



EUROPEAN
COMMISSION

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Proposal for a

COUNCIL DECISION

on the position to be taken on the European Union's behalf in the Customs Cooperation Committee established under the Association Agreement between the European Community and Türkiye as regards the adoption of a decision on the mutual recognition of the authorised economic operator programme of the European Union and the authorised economic operator programme of the Republic of Türkiye

EXPLANATORY MEMORANDUM

1. SUBJECT MATTER OF THE PROPOSAL

This proposal concerns the decision establishing the position to be taken on the European Union's behalf in the Customs Cooperation Committee. The Customs Cooperation Committee was established by Decision No 2/69 of the Association Council of 15 December 1969¹ on the basis of the Association Agreement between the European Community and Türkiye, signed at Ankara on 12 September 1963 (Association Agreement)². The position to be taken by the EU in the Customs Cooperation Committee concerns the Mutual Recognition of Authorised Economic Operators programmes between the European Union and the Republic of Türkiye.

2. CONTEXT OF THE PROPOSAL

2.1. The customs union between the EU and Türkiye

One of the aims of the Association Agreement is to promote the continuous and balanced strengthening of trade and economic relations between the European Union and Türkiye. To attain its objectives, the Association Agreement provides for a customs union between the Parties of the Association Agreement.

The rules for implementing the final phase of the customs union are laid down in Decision No 1/95 of the EC–Türkiye Association Council of 22 December 1995³ (known as the ‘basic decision’), which establishes the conditions for the free movement of goods between the Parties. The basic decision stipulates that Türkiye shall adopt provisions based on the Community Customs Code (now Union Customs Code) and its implementing provisions in the field, among other, of introduction of goods into the territory of the customs union, and that in areas of direct relevance to the operations of the customs union, the Turkish legislation shall be harmonised as far as possible with the Community legislation.

2.2. The Customs Cooperation Committee

In accordance with Article 24 of the Association Agreement, a Customs Cooperation Committee was established by Decision No 2/69 of the Association Council of 15 December 1969. Article 2 of that decision stipulates that the Customs Cooperation Committee is responsible for ensuring administrative cooperation between the Parties with a view to ensure the correct and uniform application of the customs provisions of the Association Agreement and for carrying out any other tasks in the customs field which the Association Committee may entrust to it.

The Customs Cooperation Committee shall, inter alia, adopt appropriate measures to ensure that Türkiye implements customs provisions aligned to the Union customs legislation (which includes provisions regulating the EU Authorised Economic Operator Programme) as established in Article 28 of the Decision No 1/95

2.3. The envisaged act of the Customs Cooperation Committee

The purpose of the Decision of the Customs Cooperation Committee (the envisaged act) is to provide for the mutual recognition between the European Union and the Republic of Türkiye of the respective Authorised Economic Operators (AEO) programmes.

¹ Decision not published.

² Journal officiel des Communautés européennes 3687/64 du 29.12.1964

³ OJ L 35, 13.2.1996, p. 1.

Both the European Union and Republic of Türkiye have in place AEO programmes providing facilitations to economic operators who have invested in their supply chain security and have been certified by the customs authorities of the respective member state in the EU and of Türkiye.

The security and safety and the facilitation of the international trade supply chain can be significantly enhanced through mutual recognition of the respective trade partnership programmes, namely the security part of the Authorised Economic Operator programme (“AEO”) of the EU and the Authorised Economic Operator programme of the Republic of Türkiye.

At its next meeting or by exchange of letters, the Customs Cooperation Committee is to adopt a Decision regarding the mutual recognition of the two AEO programmes.

The decisions adopted by the Customs Cooperation Committee shall be binding upon the Parties, which shall take appropriate measures to implement them.

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

The legal comparison of the two programmes aimed at assessing their compatibility was finalised in 2022.

The legal comparison was followed by reciprocal on-site visits in two member states of the European Union and in the Republic of Türkiye to assess the compatibility of the practical implementation of the safety and security criteria in the respective AEO programmes.

The legal comparison and the on-site visits have revealed that the qualification standards for security and safety purposes of the two programmes are compatible and lead to equivalent results.

