



EUROPEAN
COMMISSION

Brussels, 14.5.2025
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2025/0107 (NLE)

Proposal for a

COUNCIL DECISION

on the position to be taken on behalf of the European Union in the Partnership Committee established by the Comprehensive and Enhanced Partnership Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Armenia, of the other part, as regards the replacement of the list of individuals who are willing and able to serve as arbitrator

EXPLANATORY MEMORANDUM

1. SUBJECT MATTER OF THE PROPOSAL

This proposal concerns the Union position to be taken in the EU-Armenia Partnership Committee on the replacement of the list of individuals who are willing and able to serve as arbitrators for state-to-state dispute settlement.

2. CONTEXT OF THE PROPOSAL

2.1. The EU-Armenia Comprehensive and Enhanced Partnership Agreement

The Comprehensive and Enhanced Partnership Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Armenia, of the other part, ('the Agreement') has been provisionally applied since 1 June 2018 and entered into force on 1 March 2021.¹

2.2. The Partnership Committee

The Partnership Committee, established by Article 363 of the Agreement, is composed of representatives of the Parties. Pursuant to Article 363(7), the Partnership Committee meets in a specific configuration to address trade and trade related matters. Article 363(6) of the Agreement sets out that the Partnership Committee shall adopt its decisions by agreement between the Parties, with due respect for the completion of their respective internal procedures.

2.3. The envisaged act of the Partnership Committee

It is envisaged that the Partnership Committee, when meeting in its trade configuration in Armenia in June 2025, adopts a decision regarding the replacement of the list of at least 15 individuals who are willing and able to serve as arbitrators pursuant to Article 339 of the Agreement ('the envisaged act').

The purpose of the envisaged act is to assure that the minimum number of available arbitrators is maintained.

The list of individuals who are willing and able to serve as arbitrators is composed of three sub-lists: one sub-list for each Party and one sub-list of individuals who are not nationals of either Party and who could serve as chairperson of the arbitration panel. Each sub-list has to include at least five individuals, meeting the requirements set out in Article 339(2) of the Agreement.

The discussions in the Partnership Committee indicated a preference for an improved stability of the list by reducing the risk of suddenly required revisions. To achieve this aim each sub-list should name seven individuals who are willing and able to serve as arbitrators.

The envisaged act does not modify the text of the Agreement and does not require any implementing action by the Member States. As the envisaged act concerns only the internal operation of the dispute settlement mechanism of Title VI of the Agreement, which has to be implemented by the Commission, it is appropriate to adopt the envisaged act in the English language. Translations can be provided for the internal decision making process of each Party and the information of the public.

The envisaged act will become binding on the parties in accordance with Article 363(5) and 339(1) of the Agreement. It will enter into force on the date of its adoption.

¹ OJ L 61, 22.2.2021, p. 1–2.

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

The position to be taken on behalf of the Union should be to support the adoption of the envisaged act. The position should be based on the draft decision of the Partnership Committee attached to this proposal for a Council Decision.

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.'*

4.1.2. Application to the present case

The Partnership Committee is a body set up by an international agreement.

The act which the Partnership Committee is called upon to adopt constitutes an act having legal effects. The envisaged act will be binding on the Parties under international law in accordance with Article 363 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.

4.2.2. Application to the present case

The main objective and content of the envisaged act relates to the implementation of the common commercial policy through the implementation of an international agreement.

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

4.3. Conclusion

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

5. PUBLICATION OF THE ENVISAGED ACT

For the purposes of transparency, the Commission will publish the envisaged act of the Partnership Committee in the *Official Journal of the European Union* after its adoption. As the publication of the envisaged act is not required by law, a legal act has to provide for such publication.

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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), in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Comprehensive and Enhanced Partnership Agreement between the European Union and its Member States, of the one part, and the Republic of Armenia, of the other part ('the Agreement'), was concluded by the Union by Council Decision (EU) 2021/270 of 25 January 2021² and entered into force on 1 March 2021.
- (2) Pursuant to Article 339(1) of the Agreement, the Partnership Committee has to establish a list of at least 15 individuals who are willing and able to serve as arbitrators.
- (3) To ensure the proper functioning of the dispute settlement system established in Title VI of the Agreement, the Partnership Committee should replace its list of individuals who are willing and able to serve as arbitrators.
- (4) It is appropriate to establish the position to be taken on the Union's behalf in the Partnership Committee, as the Decision will be binding on the Union.
- (5) To ensure transparency, it is preferable to publish the decision of the Partnership Committee as finally adopted,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf in the Partnership Committee shall be based on the draft decision of the Partnership Committee attached to Commission proposal for this Decision.

Article 2

The decision of the Partnership Committee shall be published after its adoption.

² OJ L 61, 22.2.2021, p. 1-2.

Article 3

This Decision is addressed to the Commission.

Done at Brussels,

*For the Council
The President*