Council of the European Union

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PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	31 October 2024
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2024) 501 final
Subject:	Proposal for a COUNCIL DECISION on the position to be taken on behalf of the European Union in the Association Council set up by the Euro-Mediterranean Agreement establishing an association between the European Community and its Member States, of the one part, and the Republic of Lebanon, of the other part, as regards the amendment of that Agreement by replacing Protocol 4 thereto concerning the definition of the concept of 'originating products' and methods of administrative cooperation

Delegations will find attached document COM(2024) 501 final.

Encl.: COM(2024) 501 final

EUROPEAN
COMMISSION

Brussels, 31.10.2024
COM(2024) 501 final

2024/0279 (NLE)

Proposal for a

COUNCIL DECISION

on the position to be taken on behalf of the European Union in the Association Council set up by the Euro-Mediterranean Agreement establishing an association between the European Community and its Member States, of the one part, and the Republic of Lebanon, of the other part, as regards the amendment of that Agreement by replacing Protocol 4 thereto concerning the definition of the concept of 'originating products' and methods of administrative cooperation

EXPLANATORY MEMORANDUM

1. SUBJECT MATTER OF THE PROPOSAL

This proposal is to set out the position to be taken on the EU's behalf in the Association Council of the Euro-Mediterranean Agreement establishing an association between the EU and Lebanon, on the amendment of Protocol 4 of that Agreement.

2. CONTEXT OF THE PROPOSAL

2.1. The Euro-Mediterranean Agreement establishing an Association between the European Community and its Member States, of the one part, and the Republic of Lebanon, of the other part

The Euro-Mediterranean Agreement establishing an association between the EU and Lebanon[1] (the Agreement) aims to set out the conditions for the gradual liberalisation of trade in goods, services and capital. The Agreement entered into force on 1 April 2006.

2.2. The Association Council

The Association Council, set up in line with Article 74(1) of the Agreement, may decide to amend Protocol 4 (notably Article 38). The Association Council draws up its decisions and recommendations by agreement between the two parties (i.e. the EU and Lebanon).

2.3. The envisaged act of the Association Council

At its next meeting or by exchange of letters, the Association Council is to adopt a decision on the amendment of Protocol 4 (the envisaged act).

The purpose of the envisaged act is to amend Protocol 4 by replacing it with a new protocol to include a dynamic reference to the Regional Convention on pan-Euro-Mediterranean preferential rules of origin, so that it always refers to the latest version of the Convention in force.

The envisaged act will be binding on the parties, in line with Article 76, paragraph 2 of the Agreement.

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

The Regional Convention on pan-Euro-Mediterranean preferential rules of origin (the Convention) lays down provisions on the origin of goods traded under relevant agreements concluded between the contracting parties. The EU and Lebanon signed the Convention on 15 June 2011 and on 22 October 2014 respectively.

The EU and Lebanon deposited their instruments of acceptance with the depositary of the Convention on 26 March 2012 and 25 October 2017 respectively. As a consequence, under its Article 10, the Convention entered into force for the EU and Lebanon on 1 May 2012 and on 1 December 2017 respectively.

The Convention was amended by Decision No 1/2023 of the Joint Committee of the Regional Convention on pan-Euro-Mediterranean Preferential Rules of Origin of 7 December 2023.

Article 6 of the Convention stipulates that each contracting party must take appropriate measures to ensure that the Convention is effectively applied. To that effect, the Association Council established by the Agreement should adopt a decision introducing the rules of the Convention under Protocol 4.

[1] OJ L 143, 30.5.2006, p2.

This is done by introducing in the amended Protocol a reference to the Convention that will render it applicable.

The position to be taken by the EU in the Association Council should be established by the Council.

The proposed amendments are technical in nature and do not affect the substance of the protocol on rules of origin currently in effect. Therefore, they do not require an impact assessment.

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 because 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 Association Council is a body set up by an agreement, namely the Euro-Mediterranean Agreement establishing an association between the European Community and its Member States, of the one part, and the Republic of Lebanon, of the other part.

The act that the Association Council is called on to adopt has legal effects. It will be binding under international law in accordance with Article 76, paragraph 2 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 for which a position is taken on the EU's behalf.

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 Article 207(4), first subparagraph, TFEU.

4.3. Conclusion

The legal basis of the proposed decision should be Article 207(4), first subparagraph, in conjunction with Article 218(9) TFEU.

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[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.

5. PUBLICATION OF THE ENVISAGED ACT

As the act of the Association Council will amend the Agreement, it would be appropriate to publish it in the *Official Journal of the European Union* after it has been adopted.

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on the position to be taken on behalf of the European Union in the Association Council set up by the Euro-Mediterranean Agreement establishing an association between the European Community and its Member States, of the one part, and the Republic of Lebanon, of the other part, as regards the amendment of that Agreement by replacing Protocol 4 thereto concerning the definition of the concept of 'originating products' and methods of administrative cooperation

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 Euro-Mediterranean Agreement establishing an association between the European Community and its Member states, of the one part, and the Republic of Lebanon, of the other part ('the Agreement') was concluded by the Union by Council Decision 2006/356/EC[1] and entered into force on 1 April 2006. Protocol 4 defines the concept of 'originating products' and lays down methods of administrative cooperation (Protocol 4).

(2) Pursuant to Article 38 of that Protocol, the Association Council established by Article 74(1) of the Agreement ('the Association Council') may decide to amend its provisions.

(3) The Association Council, during its next meeting or by exchange of letters is to adopt a Decision on an amendment of Protocol 4.

(4) It is appropriate to establish the position to be taken on the Union's behalf in the Association Council as the decision of the Association Council will be binding on the Union.

(5) The Regional Convention on pan-Euro-Mediterranean preferential rules of origin ('the Convention') was concluded by the Union by Council Decision 2013/93/EU[2] and entered into force in relation to the Union on 1 May 2012. It lays down provisions on the origin of goods traded under relevant agreements concluded between the Contracting Parties, which apply without prejudice to the principles laid down in those agreements.

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1 Council Decision of 14 February 2006 concerning the conclusion of the Euro-Mediterranean Agreement establishing an association between the European Community and its Member States of the one part, and the Republic of Lebanon, of the other part (OJ L 143, 30.5.2006, p. 1).

2 Council Decision 2013/93/EU of 14 April 2011 on the signing, on behalf of the European Union, of the Regional Convention on pan-Euro-Mediterranean preferential rules of origin (OJ L 54, 26.2.2013, p. 4).

(6) The Convention was amended by Decision No 1/2023 of the Joint Committee of the Regional Convention on pan-Euro-Mediterranean Preferential Rules of Origin of 7 December 2023[3].

(7) The amendment to the Convention enters into force on 1 January 2025 in relation to all Contracting Parties. To ensure effective and immediate application of the amendment to the Convention between the Parties, a reference to the Convention should be introduced in Protocol 4, so as to always refer to the latest version of the Convention in force. In the absence of such reference, the effective application of the amendment to the Convention would not be ensured which could impact the system of diagonal cumulation.

(8) Article 6 of the Convention provides that each Contracting Party is to take appropriate measures to ensure that the Convention is effectively applied. To that effect, the Association Council should adopt a decision introducing in Protocol 4 to the Agreement a reference to the Convention so as to always refer to the latest version of the Convention in force,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf in the Association Council shall be based on the draft act of the Association Council attached to this Decision.

Article 2

This Decision is addressed to the Commission.

Done at Brussels,

For the Council
The President

[3] OJ L, 2024/390, 19.2.2024.