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PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	15 September 2025
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2025) 489 final
Subject:	Proposal for a COUNCIL DECISION on the position to be taken on behalf of the European Union in the Trade Council established by the Interim Agreement on Trade between the European Union and the Republic of Chile, as regards the adoption of the rules of procedure of the Trade Council and the Trade Committee

Delegations will find attached document COM(2025) 489 final.

Encl.: COM(2025) 489 final



EUROPEAN
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Brussels, 15.9.2025
COM(2025) 489 final

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Proposal for a

COUNCIL DECISION

on the position to be taken on behalf of the European Union in the Trade Council established by the Interim Agreement on Trade between the European Union and the Republic of Chile, as regards the adoption of the rules of procedure of the Trade Council and the Trade Committee

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 Trade Council set up under Article 33.1(1) of the Interim Agreement on Trade between the European Union and the Republic of Chile ('the Agreement'), in connection with the envisaged adoption of a decision concerning the rules of procedure for the Trade Council and the Trade Committee established under the Agreement.

2. CONTEXT OF THE PROPOSAL

2.1. The Interim Agreement on Trade between the European Union and the Republic of Chile

The Interim Agreement on Trade between the European Union and the Republic of Chile aims to broaden the scope of the current bilateral trade framework and to adjust it to new political and economic global challenges, to the new reality of the EU-Chile partnership, and to the level of ambition in recently concluded trade agreements and negotiations conducted by the EU and Chile. The Agreement entered into force on 1 February 2025.

2.2. The Trade Council

The Trade Council established under Article 33.1(1) of the Agreement is responsible for overseeing the fulfilment of the objectives of the Agreement and supervising its implementation. It is composed of representatives of the Parties with responsibility for trade and investment matters.

2.3. The envisaged acts of the Trade Council

At its first meeting, on [date], the Trade Council is to adopt a decision laying down its own rules of procedure and a decision laying down the rules of procedure of the Trade Committee set up under Article 33.2(1) of the Agreement ('the envisaged acts').

The envisaged acts will become binding on the parties in accordance with Article 33.1(5) of the Agreement, which provides that: 'The Trade Council shall establish its own rules of procedure and the rules of procedure of the Trade Committee at its first meeting'.

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

The proposal for a Council Decision establishes the position to be taken on the Union's behalf in the Trade Council concerning the adoption of the rules of procedure for the Trade Council and the Trade Committee.

The purpose of the rules of procedure is to determine how the two bodies carry out their functions and take decisions.

The rules of procedure are essential to complete the institutional framework of the Agreement and to ensure that it functions properly.

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 binding effect under international law but that are ‘capable of decisively influencing the content of the legislation adopted by the EU legislature’¹. Lastly, the notion of ‘acts having legal effects’ also includes acts of an organisational nature that influence the way in which decisions are made within the body, for instance if a body with decision-making powers adopts or modifies its rules of procedure.

4.1.2. Application to the present case

The Trade Council is a body set up by the Agreement.

The acts which the Trade Council is called upon to adopt constitute acts having legal effects. The envisaged acts will be binding under international law in accordance with Article 33.1(5) of the Agreement and capable of decisively influencing the way decisions are made within the relevant bodies.

The envisaged acts do not supplement or amend the institutional framework of the Agreement.

The procedural legal basis for the proposed decision is therefore 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 is determined primarily by the objective and the 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 common commercial policy.

The substantive legal basis of the proposed decision is therefore 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.

¹ Judgment of the Court of Justice of 7 October 2014, *Germany v Council*, C-399/12, 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 proposal from the European Commission,

Whereas:

- (1) The Interim Agreement on Trade between the European Union and the Republic of Chile ('the Agreement') was concluded by the Union by Council Decision (EU) 2024/3016 of 18 March 2024² and entered into force on 1 February 2025.
- (2) The Trade Council is established pursuant to Article 33.1(1) of the Agreement.
- (3) Pursuant to Article 33.1(5) of the Agreement, the Trade Council shall establish its own rules of procedure and the rules of procedure of the Trade Committee.
- (4) The Trade Council, at its meeting on [date], is to adopt a decision on its rules of procedure.
- (5) It is appropriate to establish the position to be taken on the Union's behalf in the Trade Council, as the decision will be binding on the Union.
- (6) The position to be taken on the Union's behalf should be based on the draft Decision of the Trade Council attached to this Decision,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf in the first meeting of the Trade Council established by the Interim Agreement on Trade between the European Union and the Republic of Chile concerning the rules of procedure of the Trade Council shall be based on the draft Decision of the Trade Council attached to this Decision.

Article 2

The position to be taken on the Union's behalf in the first meeting of the Trade Council established by the Interim Agreement on Trade between the European Union and the Republic of Chile concerning the rules of procedure of the Trade Committee shall be based on the draft Decision of the Trade Council attached to this Decision.

² OJ L, 2024/2953, 20.12.2024.

Article 3

This Decision is addressed to the Commission.

Done at Brussels,

*For the Council
The President*