EUROPEAN
COMMISSION

Brussels, 12.3.2024
COM(2024) 113 final

2024/0062 (NLE)

Proposal for a

COUNCIL DECISION

on the position to be taken on behalf of the European Union in the International Grains Council concerning the accession of Senegal to the Grains Trade Convention, 1995

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 International Grains Council in connection with the accession of Senegal to the **Grains Trade Convention, 1995** ('the Convention').

2. CONTEXT OF THE PROPOSAL

2.1. The Grains Trade Convention, 1995

The Convention aims to further international co-operation in all aspects of trade in grains, to promote the expansion of international trade in grains and to secure the freest possible flow of this trade. In addition, the Convention intends to contribute to the fullest extent possible to the stability of international grain markets in the interests of all members, to enhance world food security and to provide a forum for exchange of information and discussion of members' concerns regarding trade in grains.

The Convention entered into force on 1 July 1995. The Union is a party to the Convention[1].

The Convention was concluded by the European Union by Council Decision 96/88/EC until 30 June 1998 and, since then, it has been regularly extended. On each occasion, the Convention is extended for a maximum period of two years in accordance with Article 33 of the Convention. It was last extended by decision of the International Grains Council ('IGC') at its 58th Session on 14 June 2023 and remains in force until 30 June 2025.

2.2. The International Grains Council

The IGC which administers the Convention is a London based inter-governmental organisation that seeks to meet the objectives laid down by Article 1 of the Convention. In particular, the IGC aims at:

(a) furthering international cooperation in all aspects of trade in grains;

(b) promoting expansion, openness and fairness of the international trade in the grains sector;

(c) contributing to stability of international grain market, enhancing world food security and contributing to the development of countries whose economies depend on commercial sales of grain.

These objectives are sought by improving market transparency through information-sharing, analysis and consultation on market and policy developments.

Currently, the IGC has 29 members, including many of the world's largest cereals producers as well as some major importers. Besides the Union, its members are, among others, Argentina, Australia, Canada, India, Japan, Russia, Ukraine, the United Kingdom and the USA. However, China and Brazil are not members, while Egypt, one of the largest wheat importers, left the organisation on 1 July 2023.

The 29 members of the IGC have a total number of 2,000 votes.

For budgetary procedures (see Article 11 of the Convention), i.e.: for fixing the annual financial contributions of members, the Union has 376 votes in 2023/24[2].

[1] OJ L 21, 27.1.1996, p. 47.

For decision-making, i.e.: where votes are held (see Article 12 of the Convention), 1,000 votes are allocated to the 11 exporting members (including the Union with 240 votes in 2023/24) and 1,000 votes to the 18 importing members. It needs to be emphasized that in principle, the IGC operates on the basis of consensus, and it is very rare that voting is actually held.

At the meetings of the IGC, the Union is represented by the Commission by virtue of Article 17 TEU. Member States can attend the IGC meetings, in particular the Council Sessions.

2.3. The envisaged act of the International Grains Council

On 12 December 2023, the Executive Director of the IGC informed the Commission that Senegal intends to accede to the Convention. The formal application was submitted on 22 December 2023, of which IGC members were informed on 3 January 2024[3].

The application of Senegal was considered by the IGC at its 59th Session on 24 January 2024. At that meeting, the IGC agreed that the decision on the application should be made by written procedure (postal ballot) and with a deadline of 24 April 2024. In case no written objection is sent by any member of the IGC by that date, Senegal's accession would come into effect on 1 May 2024.

According to Article 27(2) of the Convention, accession is open to the Governments of all States upon such conditions, as the Council considers appropriate. In accordance with Rule 33(d) of the Rules of Procedure under the Grain Trade Convention (the 'Rules of Procedure') the Administrative Committee considers and recommends to the Council applications for accession under Article 27(2).

The votes of the acceding country for the purposes of Article 11 of the Convention (i.e. annual financial contribution of members), are determined by the proportion of the acceding countries' total trade in grains to the total trade in grains of all IGC member countries, in accordance with Rule 33(b) of the Rules of Procedure.

Under Article 12(1) of the Convention, the Council has to establish the members that will be exporting members and the members that will be importing members for the purposes of the Convention, taking into account the grain trading patterns of those members and the views of those members. The Council will also determine their voting rights, in accordance with paragraphs 2 and 3 of the same provision.

