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2022/0352 (NLE)

Proposal for a

COUNCIL DECISION

on the position to be taken on behalf of the European Union in the EPA Committee established under the Interim Agreement in view of an Economic Partnership Agreement between the European Community and its Member States, of the one part, and the Central Africa Party, of the other part as regards the establishment of the EPA Subcommittee on Agriculture and Rural Development

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 EPA Committee established under the Interim Agreement in view of the Economic Partnership Agreement between the European Community and its Member States, of the one part, and the Central Africa Party, of the other part, on the establishment of the EPA Subcommittee on Agriculture and Rural Development. To date, under the terms of the Agreement, the Central Africa Party is composed of the Republic of Cameroon.

2. CONTEXT OF THE PROPOSAL

2.1. The Interim Agreement with a view to an Economic Partnership Agreement between the European Community and its Member States, of the one part, and the Central Africa Party, of the other part

The Interim Agreement with a view to an Economic Partnership Agreement between the European Community and its Member States, of the one part, and the Central Africa Party, of the other part ('the Agreement') aims to:

- (a) Contribute to the reduction and eventual eradication of poverty by establishing a trade partnership consistent with the objective of sustainable development, the Millennium Development Goals (MDGs) and the Cotonou Agreement;
- (b) Promote a regional economy in Central Africa that is more competitive and diversified, and stronger growth;
- (c) Foster regional integration, economic cooperation and good governance in the Central African region;
- (d) promote the gradual integration of the Central Africa Party into the global economy, in accordance with its political choices and development priorities;
- (e) Improve the capacities of the Central Africa Party in terms of trade policy and trade-related issues;
- (f) establish and implement an effective, predictable and transparent regulatory framework for trade and investment in the Central African region, thus supporting the conditions for increasing investment and private-sector initiatives, and enhance capacity for the supply of products and services, competitiveness and economic growth in the region;
- (g) strengthen existing relations between the Parties on the basis of solidarity and mutual interest. To this end, in line with the WTO obligations, the Agreement will enhance commercial and economic relations, support a new trading dynamic between the Parties by means of the progressive, asymmetrical liberalisation of trade between them and reinforce, broaden and deepen cooperation in all areas relevant to trade;
- (h) promote private-sector development and employment growth.

The Agreement was negotiated between the European Union and its Member States of the one part, and Cameroon, Central African Republic, Congo, Democratic Republic of the Congo, São Tomé and Príncipe, Gabon, Equatorial Guinea, Chad of the other part. To date, under the terms of the Agreement, the Central Africa Party is composed of the Republic of Cameroon. The Agreement with the Central Africa Party was signed in Brussels on 22 January 2009, and applied on a provisional basis since 4 August 2014.

2.2. The Subcommittee on Agriculture and Rural Development

Pursuant to article 5 of the Rules of Procedures of the EU-Central Africa EPA Committee, adopted on 15 December 2016 by Decision No 1/2016 of the EPA Committee, the EPA Committee may set up under its authority sub-committees responsible for dealing with specific subjects under the Agreement.

The need for establishment of this subcommittee was initialled with a resolution taken during the first meeting of the EU-Central Africa EPA Committee, held on 11 and 12 May 2015 in Brussels (Belgium) between the EU and Cameroon.

On 9 and 10 June 2022, in the framework of the sixth EPA Committee meeting between the EU and Cameroon, the Parties reaffirmed their willingness to establish an EPA subcommittee dedicated to agricultural and pastoral issues and held a detailed discussion on the content of the draft decision of the EPA Committee establishing such a subcommittee. This draft decision was validated between the Parties, who agreed to adopt this decision as soon as possible, after review by the legal team and in compliance with the internal procedures of each Party.

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

This proposal for a Council Decision establishes the position to be taken on the Union's behalf with regards to the establishment of the Subcommittee on Agriculture and Rural Development set up by the EU-Central Africa EPA.

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 EPA Committee is a body set up by an agreement, namely the Interim Agreement with a view to an Economic Partnership Agreement between the European Community and its Member States, of the one part, and the Central Africa Party, of the other part.

The act which the EPA Committee is called upon to adopt constitutes an act having legal effects. The envisaged act will be binding under international law in accordance with Article 92 of the Interim Agreement with a view to an Economic Partnership Agreement between the European Community and its Member States, of the one part, and the Central Africa Party, of the other part.

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.

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(4), first subparagraph, of the TFEU.

4.3. Conclusion

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

5. PUBLICATION OF THE ENVISAGED ACT

As the act of the EU-Central Africa EPA Committee will amend the Agreement, it is appropriate to publish it in the *Official Journal of the European Union* after its 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 Article 207(4), first subparagraph, in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Interim Agreement with a view to an Economic Partnership Agreement between the European Community and its Member States, of the one part, and the Central Africa Party, of the other part, (the ‘Agreement’)², was signed in Brussels on 22 January 2009 pursuant to Council Decision 2009/152/EC³, and has been applied on a provisional basis since 4 August 2014.
- (2) Under the terms of the Agreement, the Central Africa Party is composed of the Republic of Cameroon.
- (3) Pursuant to Article 92 of the Agreement, an EU-Central Africa EPA Committee is established, which is to be responsible for the administration of all areas covered by the Agreement and for the completion of all tasks referred to therein.
- (4) Pursuant to Article 5 of the Rules of Procedure of the EU-Central Africa EPA Committee, adopted on 15 December 2016 by Decision No 1/2016 of the EPA Committee, for the effective performance of its tasks the EU-Central Africa EPA Committee may set up under its authority sub-committees responsible for dealing with specific subjects under the Agreement. Accordingly, the EU-Central Africa EPA Committee can establish an EPA Subcommittee on Agriculture and Rural development in order to achieve the objectives of the Agreement.
- (5) It is appropriate to establish the position to be taken on the Union’s behalf concerning the establishment of an EPA Subcommittee on Agriculture and Rural Development as it will have legal effects in the Union.

² OJ L 57, 28.2.2009, p. 1.

³ Council Decision 2009/152/EC of 20 November 2008 on the signature and provisional application of the interim Agreement with a view to an Economic Partnership Agreement between the European Community and its Member States, of the one part, and the Central Africa Party, of the other part (OJ L 57, 28.2.2009, p. 1).

- (6) The position of the Union as regards the establishment of the Subcommittee on Agriculture and Rural Development should be based on the draft Decision annexed to this Decision,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on behalf of the European Union within the EPA Committee set up by the interim Agreement for an Economic Partnership Agreement between the European Community and its Member States, of the one part, and the Central Africa Party, of the other part, regarding the establishment of a Subcommittee on Agriculture and Rural Development, shall be based on the draft Decision of the EPA Committee annexed to this Decision.

Minor amendments to the draft Decision, which involve no change of substance, shall be authorised without a new decision by the Council.

Article 2

After its adoption, the Decision of the EPA 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