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COMMISSION

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2020/0162 (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 the United Kingdom 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 the United Kingdom to the **Grains Trade Convention, 1995**.

2. CONTEXT OF THE PROPOSAL

2.1. The Grains Trade Convention, 1995

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 trade in these goods. 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].

2.2. The International Grains Council

The International Grains Council ('IGC') which administers the Convention is a London based intergovernmental 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 the stability of the 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 importers. Besides the Union, its members are, among others, Argentina, Australia, Canada, Egypt, India, Japan, Russia, Ukraine and the USA. The last country joining the organisation was the Republic of Serbia, who became member on 1 April 2020. However, China and Brazil are not members.

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 372 votes in 2019/20[2].

For decision-making, i.e. where votes are held (see Article 12 of the Convention), 1,000 votes are distributed for the 11 exporting members (including the Union with 245 votes) and 1,000

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

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

votes for 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 International Grains Council 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 9 April 2020, the United Kingdom[3] has formally applied for accession to the Convention. On 14 April 2020 the IGC Secretariat has informed its members about the application of the United Kingdom. The United Kingdom applies for membership in the IGC as from 1 January 2021, i.e. after the expiration of the transition period following the withdrawal of the United Kingdom from the European Union.

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 ('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 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.

Discussion about the application of the United Kingdom started in the IGC Administrative Committee on 11 May 2020 and continued at the 51st Council Session of the IGC on 8 June 2020 (via videoconference). At this Session, the Council agreed that the formal decision on the application of the United Kingdom should be taken by written procedure (postal ballot) and IGC members should send their comments for the Secretariat by 30 October 2020. Provided that no written objection is sent to the IGC Secretariat from an IGC member by 30 October 2020, it will be deemed that the United Kingdom's membership to the IGC is approved with effect from 1 January 2021.

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 request that such decisions are taken at a Council Session.

The Withdrawal Agreement

In accordance with Article 129(2) of the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community[4] ('the Withdrawal Agreement'), during the transition period the Union will continue representing the United Kingdom in the work of any bodies set up by international agreements concluded by the Union. The United Kingdom should refrain during the transition period from any action or initiative that is likely to be prejudicial to the Union's interests.

[3] By the letter of the Minister of State for DEFRA, DFID and FCO.

[4] Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community.

However, as laid down by Article 129(4) of the Withdrawal Agreement, the United Kingdom may negotiate, sign and ratify international agreements entered into in its own capacity in the areas of exclusive competence of the Union, provided those agreements do not enter into force or apply during the transition period.

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

The **Grains Trade Convention, 1995** was concluded by the Union by Council Decision 96/88/EC[5] until 30 June 1998. 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 in June 2019 and remains in force until 30 June 2021[6].

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

The United Kingdom is an important producer of agricultural products, including cereals which are the main crops covered by the IGC. While being the member of the Union the United Kingdom had significant trade of various cereals with other EU Member States.

During the transition period following the withdrawal of the United Kingdom from the Union, the United Kingdom continues to be bound by the Union's international agreements and the Union will continue to represent the United Kingdom at the IGC.

In accordance with Article 21(5) of the Convention, the annual financial contributions of members shall be payable immediately upon assessment. The Union therefore pays its annual contributions to the IGC during July-August for the entire financial year concerned, which starts in June and ends in July the year after. The Union's contribution for 2020/21 will be paid from the 2020 Union budget, to which the United Kingdom also contributes.

Consequently, in respect of the entire 2020/21 financial year, the Union's contribution to the IGC will also cover the United Kingdom.

The purpose of this proposal is to establish the Union position in the IGC on the accession of the United Kingdom to the Convention as of 1 January 2021.

Given that the accession procedure pursuant to the Convention provisions is subject to a decision by the International Grains Council, the Union's position will be established on the basis of Article 218(9) TFEU.

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*.'

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

[6] Council Decision (EU) 2019/813 of 17 May 2019 (OJ L 133, 21.5.2019, p. 19).

