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**Interinstitutional File:**  
**2025/0309 (NLE)**

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**POLCOM 284**  
**COASI 112**

**PROPOSAL**

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| From:            | Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director   |
| date of receipt: | 30 September 2025   |
| To:              | Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union   |
| No. Cion doc.:   | COM(2025) 568 final   |
| Subject:         | Proposal for a COUNCIL DECISION on the position to be taken on behalf of the European Union in the Trade Committee established by the Free Trade Agreement between the European Union and New Zealand, on the adoption of the operational guidelines of the Civil Society Forum |

Delegations will find attached document COM(2025) 568 final.

Encl.: COM(2025) 568 final



EUROPEAN  
COMMISSION

Brussels, 30.9.2025  
COM(2025) 568 final

2025/0309 (NLE)

Proposal for a

## **COUNCIL DECISION**

**on the position to be taken on behalf of the European Union in the Trade Committee established by the Free Trade Agreement between the European Union and New Zealand, on the adoption of the operational guidelines of the Civil Society Forum**

## **EXPLANATORY MEMORANDUM**

### **1. SUBJECT MATTER OF THE PROPOSAL**

The Commission proposes that the Council establishes the position to be adopted on the European Union's behalf in the Trade Committee established by the Free Trade Agreement between the European Union and New Zealand (the 'Agreement')<sup>1</sup>, in connection with the envisaged adoption of the operational guidelines for the conduct of the Civil Society Forum under the Agreement.

### **2. CONTEXT OF THE PROPOSAL**

#### **2.1. The Agreement**

The Agreement between the European Union and New Zealand entered into force on 1 May 2024. The Agreement establishes an institutional framework, including mechanisms for the Parties to consult civil society on the implementation of the Agreement, in particular through interaction with their domestic advisory groups and the Civil Society Forum referred to in Articles 24.6 and 24.7, respectively.

Article 24.7 of the Agreement provides for the facilitation by the Parties of the organisation of a Civil Society Forum to conduct a dialogue on the implementation of the Agreement. The Civil Society Forum is intended to convene in conjunction with the meeting of the Trade Committee. The Agreement further provides that the Parties are to agree within the Trade Committee on the operational guidelines for the conduct of the Civil Society Forum.

#### **2.2. The envisaged act of the Trade Committee**

The Trade Committee is to adopt a decision on the operational guidelines for the conduct of the Civil Society Forum. The decision on the operational guidelines should be adopted by the Trade Committee before the first meeting of the Civil Society Forum.

The purpose of the envisaged act is to establish a set of rules for the conduct of the Civil Society Forum.

The envisaged act will become binding on the Parties in accordance with Article 24.5(1) of the Agreement, which provides that: *'The decisions adopted by the Trade Committee [...] shall be binding on the Parties and [...] [t]he Parties shall take measures necessary to implement the decisions adopted by the Trade Committee.'*

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

The position to be taken on the European Union's behalf in the Trade Committee shall be based on the draft decision of the Trade Committee attached to this proposal.

In line with Article 24.7 of the Agreement, the operational guidelines foresee that participation in the Civil Society Forum is open to independent civil society organisations of the European Union and New Zealand. The purpose of the Civil Society Forum is to conduct a dialogue on the implementation of the Agreement and its meetings may be conducted in person or by virtual means. The Agreement establishes that the Civil Society Forum will seek to meet in conjunction with the meeting of the Trade Committee.

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<sup>1</sup> Free Trade Agreement between the European Union and New Zealand (OJ L, 2024/866, 25.3.2024, ELI: [http://data.europa.eu/eli/agree\\_international/2024/866/oj](http://data.europa.eu/eli/agree_international/2024/866/oj)).

## **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*’<sup>2</sup>.

#### *4.1.2. Application to the present case*

The Trade Committee is a body set up by an agreement, namely the Free Trade Agreement between the European Union and New Zealand.

The act which the Trade 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 24.5(1) 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 main objective and content of the envisaged act relate 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 the first subparagraph of Article 207(4) TFEU, in conjunction with Article 218(9) TFEU.

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<sup>2</sup> 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.

Proposal for a

## **COUNCIL DECISION**

**on the position to be taken on behalf of the European Union in the Trade Committee established by the Free Trade Agreement between the European Union and New Zealand, on the adoption of the operational guidelines of the Civil Society Forum**

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 Free Trade Agreement between the European Union and New Zealand ('the Agreement') was concluded by the Union by Council Decision (EU) 2024/244<sup>3</sup> and entered into force on 1 May 2024.
- (2) Article 24.7 of the Agreement requires the Parties to agree at the first meeting of the Trade Committee, established by Article 24.1(1) of the Agreement, on operational guidelines for the conduct of the Civil Society Forum.
- (3) It is therefore appropriate to establish the position to be taken on the Union's behalf in the Trade Committee,

HAS ADOPTED THIS DECISION:

### *Article 1*

The position to be taken on the Union's behalf in the Trade Committee established by the Free Trade Agreement between the European Union and New Zealand, on a decision to be taken in accordance with Article 24.7 thereof, shall be based on the draft decision of the Trade Committee attached to this Decision.

### *Article 2*

This Decision shall enter into force on the date of its adoption.

Done at Brussels,

*For the Council*  
*The President*

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<sup>3</sup> Council Decision (EU) 2024/244 of 27 November 2023 on the conclusion, on behalf of the Union, of the Free Trade Agreement between the European Union and New Zealand (OJ L, 2024/244, 28.2.2024, ELI: <http://data.europa.eu/eli/dec/2024/244/oj>).