The European Commission and the competent authorities of the Republic of Türkiye share the view that the mutual recognition of the respective trade partnership programmes would allow to provide facilitations to economic operators of both parties that have invested in supply-chain security and have been certified under their respective programmes.

The envisaged act constitutes the legal basis for the mutual recognition between the European Union and the Republic of Türkiye of the two AEO programmes.

The position to be taken by the European Union in the Customs Cooperation Committee should be established by the Council.

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 effect’ 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 Customs Cooperation Committee is a body set up by an agreement, namely the Association Agreement between the European Community and Türkiye.

The act which the Customs Cooperation Committee is called upon to adopt constitutes an act having legal effect. The envisaged act will become applicable in the Parties in accordance with Article 24 of the Association Agreement and Article 28, paragraphs 1 and 3 of Decision No 1/95 of the EC–Türkiye Association Council of 22 December 1995.

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 is to facilitate trade and to strengthen the security and safety of the supply chain between the parties by mutually recognising the Authorised Economic Operators according to Article 2.1 and Article 7 of the Association Agreement, which concern the strengthening of trade and trade-related matters between the Parties. Consequently, the envisaged act is within the scope of the common commercial policy referred to in Article 207.

4.3. Conclusion

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

5. PUBLICATION OF THE ENVISAGED ACT

As the act of the Customs Cooperation Committee will be applicable by both Parties, including the EU and its Member States, 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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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207(4), first subparagraph, 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 Community and Türkiye, signed at Ankara on 12 September 1963 (Association Agreement), defines the scope and content of the association relationship, while the final phase of the customs union is defined in Decision No 1/95 of the Association Council, established by Article 6 of the Association Agreement, of 22 December 1995, which entered into force on 31 December 1995.
- (2) Pursuant to Article 24 of the Association Agreement, the Association Council may decide to set up committees to assist in the performance of its tasks.
- (3) Decision No 2/69 of the Association Council of 15 December 1969 established the Customs Cooperation Committee.
- (4) Article 2 of Decision No 2/69 of the Association Council of 15 December 1969 stipulates that “the Customs Cooperation Committee shall be responsible for ensuring administrative cooperation between the Contracting Parties with a view to the correct and uniform application of the customs provisions of the Association Agreement and for carrying out any other tasks in the customs field which the Association Committee may entrust to it”.
- (5) Article 28, paragraphs 1 and 3 of Decision No 1/95 of the Association Council tasked the Customs Cooperation Committee with laying down the appropriate measures to implement the customs provisions contained in the same Decision.
- (6) Security and safety, and the facilitation of the international trade supply chain, can be significantly enhanced through mutual recognition of the respective trade partnership programmes, namely of the Authorised Economic Operator (AEO) programme in the European Union and the national AEO programme in the Republic of Türkiye.
- (7) The two AEO programmes are based on internationally recognised security standards advocated by the SAFE Framework of Standards to Secure and Facilitate Global Trade adopted by the World Customs Organization in June 2005 (‘SAFE Framework’).

- (8) Mutual recognition allows the Parties to provide facilitative benefits to economic operators who have invested in supply-chain security and have been authorised under their respective programmes.
- (9) Site visits and a joint evaluation of the AEO programmes in the European Union and in the Republic of Türkiye have revealed that their qualification standards for security and safety purposes are compatible and lead to equivalent results.
- (10) The Customs Cooperation Committee during its meeting in 2025 or by written procedure if the Parties so agree, is to adopt a decision concerning the mutual recognition of the authorised economic operator programme (security part) of the European Union and the authorised economic operator programme of the Republic of Türkiye.
- (11) It is appropriate to establish the position to be taken on the European Union's behalf within the Customs Cooperation Committee as the decision on mutual recognition of AEO programmes will be binding on the Union.

HAS ADOPTED THIS DECISION:

Article 1

The position about the mutual recognition of the respective AEO Programmes to be taken on behalf of the European Union within the Customs Cooperation Committee under the Association Agreement shall be based on the draft decision of the Customs Cooperation Committee attached to this Decision and is conditional to the agreement by the parties.

Article 2

This Decision enters into force on the date of its adoption.

Done at Brussels,

*For the Council
The President*