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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	6 April 2017
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2017) 162 final
Subject:	Proposal for a COUNCIL DECISION on the position to be adopted, on behalf of the European Union, within the Joint Committee established by the Regional Convention on pan-Euro-Mediterranean preferential rules of origin as regards the request of Ukraine to become a Contracting Party to that Convention

Delegations will find attached document COM(2017) 162 final.

Encl.: COM(2017) 162 final



Brussels, 6.4.2017
COM(2017) 162 final

2017/0072 (NLE)

Proposal for a

COUNCIL DECISION

on the position to be adopted, on behalf of the European Union, within the Joint Committee established by the Regional Convention on pan-Euro-Mediterranean preferential rules of origin as regards the request of Ukraine to become a Contracting Party to that Convention

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- **Reasons for and objectives of the proposal**

The Regional Convention on pan-Euro-Mediterranean preferential rules of origin¹ (hereafter 'the Convention') lays down provisions on the origin of goods traded under relevant Agreements concluded between the Contracting Parties.

Article 5(1) of the Convention provides that a third party may become a Contracting Party to the Convention, provided that the candidate country or territory has a free trade agreement in force, providing for preferential rules of origin, with at least one of the Contracting Parties. To that end, Article 5(2) and (3) of the Convention require a third party to submit a written request for accession to the depositary of the Convention which, in turn, has to submit the request to the Joint Committee for its consideration. Article 2(2) of the Convention provides that, for the purposes of the Convention, 'third party' means any neighbouring country or territory which is not a Contracting Party.

Ukraine submitted its written request for accession to the Convention to the depositary of the Convention (the General Secretariat of the Council of the EU) on 12 September 2016.

Ukrainian authorities confirmed that Ukraine has a free trade agreement with several Contracting Parties, notably with the EU, EFTA states, the former Yugoslav Republic of Macedonia and Montenegro. As a consequence, Ukraine complies with the condition set out in Article 5(1) of the Convention to become a Contracting Party.

The request should therefore be submitted to the Joint Committee of the Convention for adoption of a Decision inviting Ukraine to accede to the Convention, in accordance with Article 4(3)(b) of the Convention. The position to be taken by the EU within the Joint Committee should be established by the Council.

According to the Commission, the accession of Ukraine does not require any transitional measures as referred to in Article 4(3)(c) of the Convention.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The legal basis for the Council Decision is Article 207 in conjunction with Article 218(9) of the Treaty on the Functioning of the European Union (TFEU).

Article 218(9) TFEU provides that when a decision having legal effect needs to be taken in a body set up by an international agreement, the Council, on a proposal from the Commission or the High Representative of the Union for Foreign Affairs and Security Policy, shall adopt a decision establishing the position to be adopted on the European Union's behalf.

The decision to be taken by the Joint Committee of the Convention falls under this provision.

¹ OJ L 54, 26.2.2013, p. 4.

- **Subsidiarity (for non-exclusive competence)**

The proposal falls under the exclusive competence of the Union.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Stakeholder consultations**

The Contracting Parties to the Convention and the Member States were informed of the request made by Ukraine at the meeting of the Joint Committee of the Convention of 28 September 2016.

- **Collection and use of expertise**

No recourse to external expertise has been necessary.

- **Impact assessment**

Furthermore, it has not been necessary to conduct an impact assessment, since the accession of a third party to the Convention is only subject to the condition that it has a free trade agreement in force with at least one of the Contracting Parties to the Convention.

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on the position to be adopted, on behalf of the European Union, within the Joint Committee established by the Regional Convention on pan-Euro-Mediterranean preferential rules of origin as regards the request of Ukraine to become a Contracting Party to that Convention

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 Regional Convention on pan-Euro-Mediterranean preferential rules of origin (the "Convention"), which sets out the rules on the origin of goods traded under the relevant Agreements concluded between the Contracting Parties, entered into force on 1 December 2012.
- (2) Article 5(1) of the Convention provides that a third party may become a Contracting Party to the Convention, provided that the candidate country or territory has a free trade agreement in force, providing for preferential rules of origin, with at least one of the Contracting Parties.
- (3) To that end, Article 5(2) and (3) of the Convention require a third party to submit a written request for accession to the depositary of the Convention which, in turn, has to submit the request to the Joint Committee for its consideration.
- (4) Ukraine submitted a written request for accession to the Convention to the depositary of the Convention on 12 September 2016.
- (5) Ukraine has a free trade agreement in force with several Contracting Parties to the Convention and therefore complies with the condition set out in Article 5(1) of the Convention to become a Contracting Party.
- (6) Pursuant to Article 4(3)(b) of the Convention, the Joint Committee adopt by decision invitations to third parties to accede to the Convention.
- (7) The position to be taken by the European Union within the Joint Committee should be to vote in favour of a decision inviting Ukraine to accede to the Convention,

HAS ADOPTED THIS DECISION:

Article 1

The position to be adopted by the European Union within the Joint Committee of the Regional Convention on pan-Euro-Mediterranean preferential rules of origin, as regards the request of Ukraine to become a Contracting Party to that Convention, shall be based on the draft Decision 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 shall be published in the *Official Journal of the European Union*.

Article 3

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

Done at Brussels,

*For the Council
The President*