Although there are no specific rules laid down in the Convention on the postal ballot procedure (or written procedure), Article 14 of the Convention concerning the 'decisions of the Council', does not require that such decisions are taken at a Council Session.

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

The Union has always been an active member of the IGC and supported the expansion of the organisation.

Senegal is an important producer of rice and coarse grains in particular. However, it is not self-sufficient and cannot fully meet domestic demand. Therefore, the country has to import additional quantities of cereals, including wheat.

In case members of the IGC approve the accession of Senegal to the Convention, the country will be an importing member in accordance with Article 12 of the Convention. As the Union

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[2] The International Grains Council operates on a fiscal year basis, which runs from 1 July to 30 June.

[3] IGC document AC(23/24)Misc.1

is an exporting member, the accession of Senegal will not impact the number of votes allocated to the Union for voting purposes under Article 12 of the Convention. The accession of Senegal could however reduce minimally, as from fiscal year 2024/25, the number of votes allocated to the Union under Article 11 of the Convention, which is used to determine the financial contribution of members.

The purpose of this proposal is to seek the Council's authorisation for the Commission to vote, on the Union's behalf, in favour of the accession of Senegal to the Convention.

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.

4.1.2. Application to the present case

The envisaged act of the IGC has the effect of expanding the membership of the IGC. The envisaged act of the IGC has legal effects because it will establish the conditions of such accession, notably because it will affect the decisional balance within the IGC, whose decisions require the majority of exporting and importing members, and are binding for its members, as expressed in Article 14 of the Convention.

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 trade in agricultural products.

Therefore, the substantive legal basis of the proposed decision is Article 207(4), first subparagraph, TFEU.

4.3. Conclusion

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

5. PUBLICATION OF THE ENVISAGED ACT

The accession of Senegal will impact the allocation of members' votes within the IGC for budgetary procedures under Article 11 of the Convention. It is therefore appropriate to publish the Council Decision 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 the Article 207(4), first subparagraph, in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) The Grains Trade Convention, 1995 ('the Convention') was concluded by the Union by means of Council Decision 96/88/EC[1] and entered into force on 1 July 1995. The Convention was initially concluded for a period of three years.

(2) Pursuant to Article 33 of the Convention, the International Grains Council may extend the Convention for successive periods not exceeding two years on each occasion. Since its conclusion, the Convention has regularly been extended for further periods of two years. The Convention was last extended by decision of the International Grains Council on 14 June 2023[2] and remains in force until 30 June 2025.

(3) Pursuant to Article 27(2) of the Convention, it is open for accession by the Governments of all States upon such conditions as the International Grains Council considers appropriate.

(4) On 22 December 2023, Senegal formally applied for accession to the Convention. If the accession application is approved, Senegal will become a member on 1 May 2024.

(5) Senegal is an important producer of rice and coarse grains. However, it is not self-sufficient and cannot fully cover domestic consumption and therefore has to import additional quantities of different cereals.

(6) Should approval of Senegal's application to accede to the Convention and consequently to participate in the International Grains Council be granted, Senegal will be an importing member in accordance with Article 12 of the Convention. As the Union is an exporting member, the accession of Senegal will not impact the number of votes allocated to the Union for voting purposes under Article 12 of the Convention. The accession of Senegal could however reduce, as from fiscal year 2024/25, the number of votes allocated to the Union under Article 11 of the Convention, which is used to determine the financial contribution of members.

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[1] Council Decision 96/88/EC of 19 December 1995 concerning the approval by the European Community of the Grains Trade Convention and the Food Aid Convention, constituting the International Grains Agreement 1995 (OJ L 21, 27.1.1996, p. 47). [exceptionally, no ELI available]

[2] Council Decision (EU) 2023/991 of 15 May 2023 on the position to be taken on behalf of the European Union in the International Grains Council with regard to the extension of the Grains Trade Convention, 1995 (OJ L 135, 23.5.2023, p. 114, ELI: http://data.europa.eu/eli/dec/2023/991/oj).

(7) It is appropriate to establish the position to be taken on the Union's behalf in the International Grains Council and to approve the accession of Senegal to the Convention,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf in the International Grains Council shall be to approve the accession of Senegal to the Grains Trade Convention, 1995.

Article 2

This Decision is addressed to the Commission.

Done at Brussels,

For the Council
The President