



EUROPEAN  
COMMISSION

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2025/0208 (NLE)

Proposal for a

## **COUNCIL DECISION**

**on the position to be taken on behalf of the European Union (EU) in the EU-Common Transit Countries (CTC) Joint Committee established by the Convention of 20 May 1987 on the simplification of formalities in trade in goods and in the EU-CTC Joint Committee established by the Convention of 20 May 1987 on a Common transit procedure as regards invitations to the Republic of Moldova and Montenegro to accede to those Conventions and as regards the adoption of the decisions amending the Convention on a common transit procedure following the Republic of Moldova's and Montenegro's accessions to that Convention**

## **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 within the EU-CTC<sup>1</sup> Joint Committee established by the Convention of 20 May 1987 on the simplification of formalities in trade in goods<sup>2</sup>, and within the EU-CTC Joint Committee established by the Convention of 20 May 1987 on a Common transit procedure<sup>3</sup> (“the EU-CTC Joint Committees”), concerning the envisaged adoption by each of the Joint Committees of the Decisions as regards the invitations to the Republic of Moldova and Montenegro to accede to, respectively, the Convention on the simplification of formalities in trade in goods and to the Convention on a common transit procedure (“the Conventions”).

Furthermore, this proposal concerns the decision establishing the position to be taken on the Union's behalf in the EU - CTC Joint Committee on common transit (“the Joint Committee”) in connection with the envisaged adoption by the Joint Committee of the Decisions on amending some Annexes in Appendices III and IIIa to the Convention of 20 May 1987 on a common transit procedure (“the Transit Convention”).

### **2. CONTEXT OF THE PROPOSAL**

#### **2.1. The Conventions**

The Conventions aim to facilitate the movement of goods between the European Union and other countries, which are Contracting Parties to the Conventions. They entered into force on 1 January 1988.

The European Union (not its individual Member States) is a party to the Conventions which establish measures facilitating the movement of goods between the European Union, the Republic of Iceland, the Republic of North Macedonia, the Kingdom of Norway, the Swiss Confederation, the Republic of Türkiye, the Republic of Serbia and the United Kingdom of Great Britain and Northern Ireland, Ukraine and Georgia.

Countries which are Contracting Parties of the Conventions, but not members of the Union, are common transit countries (“CTC”).

#### **2.2. The Joint Committees**

The task of the EU-CTC Joint Committees is to administer the Conventions and to ensure their proper implementation. The Committees, by means of decision, invite third countries to accede to the Conventions.

The EU-CTC Joint Committees’ decisions are adopted by mutual agreement of Contracting Parties.

#### **2.3. The envisaged act of the Joint Committees**

The Republic of Moldova and Montenegro expressed their wish to accede to the Conventions when they have complied with the legal, structural and information technology requirements, which are preconditions for accession.

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<sup>1</sup> Common transit countries

<sup>2</sup> OJ L 134 22.05.1987, p.2

<sup>3</sup> OJ L 226 13.8.1987, p. 2.

In accordance with the provisions of Article 11(3) of the Convention on the simplifications of formalities in trade in goods (SAD Convention) and with the provisions of Article 15(3) of the Transit Convention, the EU-CTC Joint Committees shall by decision invite a third country within the meaning of, respectively, Article 1(2) of the SAD Convention and Article 3(1)(c) of the Transit Convention, to accede to the Conventions in accordance with the procedure set out in, respectively, Article 11a and Article 15a.

The EU-CTC Joint Committees launch such invitations where the countries are in a position to conform to the detailed rules for the application of the provisions of the Conventions.

Mandated by the EU-CTC working groups on common transit and the simplification of formalities in trade, monitoring teams verified in January and in February 2025 respectively that the Republic of Moldova and Montenegro are fully on track to join the Conventions. The teams mainly examined the adaptation of the structures necessary to manage the procedure and the implementation of the New Computerised Transit System (NCTS) allowing the application of the common transit procedure. They will continue to do so for the remaining preparations.

