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) 503 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 Agreement establishing an Association between the European Economic Community and Turkey as regards the amendment of Decision No 1/98 of the EC-Turkey Association Council on the trade regime for agricultural products by replacing Protocol 3 thereto concerning the definition of the concept of 'originating products' and methods of administrative cooperation

Delegations will find attached document COM(2024) 503 final.

Encl.: COM(2024) 503 final

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Brussels, 31.10.2024
COM(2024) 503 final

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Proposal for a

COUNCIL DECISION

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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 EU-Türkiye Association Council on the amendment of Protocol 3 to Decision No 1/98 of the EC-Turkey Association Council on the trade regime for agricultural products.

2. CONTEXT OF THE PROPOSAL

2.1. Decision No 1/98 of the EC-Turkey Association Council on the trade regime for agricultural products

Decision No 1/98 of the EC-Turkey Association Council on the trade regime for agricultural products[1] (the Decision) aims to progressively improve the preferential arrangements between the parties for their trade in agricultural products. The Decision entered into force on 1 January 1998.

2.2. The Association Council

The Association Council may decide to amend Protocol 3 (notably Article 39). The Association Council draws up its decisions and recommendations by agreement between the two parties.

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 3 (the envisaged act).

The purpose of the envisaged act is to amend Protocol 3 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.

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 Türkiye signed the Convention on 15 June 2011 and on 4 November 2011 respectively.

The EU and Türkiye deposited their instruments of acceptance with the depositary of the Convention on 26 March 2012 and on 4 December 2013 respectively. As a consequence, under its Article 10(2), the Convention entered into force for the EU and Türkiye on 1 May 2012 and on 1 February 2014 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 EU-Türkiye Association Council should adopt a decision introducing the rules of the Convention under Protocol 3. 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.

[1] OJ L 86, 20.3.1998, p. 1.

The proposed amendment is technical in nature and does not affect the substance of the protocol on rules of origin currently in effect. Therefore, it does 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 act that the Association Council is called on to adopt has legal effects. It does not supplement or amend the institutional framework of the Decision.

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.

5. PUBLICATION OF THE ENVISAGED ACT

As the act of the Association Council will amend Decision No 1/98 of the EC-Turkey Association Council on the trade regime for agricultural products, it would be appropriate to publish it in the *Official Journal of the European Union* after it has been adopted.

[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.

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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(4), first subparagraph in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) The Agreement establishing an Association between the European Economic Community and Turkey[1] set up the EC-Turkey Association Council ('the Association Council')

(2) Decision No 1/98 of the Association Council[2] laid down the trade regime for agricultural products between Türkyie and the European Union.

(3) Protocol 3 to that Decision, as amended by Decision no. 3/2006 of the Association Council[3], defines the concept of 'originating products' and lays down methods of administrative cooperation. Pursuant to Article 39 of that Protocol, the Association Council may decide to amend the provisions of the Protocol.

(4) The Association Council is to adopt a Decision on an amendment of Protocol 3 to Decision No 1/98 of the Association Council during its next meeting.

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

(6) The Regional Convention on pan-Euro-Mediterranean preferential rules of origin ('the Convention') was concluded by the Union by Council Decision 2013/93/EU[4] 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 OJ L 361, 31.12.1977, p. 29, ELI: http://data.europa.eu/eli/agree_internation/1964/732/oj.

2 OJ L 86, 20.3.1998, p. 1, ELI: http://data.europa.eu/eli/dec/1998/223/oj.

3 Decision No 3/2006 of the EC-Turkey Association Council of 19 December 2006 amending Protocol 3 to Decision No 1/98 of the EC-Turkey Association Council of 25 February 1998 on the trade regime for agricultural products (CE-TR 108/05), available online in st00108.en05.doc (europa.eu) .

4 Council Decision 2013/94/EU of 14 April 2011 on the conclusion of the Regional Convention on pan-Euro-Mediterranean preferential rules of origin (OJ L 54, 26.2.2013, p. 3, ELI: http://data.europa.eu/eli/dec/2013/94(1)/oj).

(7) 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[5].

(8) 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 3, 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.

(9) 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 3 to the Decision 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 next meeting of 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

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