Council of the European Union

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2019/0089 (NLE)

AGRI 197
PROBA 12
WTO 110

PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	4 April 2019
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2019) 167 final
Subject:	Proposal for a COUNCIL DECISION on the position to be taken on behalf of the European Union in the International Grains Council with respect to the extension of the Grains Trade Convention, 1995

Delegations will find attached document COM(2019) 167 final.

Encl.: COM(2019) 167 final

EUROPEAN
COMMISSION

Brussels, 4.4.2019
COM(2019) 167 final

2019/0089 (NLE)

Proposal for a

COUNCIL DECISION

on the position to be taken on behalf of the European Union in the International Grains Council with respect to the extension of the Grains Trade Convention, 1995

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 International Grains Council in connection with the envisaged adoption of extending the **Grains Trade Convention, 1995** until 30 June 2021.

2. CONTEXT OF THE PROPOSAL

2.1. The Grains Trade Convention, 1995

The Grains Trade Convention, 1995 ('the Convention') aims to further international co-operation in all aspects of trade in grains, to promote the expansion of international trade in grains and to secure the freest possible flow of this trade. In addition, the Convention intends to contribute to the fullest extent possible to the stability of international grain markets in the interests of all members, to enhance world food security and to provide a forum for exchange of information and discussion of members' concerns regarding trade in grains.

The Convention entered into force on 1 July 1995.

The Union is a party to the Convention[1].

2.2. The International Grains Council

The International Grains Council ('IGC') is an intergovernmental organisation that seeks to meet the objectives laid down by Article 1 of the Convention. In particular, the IGC aims at:

furthering international cooperation in all aspects of trade in grains;

promoting expansion, openness and fairness of the international trade in the grains sector;

contributing to stability of international grain market, enhancing world food security and contributing to the development of countries whose economies depend on commercial sales of grain.

These objectives are sought by improving market transparency through information-sharing, analysis and consultation on market and policy developments.

The International Grains Council has 28 members, including many of the world's largest cereals producers as well as importers. Besides the Union and among others, its members are Argentina, Australia, Canada, Egypt, India, Japan, Russia, Ukraine and the USA. However, China and Brazil are not members.

The 28 members of the IGC have a total number of 2,000 votes.

For budgetary procedures (see Article 12 of the Convention), i.e. for fixing the annual financial contributions of members, the Union has 367 votes in 2018/19[2].

[1] OJ L 21, 27.1.1996, p. 47.

For decision-making, i.e. where votes are held (see Article 11 of the Convention), 1,000 votes are distributed for the 10 exporting members (including the Union with 243 votes) and 1,000 votes for the 18 importing members. It needs to be emphasized that in principle, the IGC operates on the basis of consensus and it is very rare that voting is actually held.

At the meetings of the International Grains Council the Union is represented by the Commission. Member States can attend the IGC meetings, in particular the Council Sessions.

2.3. The envisaged act of the International Grains Council

On 10 June 2019, during its forty-ninth session the International Grains Council is to adopt a decision regarding the extension by two years of the Convention ('the envisaged act').

The purpose of the envisaged act, which is based on Article 33 of the Convention, is to enable the International Grains Council to continue with its work.

The extension of the Convention will cover the period of 1 July 2019 – 30 June 2021.

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

The **Grains Trade Convention, 1995** was concluded by the Union by Council Decision 96/88/EC[3] until 30 June 1998 and, since then, it has been regularly extended. On each occasion, the Convention is extended for a maximum period of two years in accordance with Article 33 of the Convention. It was last extended by decision of the International Grains Council in June 2017 and remains in force until 30 June 2019.

The Union has always been an active member of the IGC and a further extension of the Convention by up to two years is in the interest of the Union. The Union is a major cereals producer and a leading exporter of wheat and barley, while the largest importer of maize.

The purpose of this proposal is to seek the Council's authorisation to the Commission to vote, on the Union's behalf, in favour of the extension of the Convention up to 30 June 2021 in the International Grains Council. The formal decision about the extension of the Convention is scheduled for the 49th session of the International Grains Council to be held on 10 June 2019 in London, UK.

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*.'

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2 The International Grains Council operates on a fiscal year basis, which runs from 1 July to 30 June.

3 OJ L 21, 27.1.1996, p. 47.

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*'[4].

