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PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	3 July 2026
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2026) 338 final
Subject:	Proposal for a COUNCIL DECISION on the position to be taken on behalf of the European Union within the EU-Central America Association Council introducing modifications to Decision No 2/2020 of the EU-Central America Association Council of 14 December 2020 introducing Explanatory Notes to Articles 15, 16, 19, 20 and 30 of Annex II of the Agreement, to incorporate additional Explanatory Notes to Articles 19, 22 and 27 of Annex II of the Agreement

Delegations will find attached document COM(2026) 338 final.

Encl.: COM(2026) 338 final

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EUROPEAN
COMMISSION

Brussels, 3.7.2026
COM(2026) 338 final

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Proposal for a

COUNCIL DECISION

on the position to be taken on behalf of the European Union within the EU-Central America Association Council introducing modifications to Decision No 2/2020 of the EU-Central America Association Council of 14 December 2020 introducing Explanatory Notes to Articles 15, 16, 19, 20 and 30 of Annex II of the Agreement, to incorporate additional Explanatory Notes to Articles 19, 22 and 27 of Annex II of the Agreement

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EXPLANATORY MEMORANDUM

1. SUBJECT MATTER OF THE PROPOSAL

This proposal concerns a Council Decision establishing the position to be taken on the Union's behalf in the EU-Central America Association Council in connection with the envisaged adoption of a decision of the Association Council set up by the Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America on the other ('the Agreement').

2. CONTEXT OF THE PROPOSAL

2.1. The EU-Central America Association Agreement

The Agreement aims to increase bilateral trade between the EU and Central America and through this to strengthen the process of regional integration between the region's countries. The Agreement has been provisionally applied since 1 August 2013 with Honduras, Nicaragua and Panama, since 1 October 2013 with Costa Rica and El Salvador, and since 1 December 2013 with Guatemala.

2.2. The Association Council

The Association Council oversees the fulfilment of the objectives of the Agreement and supervises its implementation. It examines any major issue arising within the framework of the Agreement, as well as any other bilateral, multilateral or international question of common interest, and also examines proposals and recommendations from the Parties for the improvement of the relations established under the Agreement. The Association Council adopts decisions and recommendations by mutual agreement between the Parties.

2.3. The envisaged acts of the Association Council

The Decision to be adopted by the Association Council amends Decision No 2/2020 of the EU-Central America Association Council of 14 December 2020 concerning Explanatory Notes to Articles 15, 16, 19, 20 and 30 of Annex II of the Agreement, to incorporate additional Explanatory Notes to Articles 19, 22 and 27 of Annex II of the Agreement.

The additional Explanatory Notes will complement Decision No 2/2020, providing further guidance on the application of provisions concerning the invoice declaration, the correction of an invoice declaration after exportation, as well as slight discrepancies and obvious formal errors in the proof of origin which do not affect the validity of the invoice declaration.

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

Article 37 of Annex II states that the Parties shall agree "Explanatory Notes" regarding the interpretation, application and administration of Annex II within the Sub-Committee on Customs, Trade Facilitation and Rules of Origin in order to recommend their approval by the Association Council.

A single Council Decision on the position to be taken on behalf of the European Union

The complementary Explanatory Notes referred to above are consistent with other Explanatory Notes agreed under the Interim Trade Agreement between the EU and Chile, as well as in the revised Pan-Euro-Mediterranean Convention.

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The proposal relates to the implementation of a preferential trade agreement concluded as part of the common commercial policy, which is an area in which the Union has exclusive competence.

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 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*'[1].

4.1.2. Application to the present case

The Association Council is a body set up by an agreement, namely the Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America on the other.

The act, in this case a Decision which the Association Council is called upon to adopt, constitutes an act having legal effects. The envisaged act will be binding under international law in accordance with Article 6 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 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 the common commercial policy of the Union.

Therefore, the substantive legal basis of the proposed decision is the first subparagraph of Article 207(4) TFEU.

[1] 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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4.3. Conclusion

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

5. PUBLICATION OF THE ENVISAGED ACTS

As this act of the Association Council will modify Decision No 2/2020 of 14 December 2020 and serve the implementation of Annex II of the Agreement, it is appropriate to publish it in the *Official Journal of the European Union* after their adoption.

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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 the first subparagraph of Article 207(4) 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 Union and its Member States, on the one hand, and Central America on the other ('the Agreement') was concluded by the Union by Council Decision (2012/734/EU) of 25 June 2012[2] and has been applied provisionally since 1 August 2013 between the Union, Nicaragua, Honduras and Panama, since 1 October 2013 between those parties and El Salvador and Costa Rica, and since 1 December 2013 between the Union, Nicaragua, Honduras, Panama, El Salvador and Costa Rica on the one side and Guatemala on the other.

(2) Pursuant to Article 37 of Annex II of the Agreement, the Association Council may approve Explanatory Notes regarding the interpretation, application and administration of Annex II.

(3) The Association Council is to adopt a Decision amending the Decision No 2/2020 of the EU-Central America Association Council of 14 December 2020 introducing Explanatory Notes to Articles 15, 16, 19, 20 and 30 of Annex II of the Agreement[3], to incorporate additional Explanatory Notes to Articles 19, 22 and 27 of Annex II of the Agreement.

(4) It is appropriate to establish the position to be taken on the Union's behalf in the Association Council, as this Decision will have legal effect in the Union,

HAS ADOPTED THIS DECISION:

Article 1

1. The position to be taken on the Union's behalf in the EU-Central America Association Council shall be based on the draft decision attached in the Annex to this Decision.

2. Minor changes to the draft decision may be agreed to by the representatives of the Union in the EU-Central America Association Council without further decision of the Council.

[2] OJ L 346, 15.12.2012, p.1

[3] OJ L 25, 26.1.2021, pp. 96–105

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Article 2

This Decision is addressed to the Commission.

Done at Brussels,

For the Council
The President

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