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 respective financial contributions of the Parties will also be affected. The Union position will therefore need to be established.

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 first subparagraph of Article 207(4) 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.

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

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first subparagraph of Article 207(4), 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') which entered into force on 1 July 1995 was concluded by the Union by means of Council Decision 96/88/EC[7]. 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 10 June 2019[8] and remains in force until 30 June 2021.

(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 9 April 2020, the United Kingdom formally applied for accession to the Convention as from 1 January 2021.

(5) The United Kingdom is a major producer of cereals, in particular of barley and wheat. Should approval of the United Kingdom's application to accede to the Convention and consequently to participate in the Council be granted, the United Kingdom will be an importing member in accordance with Article 12 of the Convention. As the Union is an exporting member, the accession of the United Kingdom will not impact the number of votes allocated to the Union for voting purposes under Article 12 of the Convention. The accession of the United Kingdom will however reduce, as from financial year 2021/22, the number of votes allocated to the Union under Article 11 of the Convention, which is used to determine the financial contribution of members..

(6) 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 the United Kingdom to

[7] 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).

[8] Council Decision (EU) 2019/813 of 17 May 2019 on the position to be taken on behalf of the European Union in the International Grains Council with respect to the extension of the Grains Trade Convention, 1995 (OJ L 133, 21.5.2019, p. 19).

the Convention based on the expected conditions detailed in the Financial Statement annexed to this Decision and provided the accession does not take effect and the Convention is not provisionally applied in respect of the United Kingdom before the end of the transition period referred to in Article 126 of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community,

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 the United Kingdom to the Grains Trade Convention, 1995, based on the expected conditions detailed in the Financial Statement annexed to this Decision and provided, the accession does not take effect and the Convention is not provisionally applied in respect of the United Kingdom before the end of the transition period referred to in Article 126 of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community.

Article 2

This Decision is addressed to the Commission.

Done at Brussels,

For the Council
The President

FINANCIAL STATEMENT

Fin Stat/20/MK/pl/3413793

agri.ddg3.g.4(2020)3325110

6.22.2020

DATE: 06/06/2020

1.	BUDGET HEADING: Chapter 05 06 INTERNATIONAL ASPECTS OF 'AGRICULTURE AND RURAL DEVELOPMENT' POLICY AREA 05 06 01 International agricultural agreements	APPROPRIATIONS: B2020:EUR 6.300.000
2.	TITLE: 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 the United Kingdom to the Grains Trade Convention, 1995	
3.	LEGAL BASIS: The legal basis for this proposal is Article 207(4), in conjunction with Article 218(9), of the Treaty on the Functioning of the European Union.	
4.	AIMS: To approve the accession of the United Kingdom to the Grains Trade Convention, 1995.	

5.	FINANCIAL IMPLICATIONS	12 MONTH PERIOD (EUR)	CURRENT FINANCIAL YEAR 2020 (EUR)	FOLLOWING FINANCIAL YEAR 2021 (EUR)
5.0	EXPENDITURE - CHARGED TO THE EU BUDGET (REFUNDS/INTERVENTIONS) - NATIONAL AUTHORITIES - OTHER			-3 024
5.1	REVENUE - OWN RESOURCES OF THE EU (LEVIES/CUSTOMS DUTIES) - NATIONAL			
5.0.1 5.1.1	ESTIMATED EXPENDITURE ESTIMATED REVENUE			

5.2	METHOD OF CALCULATION: 4 votes less for EU, 756 GBP/ vote	
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?	YES NO
6.2	WILL A SUPPLEMENTARY BUDGET BE NECESSARY?	YES NO
6.3	WILL APPROPRIATIONS NEED TO BE ENTERED IN FUTURE BUDGETS?	YES NO

The decision will have a minor positive impact for the EU budget from budget 2021. The EU contribution is expected to be EUR 3 024 less, as the UK will pay its own membership fee. The amount can vary depending on the amount to be paid per vote in GBP and on the €/GBP exchange rate.