4.1.2. Application to the present case

The envisaged act of the International Grains Council has the effect of extending the validity of the Convention which is an international agreement binding the Union. The envisaged act has therefore legal effects.

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 trade in agricultural products.

Therefore, the substantive legal basis of the proposed decision is Article 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

As the act of the International Grains Council will extend the duration of the Convention, it is appropriate to publish it in the *Official Journal of the European Union* after its adoption.

[4] 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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Proposal for a

COUNCIL DECISION

on the position to be taken on behalf of the European Union in the International Grains Council with respect to the extension of the Grains Trade Convention, 1995

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 Grains Trade Convention, 1995 ('the Convention'), was concluded by the Union by Council Decision 96/88/EC[5] and entered into force on 1 July 1995. The Convention was concluded for a period of three years and, since then, regularly extended for further periods of two years. The Convention was last extended by Decision of the International Grains Council in June 2017[6] and remains in force until 30 June 2019.

(2) Pursuant to Article 33 of the Convention, the International Grains Council may extend the Convention for successive periods not exceeding two years on each occasion.

(3) The International Grains Council, during its 49th session to be held on 10 June 2019 is to decide on the extension of the Convention up to 30 June 2021.

(4) It is appropriate to establish the position to be taken on the Union's behalf in the 49th session of the International Grains Council, as an extension of the Convention is in the interest of the Union,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken by the Commission on behalf of the Union in the 49th session of the International Grains Council shall be to vote in favour of the extension of the Grains Trade Convention, 1995 for a further period of up to two years, up to 30 June 2021.

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5 Council Decision 96/88/EC of 19 December 1995 concerning the approval by the European Community of the Grains Trade Convention and the Food Aid Convention, constituting the International Grains Agreement 1995 (OJ L 21, 27.1.1996, p. 47).

6 Information concerning the extension of the Grains Trade Convention (1995) (OJ L 12, 17.1.2018, p. 1).

Article 2

This Decision is addressed to the Commission.

Done at Brussels,

For the Council
The President

FINANCIAL STATEMENT

FinancSt/10/ PS/pl/1100670

6.221.2019.1

DATE: 14.02.2019

1. BUDGET HEADING:
Chapter 05 06 INTERNATIONAL ASPECTS OF 'AGRICULTURE AND RURAL DEVELOPMENT' POLICY AREA
05 06 01 International agricultural agreements

APPROPRIATIONS:
B2019 6 300 000 EUR

2. TITLE:
Proposal for a Council Decision establishing the position to be taken by the European Union within the International Grains Council with respect to the extension of the Grains Trade Convention 1995.

3. LEGAL BASIS: Article 207 in conjunction with Article 218 (9) of the Treaty on the Functioning of the European Union

4. AIMS:
Extension of the existing Grains Trade Convention by two more years (1.7.2019 to 30.06.2021).

5. FINANCIAL IMPLICATIONS	12 MONTH PERIOD (EUR million)	CURRENT FINANCIAL YEAR 2019 (EUR million)	FOLLOWING FINANCIAL YEAR 2020 (EUR million)
5.0 EXPENDITURE - CHARGED TO THE EU BUDGET (REFUNDS/INTERVENTIONS) - NATIONAL AUTHORITIES - OTHER		0.41	0.35
5.1 REVENUE - OWN RESOURCES OF THE EU (LEVIES/CUSTOMS DUTIES) - NATIONAL			
	2021		
5.0.1 ESTIMATED EXPENDITURE 5.1.1 ESTIMATED REVENUE	-		

5.2 METHOD OF CALCULATION: Based on assumptions on an estimated number of votes of the EU (varies each year), on an estimated amount to be paid per vote in GBP.

6.0	CAN THE PROJECT BE FINANCED FROM APPROPRIATIONS ENTERED IN THE RELEVANT CHAPTER OF THE CURRENT BUDGET?	YES
6.1	CAN THE PROJECT BE FINANCED BY TRANSFER BETWEEN CHAPTERS OF THE CURRENT BUDGET?	-
6.2	WILL A SUPPLEMENTARY BUDGET BE NECESSARY?	-
6.3	WILL APPROPRIATIONS NEED TO BE ENTERED IN FUTURE BUDGETS?	YES

OBSERVATIONS:

The amount to be effectively paid can vary depending on the final number of votes the EU gets attributed to, the amount to be paid per vote in GBP and on the exchange rate EUR/ GBP.