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PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	6 September 2024
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2024) 396 final
Subject:	Proposal for a COUNCIL DECISION on the position to be taken on behalf of the European Union in the EU-CTC Joint Committee established by the Convention of 20 May 1987 on common transit as regards the adoption of a Decision amending the Convention on a common transit procedure for the accession of Georgia

Delegations will find attached document COM(2024) 396 final.

Encl.: COM(2024) 396 final

EUROPEAN
COMMISSION

Brussels, 6.9.2024
COM(2024) 396 final

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Proposal for a

COUNCIL DECISION

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[…]

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 European Union (EU) -Common Transit Countires (CTC) Joint Committee on common transit ("the Joint Committee") in connection with the envisaged adoption by the Joint Committee of a Decision on amending some Annexes to Appendices III and IIIa to the Convention of 20 May 1987 on a common transit procedure ("the Convention").

2. CONTEXT OF THE PROPOSAL

2.1. The Convention

The Convention aims to facilitate the movement of goods between the European Union and other countries, which are Contracting Parties to the Convention. It was concluded on 20 May 1987 between the European Community and the EFTA countries and entered into force on 1st January 1988.

The Convention establishes measures facilitating the movement of goods between the European Union and the other contracting parties of the Convention, namely the Republic of Iceland, the Republic of North Macedonia, the Kingdom of Norway, the Swiss Confederation, the Republic of Türkiye, the Republic of Serbia and the United Kingdom of Great Britain and Northern Ireland and Ukraine.

The European Union (not its Member States) is a Contracting Party to the Conventions.

Countries, which are Contracting Parties of the Convention, but not members of the Union, are common transit countries.

2.2. The Joint Committee

The task of the Joint Committee is to administer the Convention and to ensure their proper implementation. The Committees, by means of decision, invite third countries to accede to the Convention.

The Joint Committees' decisions are adopted by mutual agreement of Contracting Parties.

2.3. The envisaged act of the Joint Committee

In an upcoming session or by means of the written procedure, the Joint Committee is to adopt the draft Decision No [3]/2024 of the Joint Committee.

The purpose of the draft Decision is to take into account the accession of Georgia to the Convention, which involve the introduction of new linguistic references concerning this country allowing the implementation of the common transit procedure between the Contracting Parties.

The Commission is invited to adopt the draft Decision and to transmit it to the Council.

The Joint Committee Decision amending the Convention shall become binding on the Contracting Parties in accordance with Article 3 of that Decision, which provides that "This Decision shall enter into force on the day of its adoption".

In accordance with Article 15(3) of the Convention, this type of Decision shall be put into effect by the Contracting Parties in accordance with their own legislation.

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

The proposal concerns the amendment of some Annexes to Appendices III and IIIa to the Convention, which relate to the accession of Georgia to the Convention. The scope of these amendments is of technical nature.

The aim is to ensure that the Joint Committee adopts all the technical changes in the Convention in order to implement the common transit procedure between Georgia and other contracting parties.

It should result in substantial and tangible benefits for traders and for customs administrations by simplifying transit formalities and facilitating the movement of goods, which is in line with the Union's support to Georgia outside direct initiatives.

The proposed Decision is consistent with European Union policies in the fields of trade and transport.

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."

Article 15(3)(a) of the Convention stipulates that the Joint Committee adopts by decision amendments to the Appendices to the Convention.

4.1.2. Application to the present case

The Joint Committee is a body set up by Article 14 of the Convention.

The Decision which the Joint Committee is called upon to adopt constitutes an act having legal effect. That Decision will be binding under international law in accordance with Article 20 of the Convention.

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 main objective and content of the envisaged act relate to common commercial policy. Therefore, the substantive legal basis of the proposed decision is 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

After its adoption, the Decision of the Joint Committee referred to in Articles 1 of the proposal for a Council Decision shall be published in the Official Journal of the European Union.

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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, in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) The Convention of 20 May 1987 on a common transit procedure ("the Convention") was concluded between the European Economic Community, the Republic of Austria, the Republic of Finland, the Republic of Iceland, the Kingdom of Norway, the Kingdom of Sweden and the Swiss Confederation and entered into force on 1 January 1988.

(2) Pursuant .to Article 15(3)(a) of the Convention, the EU-Common Transit Countries Joint Committee set up by that Convention ("the Joint Committee") may adopt by decisions amendments to the Appendices to the Convention

(3) Georgia expressed its wish to accede to the Convention and will be invited to do so.

(4) The accession of Georgia will require the respective adaptation of the guarantee documents and the insertion of certain technical terms in the Georgian language.

(5) All Member States of the Union expressed their positive opinion as regards the proposed amendments in the EU-CTC Working Group on common transit.

(6) As the Joint Committee Decision will amend the Convention, it is appropriate to publish it in the Official Journal of the European Union after its adoption.

(7) In the Joint Committee, the Union is to be represented by the Commission in accordance with Article 17(1) of the Treaty on European Union (TEU). The position of the Union concerning the proposed amendment should therefore be based on the attached draft Decision,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on behalf of the Union at the meeting of the Joint Committee on common transit ("the Joint Committee") concerning amendments to the Appendices to that Convention shall be based on the draft Decision No [3]/2024 of the Joint Committee attached to this Decision.

Minor changes to the draft Decision may be agreed to by the representatives of the Union in the Joint Committee, without further Decision of the Council.

Article 2

After its adoption, the decision of the Joint Committee referred to in Article 1 shall be published in the Official Journal of the European Union

This Decision is addressed to the Member States.

Done at Brussels,

For the Council
The President