Samoa and the Solomon Islands have also been provisionally applying the Agreement since 31 December 2018 and 17 May 2020 respectively.

On October 2019, the European Commission and the Pacific States agreed to amend certain provisions of Protocol II concerning the definition of the concept of 'originating products' and methods of administrative cooperation. The amendment aimed at updating the provisions on rules of origin to the most recent developments and to provide the economic operators with simplified and more flexible rules of origin.

On 7 December 2020, the Council adopted Council Decision (EU) 2020/2059² on the position to be taken on behalf of the European Union in the Trade Committee as regards the amendment of certain provisions of Protocol II concerning the definition of the concept of 'originating products' and methods of administrative cooperation, which include the deletion of Article 4 bis and Annex VIII A, related to cumulation of Pacific States with neighbouring developing countries.

During the adoption process, Fiji and Samoa raised reservations on the deletion of the provisions related to cumulation with neighbouring developing countries, and requested maintaining those provisions in Protocol II.

At the 10th meeting of the Trade Committee, the European Commission and the Pacific States agreed to maintain the provisions related to cumulation with neighbouring developing countries. The Parties also endorsed the final version of the draft decision of the Trade Committee and of the amended Protocol II, which should be adopted at the 11th meeting of the Trade Committee in 2026.

This recommendation seeks to amend Council Decision (EU) 2020/2059 of 7 December 2020 by maintaining Article 4 bis and Annex VIII A related to cumulation with neighbouring

¹ OJ L 272, 16.10.2009, p. 2

² OJ L 424, 15.12.2020, p. 22. See also documents ST 10898/20 and ST 10899/20 on <http://register.consilium.europa.eu>

developing countries and by allowing the adoption of the Trade Committee decision at the 11th meeting of the Trade Committee.

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

The amendment is consistent with related provisions included in other Economic Partnership Agreements concluded between the European Union and the African, Caribbean and Pacific Countries.

- **Consistency with other Union policies**

The amendment is consistent with Trade policy with African, Caribbean and Pacific Countries.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

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’³.

The act which the Trade Committee is called upon to adopt constitutes an act having legal effects and it will be binding under international law in accordance with Articles 8, 68 and 78 of the 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.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

No impact assessment has been carried out. Through this recommendation, the EU will continue to meet the objective of the Economic Partnership Agreement with the Pacific States.

4. BUDGETARY IMPLICATIONS

This recommendation does not have any budgetary implication.

5. OTHER ELEMENTS

Not applicable

³ 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.

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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 the first subparagraph of Article 207(4), in conjunction with Article 218(9) thereof,

Having regard to the recommendation from the European Commission,

Whereas:

- (1) Council Decision (EU) 2020/2059 of 7 December 2020⁴ authorised the European Commission to adopt a decision within the Trade Committee amending Protocol II;
- (2) Fiji and Samoa raised last minute reservations and requested maintaining in Protocol II the provisions related to cumulation with neighbouring developing countries;
- (3) Council Decision (EU) 2020/2059 of 7 December 2020 and its annex should be amended accordingly.

HAS ADOPTED THIS DECISION:

Article 1

Council Decision (EU) 2020/2059 of 7 December 2020 on the position to be taken on behalf of the European Union in the Trade Committee established under the Interim Partnership Agreement between the European Community, of the one part, and the Pacific States, of the other part, as regards the amendment of certain provisions of Protocol II concerning the definition of the concept of “originating products” and methods of administrative cooperation is amended in accordance with the Annex to this Decision.

Article 2

The Annex to Council Decision (EU) 2020/2059 of 7 December 2020 is amended in accordance with the Annex to this Decision.

⁴ OJ L 424, 15.12.2020, p. 22.

Article 3

This Decision is addressed to the Commission.

Done at Brussels,

*For the Council
The President*