



Council of the
European Union

Brussels, 30 September 2022
(OR. en)

13019/22

**Interinstitutional File:
2022/0285(NLE)**

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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	21 September 2022
To:	General Secretariat of the Council
No. Cion doc.:	COM(2022) 471 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 Community, of the one part, and the Government of Denmark and the Home Government of the Faroe Islands, of the other part, as regards the adoption of the Rules of Procedure of the EC/Faroe Islands Joint Committee

Delegations will find attached document COM(2022) 471 final.

Encl.: COM(2022) 471 final



Brussels, 21.9.2022
COM(2022) 471 final

2022/0285 (NLE)

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 Community, of the one part, and the Government of Denmark and the Home Government of the Faroe Islands, of the other part, as regards the adoption of the Rules of Procedure of the EC/Faroe Islands Joint Committee

EXPLANATORY MEMORANDUM

1. SUBJECT MATTER OF THE PROPOSAL

This proposal concerns a Council Decision establishing the position to be taken on the Union's behalf in the Joint Committee established by the Agreement between the European Community, of the one part, and the Government of Denmark and the Home Government of the Faroe Islands, of the other part¹ ('the Agreement'). It concerns in particular Article 31(3) of the Agreement which states that the Joint Committee shall adopt its own rules of procedure.

2. CONTEXT OF THE PROPOSAL

2.1. The Agreement between the European Community, of the one part, and the Government of Denmark and the Home Government of the Faroe Islands, of the other part

The Agreement aims:

to promote through the expansion of reciprocal trade the harmonious development of economic relations between the European Union ('EU') and the Faeroes and thus to foster in the EU and in the Faeroes the advance of economic activity, the improvement of living and employment conditions, and increased productivity and financial stability;

to provide fair conditions of competition for trade between the Contracting Parties;

to contribute in this way, by the removal of barriers to trade, to the harmonious development and expansion of world trade.²

The Agreement entered into force on 1 January 1997.

2.2. The Joint Committee

The EC/Faroe Islands Joint Committee ('the Joint Committee'), established under Article 31(1) of the Agreement, is responsible for the administration of the Agreement, for its proper implementation and for making recommendations and taking decisions on trade relations between the EU and the Faroe Islands. Per Article 31(3) of the Agreement, the Joint Committee is also responsible for adopting its own rules of procedure.

2.3. The envisaged act of the Joint Committee

At the current moment, the Joint Committee is operating under outdated rules of procedure which predate the entry into force of the Agreement. Therefore, the Joint Committee is to adopt a Decision by written procedure establishing its rules of procedure ('the envisaged act') in the third quarter of 2022.

The purpose of the envisaged act is to lay down the rules of procedure in order to ensure proper implementation and administration of the Agreement and to comply with the obligation in Article 31(3) of the Agreement.

¹ OJ L 53, 22.2.1997, p. 2.

² Article 1 of the Agreement.

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

The proposed Council Decision establishes the position to be adopted on the Union's behalf in the Joint Committee regarding the adoption of the rules of procedure of the Joint Committee.

Such position shall be based on the draft Decision of the Joint Committee which is attached to the proposed Council Decision. In turn, the draft rules of procedure of the Joint Committee are annexed to the draft Decision of the Joint Committee. The draft rules of procedure contain the role and name of the Joint Committee, its composition and chairperson, secretariat, organisation of meetings, the composition of delegations, agenda for the meetings, invitation of experts, minutes, decisions and recommendations, transparency, languages, expenses, working parties, and amendments of the rules of procedure.

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.'

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 Community, of the one part, and the Government of Denmark and the Home Government of the Faroe Islands, of the other part. 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 31 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.

4.2.2. Application to the present case

The objective and content of the envisaged act relates solely 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 Article 207(4), in conjunction with Article 218(9) TFEU.

5. PUBLICATION OF THE ENVISAGED ACT

As the act of the Joint Committee will complement the legal framework of the Agreement, it is appropriate to publish it in the *Official Journal of the European Union* after its adoption.

Proposal for a

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on the position to be taken on behalf of the European Union in the Joint Committee established by the Agreement between the European Community, of the one part, and the Government of Denmark and the Home Government of the Faroe Islands, of the other part, as regards the adoption of the Rules of Procedure of the EC/Faroe Islands Joint Committee

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 Agreement between the European Union and its Member States, of the one part, and the Government of Denmark and the Home Government of the Faroe Islands, of the other part ('the Agreement') was concluded by the Union by Council Decision 97/126/EC³ and entered into force on 1 January 1997.
- (2) Article 31(1) and (2) of the Agreement establishes a Joint Committee, which, inter alia, is to ensure the proper implementation of the Agreement.
- (3) Article 31(3) of the Agreement provides that the Joint Committee shall adopt 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 with regard to the adoption of the rules of procedure of the Joint Committee, as the rules of procedure will be binding on the Union,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf within the Joint Committee as regards the adoption of the rules of procedure of the Joint Committee shall be to support the adoption of the draft Decision of the Joint Committee attached to this Decision.

Article 2

The decision of the Joint Committee shall be published in the *Official Journal of the European Union*.

³ Council Decision 97/126/EC of 6 December 1996 concerning the conclusion of an agreement between the European Community, of the one part, and the Government of Denmark and the Home Government of the Faroe Islands, of the other part (OJ L 53, 22.2.1997 p. 1).

Article 3

This Decision is addressed to the Commission.

Done at Brussels,

*For the Council
The President*