At their next sessions or by means of a written procedure, the EU-CTC Joint Committees plan to adopt the draft Decisions No [1] and [2]/2025 of the EU-CTC Joint Committee on the simplification of formalities in trade in goods and the draft Decisions No [1], [2], [3] and [4]/2025 of the EU-CTC Joint Committee on common transit in order to invite The Republic of Moldova and Montenegro to accede to the Conventions as soon as the countries are ready.

The proposal also concerns the amendment of some Annexes in Appendices III and IIIa to the the Transit Convention, which relate to the accession of the Republic of Moldova and Montenegro to this Convention. The scope of these amendments is of technical nature and to introduce new linguistic references concerning these countries and to insert their country names in the guarantee documents in the Transit Convention.

The EU-CTC Joint Committees' decisions inviting the Republic of Moldova and Montenegro to accede to the Conventions and amending the Transit Convention shall become binding on the Contracting Parties in accordance with Article 3 of the Decisions, which provides that "This Decision shall enter into force on the day of its adoption".

In accordance with Article 11(3) of the SAD Convention and Article 15(3) of the Transit Convention, this type of decisions shall be put into effect by the Contracting Parties in accordance with their own legislation.

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

The proposed position is favourable to an invitation to the Republic of Moldova and Montenegro to accede to the Conventions and favourable to the necessary technical adaptations of the Transit Convention.

The Communication of 2001<sup>4</sup> from the European Commission to the European Parliament and the Council on a Strategy to prepare the candidate countries for accession to the 1987 EU-CTC Conventions on a common transit procedure and on the simplification of formalities in trade in goods, followed by the Communication of 2010<sup>5</sup> from the European Commission to the European Parliament and the Council on a Strategy to prepare certain neighbouring countries for the accession to both Conventions and the Council Conclusions of 14 April

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<sup>4</sup> COM(2001) 289 final

<sup>5</sup> COM(2010) 668 final

2011<sup>6</sup> confirming the approach, lay down support for a number of countries in their efforts to join the Conventions. Moldova and Montenegro are part of these countries.

The aim is to facilitate trade between Moldova and Montenegro, the European Union and other common transit countries and to ensure that the EU-CTC Joint Committee adopts all the necessary technical changes of the Transit Convention in order to implement the common transit procedure between Moldova and Montenegro and other contracting parties.

These invitations and the resulting technical amendments should lead to substantial and tangible benefits for traders and for customs administrations by simplifying transit and customs formalities, reducing costs, facilitating the movement of goods and possibly increase trade.

Therefore, the Commission proposes to the Council a favourable Union position for the accession of the Republic of Moldova and Montenegro to the Conventions.

The proposed decisions are consistent with European Union policies in the fields of trade and transport.

## **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.’*

Article 11(3) of the SAD Convention and Article 15(3) of the Transit Convention stipulate that the EU-CTC Joint Committees by decision invite a third country within the meaning of, respectively, Article 1(2) and Article 3(1)(c), to accede to the Conventions.

Article 15(3)(a) of the Transit Convention stipulates that the EU-CTC Joint Committee adopts by decision amendments to the Appendices to the Convention.

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’*<sup>7</sup>.

#### *4.1.2. Application to the present case*

The EU-CTC Joint Committees are bodies set up by Article 10 of the SAD Convention on the simplification of formalities in trade in goods and by Article 14 of the Transit Convention.

The Decisions, which the EU-CTC Joint Committees are called upon to adopt, constitute an act having legal effects. Those Decisions will be binding under international law in accordance with Article 15 of the SAD Convention and Article 20 of the Transit Convention.

The envisaged acts do not supplement or amend the institutional framework of the Agreement.

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<sup>6</sup> 8636/11

<sup>7</sup> 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.

Therefore, the procedural legal basis for the proposed decisions 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 common commercial policy.

Therefore, the substantive legal basis of the proposed decisions is 207 TFEU.

## **4.3. Conclusion**

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

## **5. PUBLICATION OF THE ENVISAGED ACT**

After its adoption, the Decisions of the EU-CTC Joint Committees referred to in Articles 1 and 2 shall be published in the Official Journal of the European Union.

