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PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	31 August 2022
To:	General Secretariat of the Council
No. Cion doc.:	COM(2022) 428 final
Subject:	Proposal for a COUNCIL DECISION on the position to be taken on behalf of the European Union in the EU-CTC Joint Committee established by the Convention of 20 May 1987 on common transit procedure as regards amendments to that Convention

Delegations will find attached document COM(2022) 428 final.

Encl.: COM(2022) 428 final



EUROPEAN
COMMISSION

Brussels, 31.8.2022
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Proposal for a

COUNCIL DECISION

on the position to be taken on behalf of the European Union in the EU-CTC Joint Committee established by the Convention of 20 May 1987 on common transit procedure as regards amendments to that Convention

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 EU-CTC Joint Committee (“the Joint Committee”) established by the Convention of 20 May 1987 on a Common transit procedure¹ (“the Convention”) in connection with the envisaged adoption of a Decision amending some Annexes in Appendix III to that Convention.

2. CONTEXT OF THE PROPOSAL

2.1. The Convention on a common transit procedure

The Convention aims to facilitate the movement of goods between the European Union and other countries that are Contracting Parties to the Convention. It was concluded on 20 May 1987 between originally the European Community and the EFTA Countries and entered into force on 1 January 1988.

The Convention establishes measures facilitating the movement of goods between the European Union, the Republic of Iceland, the Republic of North Macedonia, the Kingdom of Norway, the Swiss Confederation, the Republic of Türkiye, the Republic of Serbia and the United Kingdom of Great Britain and Northern Ireland.

The European Union is a Contracting Party to the Convention.

Countries that are Contracting Parties to the Convention but not members of the Union are referred to in the Convention as common transit countries (‘CTC’).

2.2. The EU-CTC Joint Committee

The task of the EU-CTC Joint Committee is to administer the Convention and to ensure its proper implementation. The Committee, by means of decisions, adopts amendments to the Appendices to the Convention.

The Joint Committee’s decisions are adopted by mutual agreement of the Contracting Parties.

2.3. The envisaged Decision of the EU-CTC Committee

At an upcoming session or by means of a written procedure, the EU-CTC Joint Committee is to adopt draft decision No 3/2022 of the EU-CTC Joint Committee on common transit.

The purpose of the draft decision is to take into account the accession of Ukraine to the Convention on a Common Transit procedure. It involves the introduction of new linguistic references concerning this country, and adding the name of Ukraine to the list of countries contained in the respective guarantee documents. This is necessary for the implementation of the common transit procedure between the Contracting Parties.

The Joint Committee Decision amending the Convention will become binding on the Contracting Parties in accordance with Article 2(1) of that Decision, which provides that ‘This Decision shall enter into force on the date on which Ukraine becomes contracting party to the Convention’.

In accordance with Article 15(3) of the Convention, this type of decision is put into effect by the Contracting Parties in accordance with their own legislation.

¹ OJ L 226 13.8.1987, p. 2.

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

The proposed position concerns the amendment of some annexes in Appendix III to the Convention, in order to adapt the guarantee documents and to insert certain technical terms in the Ukrainian language for the accession of Ukraine to the Convention. The scope of these amendments is of a technical nature.

The aim is to ensure that the EU-CTC Joint Committee adopts all the technical changes in the Convention in order to implement the common transit procedure between Ukraine and other Contracting Parties.

This should result in substantial and tangible benefits for traders and for customs administrations by simplifying transit formalities and facilitating the movement of goods, which is in line with Commission support to Ukraine.

The proposed decision is consistent with European Union policies in the fields of trade and transport.

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'.

Article 15(3)(a) of the Convention stipulates that the EU-CTC Joint Committee adopts by decision amendments to the Appendices to the Convention.

4.1.2. Application to the present case

The Joint Committee is a body set up by Article 14 of the Convention.

The Decision which the Joint Committee is called upon to adopt constitutes an act having legal effect. That Decision will be binding under international law in accordance with Article 20 of the Convention.

The Decision does not supplement or amend the institutional framework of the Convention.

The procedural legal basis for the proposed decision, therefore, 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.

The substantive legal basis of the proposed decision is Article 207 TFEU.

4.2.2. Application to the present case

The main objective and content of the envisaged act relate to common commercial policy.

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 TFUE, in conjunction with Article 218(9) TFEU.

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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, in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Convention of 20 May 1987 on a common transit procedure² ("the Convention") was concluded between the European Economic Community, the Republic of Austria, the Republic of Finland, the Republic of Iceland, the Kingdom of Norway, the Kingdom of Sweden and the Swiss Confederation and entered into force on 1 January 1988.
- (2) Pursuant to Article 15(3)(a) of the Convention, the EU-CTC Joint Committee on common transit set up by that Convention ("the Joint Committee") may adopt by decisions amendments to the Appendices to the Convention.
- (3) Ukraine expressed its wish to accede to the Convention and will be invited to do so.
- (4) The accession of Ukraine will require the respective adaptation of the guarantee documents and the insertion of certain technical terms in the Ukrainian language.
- (5) It is appropriate to establish the position to be taken on the Union's behalf in the Joint Committee, as the decision to amend the Convention will be binding on the Union.
- (6) All Member States of the Union expressed their positive opinion as regards the proposed amendments in the EU-CTC Working Group on common transit.
- (7) As the Joint Committee Decision will amend the Convention, it is appropriate to publish it in the Official Journal of the European Union after its adoption.

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf, at an upcoming session or by means of the written procedure, in the EU-CTC Joint Committee set up by the Convention of 20 May 1987 on a common transit procedure concerning amendments to the Appendices to that Convention shall be based on the draft Decision of that Joint Committee attached to this Decision.

Minor changes to the draft Decision may be agreed to by the representative of the Union in the Joint Committee, without further Decision of the Council.

² OJ L 226, 13.8.1987, p. 2.

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 is addressed to the Commission.

Done at Brussels,

For the Council
The President