



EUROPEAN
COMMISSION

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2022/0173 (NLE)

Proposal for a

COUNCIL DECISION

on the position to be taken on behalf of the European Union within the Sub-Committee on Geographical Indications 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 adoption of the Rules of Procedure of the Sub-Committee on Geographical Indications

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 Sub-Committee on Geographical Indications established by the EU-Armenia Comprehensive and Enhanced Partnership Agreement, in connection with the envisaged adoption of the rules of procedure of the Sub-Committee on Geographical Indications

2. CONTEXT OF THE PROPOSAL

2.1. The EU-Armenia Comprehensive and Enhanced Partnership Agreement

The EU-Armenia Comprehensive and Enhanced Partnership Agreement ('the Agreement') aims to enhance the comprehensive political and economic partnership and cooperation between the EU and Armenia, based on common values and close links, including by increasing the participation of the Republic of Armenia in policies, programmes and agencies of the European Union. It creates a strong enabling framework for enhanced political dialogue on all areas of mutual interest, promoting the development of close political relations.

The Agreement sets out general principles and objectives for EU-Armenia relations and creates an institutional structure for the implementation of the Agreement.

The Agreement was provisionally applied since 1 June 2018 and entered into force on 1 March 2021.

2.2. The Sub-Committee on Geographical Indications

The Sub-Committee on Geographical Indications is established by Article 240 of the Agreement. It monitors the implementation of the protection of geographical indications originating in the EU and the Republic of Armenia, and intensifies the cooperation and dialogue on geographical indications.

The Sub-Committee on Geographical Indications is composed of representatives of the European Union and the Republic of Armenia. It meets at the request of either Party, alternately in the European Union and in the Republic of Armenia. The Sub-Committee on Geographical Indications adopts its decisions by consensus and determines its own rules of procedure.

The Sub-Committee on Geographical Indications is responsible for amending Annex IX (Parts A and B) and Annex X of the Agreement regarding the references to the law applicable in each Party, the elements for registration and control, and the list of geographical indications. It is also responsible for exchanging information on matters of mutual interest in the area of geographical indications.

2.3. The envisaged act of the Sub-Committee on Geographical Indications

The Sub-Committee on Geographical Indications is to adopt a decision on its own rules of procedure.

The purpose of the envisaged act is to adopt, in accordance with Article 240(2) of the Agreement, the rules of procedure governing the functioning of the Sub-Committee on Geographical Indications.

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

The position to be adopted on behalf of the Union should enable the adoption of the rules of procedure of the Sub-Committee on Geographical Indications.

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 Sub-Committee on Geographical Indications is a body set up by the Agreement.

The act set out in the Annex to this Decision constitutes an act having legal effects. The envisaged act has legal effects because Article 240(2) of the Agreement empowers the Sub-Committee on Geographical Indications to adopt decisions that are binding on the parties.

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.

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 TFEU, in conjunction with Article 218(9) 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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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 Comprehensive and Enhanced Partnership Agreement between the European Union and the European Atomic Energy Community 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) 2018/104¹, applied provisionally from 1 June 2018 and entered into force on 1 March 2021.
- (2) Pursuant to Article 240(2) of the Agreement, the Sub-Committee on Geographical Indications is to determine its own rules of procedure.
- (3) It is appropriate to establish the position to be taken on the Union's behalf within the Sub-Committee on Geographical Indications, as regards its rules of procedure, as those rules will be binding on the Union.
- (4) In order to ensure the effective implementation of the Agreement, the rules of procedure of the Sub-Committee on Geographical Indications should be adopted.
- (5) The Union's position within the Sub-Committee on Geographical Indications should be based on the draft rules of procedure attached to this Decision,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf within the Sub-Committee on Geographical Indications as regards the adoption of its rules of procedure shall be based on the draft act of the Sub-Committee on Geographical Indications attached to this Decision.

¹ OJ L 23, 26.1.2018, p. 1.

Article 2

This Decision is addressed to the Commission.

Done at Brussels,

*For the Council
The President*