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**on the position to be taken on behalf of the European Union (EU) in the EU-Common Transit Countries (CTC) Joint Committee established by the Convention of 20 May 1987 on the simplification of formalities in trade in goods and in the EU-CTC Joint Committee established by the Convention of 20 May 1987 on a Common transit procedure as regards invitations to the Republic of Moldova and Montenegro to accede to those Conventions and as regards the adoption of the decisions amending the Convention on a common transit procedure following the Republic of Moldova's and Montenegro's accessions to that Convention**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207, in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Convention of 20 May 1987 on the simplification of formalities in trade in goods<sup>8</sup> and the Convention of 20 May 1987 on a common transit procedure<sup>9</sup> ('the Conventions') were concluded between the European Economic Community, the Republic of Austria, the Republic of Finland, the Republic of Iceland, the Kingdom of Norway, the Kingdom of Sweden and the Swiss Confederation on 20 May 1987 and entered into force on 1 January 1988.
- (2) The Republic of Moldova and Montenegro have expressed their wish to accede to the Conventions once they have complied with the requirements for their accession.
- (3) Pursuant to Article 11(3) of the Convention on the simplification of formalities in trade in goods, the EU-Common Transit Countries (CTC) Joint Committee set up by that Convention may adopt, by decision, invitations to third countries to accede to that Convention.
- (4) Pursuant to Article 15(3) of the Convention on a common transit procedure, the EU-CTC Joint Committee set up by that Convention may adopt, by decision, invitations to third countries to accede to that Convention.
- (5) Pursuant to Article 15(3)(a) of the Convention, the EU-CTC Joint Committee on common transit set up by that Convention ("the Joint Committee") may adopt by decisions amendments to the appendices to the Convention. The accessions of the Republic of Moldova and Montenegro to the Convention on a common transit procedure will require the respective adaptation of the guarantee documents and as regards Montenegro - the insertion of certain technical terms in Montenegrin.

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<sup>8</sup> OJ L 134, 22.5.1987, p. 2.

<sup>9</sup> OJ L 226, 13.8.1987, p. 2.

- (6) It is appropriate to establish the position to be taken on the Union's behalf in the Joint Committees established by the Conventions, as the decisions to invite the Republic of Moldova and Montenegro to accede to the Conventions and to amend the Convention on a common transit procedure will be binding on the Union.
- (7) The Conventions will ensure efficient border crossing procedures between Moldova and Montenegro and the parties to the Conventions.
- (8) The position of the Union within the Joint Committees established by the Conventions should therefore be favourable to (1) the invitations to the Republic of Moldova and Montenegro to accede to those Conventions and (2) to amend the Convention on a common transit procedure accordingly and be based on the draft decisions reflecting that position.
- (9) In accordance with Articles 11a and 15a respectively of the Conventions a third country invited to become a contracting party is to do so by lodging an instrument of accession and the accession is to become effective on the first day of the second month following the lodging of the instrument of accession.
- (10) As the Joint Committee's Decisions will amend the Convention, it is appropriate to publish them in the Official Journal of the European Union after their adoption.
- (11) In the Joint Committee, the Union is to be represented by the Commission in accordance with Article 17(1) of the Treaty on European Union (TEU). The position of the Union concerning the proposed amendment should be based on the attached draft Decision.
- (12) In order to facilitate the Republic of Moldova and Montenegro's timely accession, it is necessary to adopt this draft decision without delay,

HAS ADOPTED THIS DECISION:

#### *Article 1*

The position to be taken on the European Union's behalf in the EU-CTC Joint Committee set up by the Convention of 20 May 1987 on the simplification of formalities in trade in goods as regards the invitations to the Republic of Moldova and Montenegro to accede to that Convention shall be based on the draft Decisions of that Joint Committee set out in Annexes I and IV to this Decision.

#### *Article 2*

The position to be taken on the European Union's behalf in the EU-CTC Joint Committee set up by the Convention of 20 May 1987 on a common transit procedure as regards the invitations to The Republic of Moldova and Montenegro to accede to that Convention and as regards the resulting technical amendments shall be based on the draft Decisions of that Joint Committee set out in Annexes II, III, V and VI to this Decision.

#### *Article 3*

After its adoption, the decisions of the Joint Committees referred to in Articles 1 and 2 shall be published in the Official Journal of the European Union.

This decision is addressed to the Member States.

Done at Brussels,

*For the Council*  
*The President*