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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	14 August 2023
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2023) 487 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 the Agreement between the European Union and Iceland on the protection of geographical indications for agricultural products and foodstuffs as regards the adoption of its rules of procedure

Delegations will find attached document COM(2023) 487 final.

Encl.: COM(2023) 487 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 the Agreement between the European Union and Iceland on the protection of geographical indications for agricultural products and foodstuffs as regards the adoption of its rules of procedure

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 Joint Committee set up by the Agreement between the European Union and Iceland on the protection of geographical indications for agricultural products and foodstuffs in connection with the envisaged adoption of rules of procedure of the Joint Committee.

2. CONTEXT OF THE PROPOSAL

2.1. The EU-Iceland Agreement on the protection of geographical indications

The Agreement between the European Union and Iceland on the protection of geographical indications for agricultural products and foodstuffs (“the Agreement”) applies to the recognition and protection of geographical indications for agricultural products and foodstuffs other than wines, aromatised wine products and spirit drinks originating in the Parties' territories. The overall task of the Joint Committee is to monitor developments relating to the Agreement and to intensify the cooperation and dialogue on geographical indications. Pursuant to Article 10(3) of the Agreement, the Joint Committee shall also see to the proper functioning of the Agreement and may consider any matter related to its implementation and operation. It shall, in particular, be responsible for amending Annexes I and II of the Agreement and for exchanging information on legislative and policy developments, as well as any other matter of mutual interest in the area of geographical indications, and for exchanging information on geographical indications for the purpose of considering their protection in accordance with the Agreement.

The Agreement was signed on 23 March 2017 and entered into force on 1 May 2018¹.

2.2. Joint Committee

Article 10(1) of the Agreement establishes a Joint Committee consisting of representatives of the European Union and Iceland.

Article 10(2) and (3) of the Agreement determine the functioning and responsibilities of the Joint Committee.

The overall task of the Joint Committee is to monitor developments relating to the Agreement and to intensify the cooperation and dialogue on geographical indications. Pursuant to Article 10(3) of the Agreement, the Joint Committee shall also see to the proper functioning of the Agreement and may consider any matter related to its implementation and operation. It shall, in particular, be responsible for amending Annexes I and II of the Agreement and for exchanging information on legislative and policy developments, as well as any other matter of mutual interest in the area of geographical indications, and for exchanging information on geographical indications for the purpose of considering their protection in accordance with the Agreement.

Pursuant to Article 10(2) of the Agreement, the Joint Committee shall adopt its decisions by consensus.

¹ Agreement between the European Union and Iceland on the protection of geographical indications for agricultural products and foodstuffs (OJ L 274, 24.10.2017, p. 3).

2.3. The envisaged act of the Joint Committee

According to the Agreement, the Joint Committee shall determine its own rules of procedure.

The purpose of the envisaged act is to adopt, in accordance with Article 10(2) of the Agreement, the rules of procedure governing the functioning of the Joint Committee and, in particular, to define in detail its decision-making process.

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

The position to be adopted on behalf of the Union should enable the adoption of the rules of procedure of the Joint Committee on Geographical Indications.

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’*².

4.1.2. Application to the present case

The Joint Committee is a body set up by an agreement, namely the Agreement between the European Union and Iceland on the protection of geographical indications for agricultural products and foodstuffs.

The act which the Joint Committee is called upon to adopt constitutes an act having legal effects. The envisaged act will be binding under international law in accordance with Article 10 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.

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.

² 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.

4.2.2. 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 Article 207 TFEU.

4.3. Conclusion

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

5. PUBLICATION OF THE ENVISAGED ACT

Not applicable.

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

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Agreement between the European Union and Iceland on the protection of geographical indications for agricultural products and foodstuffs¹ ('the Agreement') was concluded by the Union by Council Decision (EU) 2017/1912² and it entered into force on 1 May 2018.
- (2) Article 10(1) of the Agreement establishes a Joint Committee.
- (3) Pursuant to Article 10(2) of the Agreement, the Joint Committee is to establish its own rules of procedure.
- (4) It is appropriate to establish the position to be taken on the Union's behalf in the Joint Committee, as regards its rules of procedure, as these rules will be binding on the Union.
- (5) The Union's position within the Joint Committee is to be based on the draft rules of procedure attached to this Decision,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf in the Joint Committee as regards the adoption of its rules of procedure shall be based on the draft decision of that Joint Committee attached to this Decision.

¹ OJ L 274, 24.10.2017, p. 3.

² Council Decision (EU) 2017/1912 of 9 October 2017 on the conclusion of the Agreement between the European Union and Iceland on the protection of geographical indications for agricultural products and foodstuffs (OJ L 274, 24.10.2017, p. 1).

Article 2

This Decision is addressed to the Commission.

Done at Brussels,

*For the Council
The President*