



EUROPEAN
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Proposal for a

COUNCIL DECISION

on the position to be taken, on behalf of the European Union, in the Joint Committee established by the Framework Agreement on Comprehensive Partnership and Cooperation between the European Union and its Member States, of the one part, and the Kingdom of Thailand, of the other part as regards the adoption of decisions of the Joint Committee on the Rules of Procedure of the Joint Committee, and the establishment of specialised working groups and the adoption of their terms of reference

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 Joint Committee established by the Framework Agreement on Comprehensive Partnership and Cooperation between the European Union and its Member States and the Kingdom of Thailand in connection with the envisaged adoption of decisions regarding the adoption of its Rules of Procedure and the establishment of specialised working groups and the adoption of their terms of reference.

2. CONTEXT OF THE PROPOSAL

2.1. The Framework Agreement on Comprehensive Partnership and Cooperation

The Framework Agreement on Comprehensive Partnership and Cooperation between the European Union and its Member States, of the one part, and the Kingdom of Thailand, of the other part ('the Agreement') aims to establish a forward-looking relationship with a more structured and strategic perspective, shared values and issues of mutual interest, accompanied by a comprehensive dialogue and cooperation between the Parties in sectors of common interest. The Agreement has been provisionally applied since 20 October 2024.

2.2. The Joint Committee

The Joint Committee is set up by Article 52 of the Agreement. Its main tasks are to ensure the proper functioning and implementation of the Agreement and set priorities in relation to the aims of the Agreement. Other functions of the Joint Committee include: making recommendations for promoting the aims of the Agreement, settle any difference or divergence arising in the interpretation, implementation or application of the Agreement, examine all information regarding the non-fulfilment of the obligations under the Agreement.

The Joint Committee is to make recommendations and adopt decisions, where appropriate, to give effect to the specific aspects of the Agreement. The Joint Committee operates by consensus and it usually meets at the senior official level. The Joint Committee is to adopt its rules of procedure. It may set up specialised working groups to deal with specific issues.

2.3. The envisaged act of the Joint Committee

During its first meeting, the Joint Committee is to adopt decisions regarding the adoption of the rules of procedure of the Joint Committee and the establishment of specialised working groups and the adoption of their terms of reference ('the envisaged act').

The purpose of the envisaged act is to adopt, in accordance with Article 52(5) of the Agreement, the rules of procedure underpinning the organisation of the Joint Committee and the terms of reference of the specialised working groups. The Union's position should be based on the draft decisions of the Joint Committee.

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

The position to be adopted on behalf of the Union should aim at the adoption of the rules of procedure of the EU-Thailand Joint Committee and the terms of reference of the specialised working groups. The position should be based on the draft decisions of the Joint Committee.

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 Joint Committee is a body set up by an agreement, namely the Framework Agreement on Comprehensive Partnership and Cooperation between the European Union and its Member States, of the one part, and the Kingdom of Thailand, of the other part.

The act which the Joint 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 52(5) of the Framework Agreement on Comprehensive Partnership and Cooperation between the European Union and its Member States, of the one part, and the Kingdom of Thailand, of the other part, read in conjunction with Article 8(2) of the envisaged Rules of Procedure.

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.

With regard to an envisaged act that simultaneously pursues a number of objectives, or that has several components, which are inseparably linked without one being incidental to the other, the substantive legal basis of a decision under Article 218(9) TFEU will have to include, exceptionally, the various corresponding legal bases.

4.2.2. Application to the present case

The main objective and content of the envisaged act relate to development cooperation.

Therefore, the substantive legal basis of the proposed decision is Article 209 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.

4.3. Conclusion

The legal basis of the proposed decision should be Article 209, in conjunction with Article 218(9) TFEU.

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

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Framework Agreement on Comprehensive Partnership and Cooperation between the European Union and its Member States, of the one part, and the Kingdom of Thailand, of the other part ('the Agreement') was signed on 14 December 2022 and provisionally applied as of 20 October 2024, in accordance with Council Decision (EU) 2022/2562².
- (2) Pursuant to Article 52(5) of the Agreement, the Joint Committee adopts its rules of procedure.
- (3) The Joint Committee during its first meeting, is to adopt its rules of procedure, as well as the terms of reference of specialised working groups.
- (4) It is appropriate to establish the position to be taken on the Union's behalf in the Joint Committee, as the decision adopting of the rules of procedure of the Joint Committee and the decision regarding the adoption of the terms of reference of specialised working groups will have legal effects within the meaning of Article 218(9) TFEU.
- (5) The position of the Union within the Joint Committee should therefore be based on the attached draft decisions in the annexes,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf in the first meeting of the Joint Committee established pursuant to Article 52(1) of the Framework Agreement on Comprehensive Partnership and Cooperation between the European Union and its Member States, of the one part, and the Kingdom of Thailand, of the other part, as regards the adoption of the rules of procedure of the Joint Committee and the establishment of its specialised working groups and

² OJ L 330, 23.12.2022, p. 70–71.

adoption of their terms of reference shall be based on the draft acts of the Joint Committee attached to this Decision.

Article 2

This Decision shall enter into force on the date of its adoption.

Done at Brussels,

*For the Council
The President*