EUROPEAN
COMMISSION

Brussels, 7.8.2017
COM(2017) 416 final

2017/0187 (NLE)

Proposal for a

COUNCIL DECISION

on the position to be adopted, on behalf of the European Union, in the International Sugar Council as regards the extension of the International Sugar Agreement 1992

EXPLANATORY MEMORANDUM

1. SUBJECT-MATTER OF THE PROPOSAL

The present proposal concerns the decision establishing the position to be adopted on behalf of the Union in the International Sugar Council in connection with the envisaged decision on the extension of the International Sugar Agreement 1992 by another two years.

2. CONTEXT OF THE PROPOSAL

2.1. The International Sugar Agreement 1992

The International Sugar Agreement 1992 ('the Agreement') aims to ensure enhanced international cooperation in connection with world sugar matters and related issues, provide a forum for intergovernmental consultations on sugar and on ways to improve the world sugar economy, to facilitate trade by collecting and providing information on the world sugar market and other sweeteners and to encourage increased demand for sugar, particularly for non-traditional uses. The agreement entered into force on 1 January 1993.

The European Union is a party to the Agreement.[1]

2.2. The International Sugar Council

The International Sugar Council is the responsible body for the performance of all functions necessary to carry out the provisions of the Agreement. It adopts rules and regulations including rules of procedure for the Council and its committees and the financial and staff regulations of the Organization. The Council keeps the necessary records and publishes an annual report and other information if deemed appropriate.

Members to the Agreement hold 2000 votes in total. Each Member to the Agreement holds a specified number of votes which is annually adjusted following predefined criteria in the Agreement. All decisions of the Council shall be taken in principle by consensus unless stipulated otherwise in the Agreement. In the absence of consensus, decisions shall be made by simple majority vote unless the Agreement provides for a special vote.

2.3. The envisaged act of the International Sugar Council

Following its 51st session on 22 June 2017 the International Sugar Council is to take a decision regarding the extension of the International Sugar Agreement 1992 by another 2 years ('the envisaged act'). The decision will be taken by written procedure.

The envisaged act shall become binding on the parties in accordance with Article 45 (2) of the Agreement, which provides: 'The Council may, by special vote, extend this Agreement beyond 31 December 1995 for successive periods, not exceeding two years on each occasion. Any Member which does not accept any such extension of this Agreement shall so inform the Council in writing and shall cease to be a Party to this Agreement from the beginning of the period of extension'.

[1] Council Decision (92/580/EEC) of 13/11/1992; OJ L 379 of 23/12/1992, p.15.

3. POSITION TO BE ADOPTED ON BEHALF OF THE UNION

The International Sugar Agreement 1992, (hereinafter: the "Agreement") was concluded by the Community by Decision 92/580/EEC and entered into force on 1 January 1993 for a period of three years until 31 December 1995. Since then it has been regularly extended for further periods of two years. The Agreement was extended last time by decision of the International Sugar Council in June 2015 and remains into force until 31 December 2017. A further extension of the Agreement by up to two years is in the interest of the European Union.

The extension of the Agreement entails the prolongation of the EU contribution to the administrative budget of the Agreement and creates legal effects. That contribution is budgeted under item 05 06 01 of the EU budget (International agricultural agreements).

The purpose of this proposal is to seek the Council's authorisation to the Commission to inform the International Sugar Council in writing, on behalf of the Union, that the Union is in favour of the extension of the Agreement up to 31 December 2019.

Since the extension of the Agreement creates legal effects for the Union a Union position is needed.

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 notion 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*'.[2]

4.1.2. Application to the present case

The International Sugar Council is a body set up by an agreement, namely the International Sugar Agreement 1992.

The act which the International Sugar Council is called upon to adopt constitutes an act having legal effects. The envisaged act will be binding under international law in accordance with Article 45 (2) of the Agreement.

The envisaged act does not supplement or amend the institutional framework of the agreement.

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[2] Case C-399/12 Germany v Council (OIV), ECLI:EU:C:2014:2258, paragraphs 61-64.

The procedural legal basis for the proposed decision, therefore, 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 adopted on behalf of the Union. 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.

The substantive legal basis of the proposed decision, therefore, 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.

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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 in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) Whereas the International Sugar Agreement 1992 ('the Agreement') was concluded by Council Decision 92/580/EEC[3] and entered into force on 1 January 1993 for a period of three years until 31 December 1995. Since then, it has been regularly extended for further periods of two years. It was last extended by decision of the International Sugar Council in June 2015[4] and remains in force until 31 December 2017.

(2) Pursuant to Article 45 (2) of the Agreement, the International Sugar Council 'may, by special vote, extend this Agreement beyond 31 December 1995 for successive periods, not exceeding two years on each occasion. Any Member which does not accept any such extension of this Agreement shall so inform the Council in writing and shall cease to be a Party to this Agreement from the beginning of the period of extension'

(3) Following its 51st session on 22 June 2017 the International Sugar Council is to take a decision regarding the extension of the International Sugar Agreement 1992 by another 2 years ('the envisaged act'). The decision will be taken by written procedure.

(4) It is appropriate to establish the position to be adopted on behalf of the Union in the International Sugar Council as the extension of the Agreement will be binding upon the Union.

(5) A further extension of the Agreement by up to two years is in the interest of the European Union.

(6) In the International Sugar Council the Union is to be represented by the Commission in accordance with Article 17(1) of the Treaty on European Union (TEU).

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[3] OJ L 379, 23.12.1992, p. 15.
[4] OJ L 234, 8.9.2015, p. 6.

HAS ADOPTED THIS DECISION:

Article 1

The written position to be adopted, on behalf of the Union, following its 51st session of the International Sugar Council shall be the following:

To authorise the Commission to take a position in favour of the extension of the International Sugar Agreement 1992 for a further period of up to two years.

Article 2

After its adoption, the act of the International Sugar Council 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

FINANCIAL STATEMENT

Fin Stat/17/MK/ig/ rev1_3163147
agri.ddg3.g.4(2017)3127013
6.221.2017.1
DATE: 11/07/2017

1.	BUDGET HEADING: Chapter 05 06 INTERNATIONAL ASPECTS OF 'AGRICULTURE AND RURAL DEVELOPMENT' POLICY AREA 05 06 01 International agricultural agreements	APPROPRIATIONS: B2017: 8 105 849 € DB2018: 7 228 000 €
2.	TITLE: Proposal for a Council Decision on the position to be adopted, on behalf of the European Union, in the International Sugar Council as regards the extension of the International Sugar Agreement 1992	
3.	LEGAL BASIS: Article 207 in conjunction with Article 218 (9) of the Treaty on the Functioning of the European Union.	
4.	AIMS: Extension of the existing International Sugar Agreement by two more years (1.1.2018 to 31.12.2019). (No impact in 2017).	

5.	FINANCIAL IMPLICATIONS	12 MONTH PERIOD (EUR million)	CURRENT FINANCIAL YEAR 2017 (EUR million)	FOLLOWING FINANCIAL YEAR 2018 (EUR million)
5.0	EXPENDITURE - CHARGED TO THE EU BUDGET (REFUNDS/INTERVENTIONS) - NATIONAL AUTHORITIES - OTHER			0.49
5.1	REVENUE - OWN RESOURCES OF THE EU (LEVIES/CUSTOMS DUTIES) - NATIONAL			

		2019 (EUR million)			
5.0.1 5.1.1	ESTIMATED EXPENDITURE ESTIMATED REVENUE	0.57			

5.2	METHOD OF CALCULATION: Based on assumptions on an estimated number of votes of the EU (varies each year), on an estimated amount to be paid per vote in GBP.	
6.0	CAN THE PROJECT BE FINANCED FROM APPROPRIATIONS ENTERED IN THE RELEVANT CHAPTER OF THE CURRENT BUDGET?	YES NO
6.1	CAN THE PROJECT BE FINANCED BY TRANSFER BETWEEN CHAPTERS OF THE CURRENT BUDGET?	
6.2	WILL A SUPPLEMENTARY BUDGET BE NECESSARY?	
6.3	WILL APPROPRIATIONS NEED TO BE ENTERED IN FUTURE BUDGETS?	YES NO

The amount to be effectively paid can vary depending on the final number of votes the EU gets attributed to, the amount to be paid per vote in GBP and on the exchange rate €/ GBP.