EUROPEAN
COMMISSION

Brussels, 6.9.2023
COM(2023) 511 final

2023/0310 (NLE)

Proposal for a

# COUNCIL DECISION

**on the position to be taken 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

This proposal concerns the decision establishing the position to be taken on the Union's behalf in the International Sugar Council in connection with the envisaged adoption of a decision concerning extending the International Sugar Agreement, 1992 until 31 December 2024.

## 2. CONTEXT OF THE PROPOSAL

### 2.1. The International Sugar Agreement, 1992

The International Sugar Agreement, 1992 ('the Agreement') aims to enhance international cooperation on world sugar matters and related issues, provide a forum for intergovernmental consultations on sugar and ways to improve the world sugar economy, facilitate trade by collecting and sharing information on the world sugar market and other sweeteners and 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 ('ISC') is the body responsible 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 ISC and its committees and the financial and staff regulations of the International Sugar Organisation ('ISO'). The ISC 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 ISC 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

On 24 November 2023, during its 63rd session, the ISC is to adopt a decision regarding the extension of the Agreement ('the envisaged act').

The Agreement was originally concluded for a period of three years until 31 December 1995 and since then, has been regularly extended for further periods of two years, as provided for by Article 45 of the Agreement. The last extension was adopted in November 2021[2] and remains in force until 31 December 2023.

Following negotiations among the members of the ISO, the ISC proposed in its 59th session amendments to the Agreement. These amendments concern Article 25 of the Agreement , which governs the adoption of the administrative budget and member contributions as well as the objectives set out in Article 1 of the Agreement, the work priorities of the ISO under

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[1] Council Decision 92/580/EEC of 13 November 1992 on the signing and conclusion of the International Sugar Agreement 1992 (OJ L 379, 23.12.1992, p. 15).

[2] Council Decision (EU) 2021/1843 of 15 October 2021 on the position to be taken on behalf of the European Union within the International Sugar Council as regards the extension of the International Sugar Agreement 1992 (OJ L 373, 21.10.2021, p. 90).

Articles 32, 33 and 34 of the Agreement, and the rules for the appointment of the Executive Director set out in Article 23 of the Agreement. In line with Council Decision 2021/1851[3], the EU voted in favour of amending the Agreement in November 2021.

According to the original planning, Members would have until 30 June 2023 to deposit their instrument of acceptance. The amendments to the Agreement would enter into force on 1 January 2024 on the condition that members holding at least two thirds of the votes deposited the instrument of acceptance. During the 62nd Council Session that took place in June 2023, the ISC agreed to prolong the period in which Members could deposit their instrument of acceptance until 30 April 2024 while the entry into force of the amended Agreement was postponed to 1st January 2025. In consequence, the current Agreement needs to be extended by one year until 31 December 2024. The EU contribution to the ISO budget for 2024 will therefore be calculated using the current formula under Article 25 of the Agreement.

The purpose of the envisaged act is to enable ISO to continue with its work for an additional year.

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

The International Sugar Agreement, 1992 was concluded by the Union 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, in force until 31 December 2023.

The Union has always been an active member of the ISO and a further extension of the Agreement is in the interest of the Union. The Union is a major sugar producer as well as a leading sugar-trading partner for many ISO Members.

The EU counts as one Member to the Agreement. For budgetary procedures (see Article 25 of the Agreement), i.e. for fixing the annual financial contributions of Members, the number of votes allocated to the Union is 508 out of the total of 2000 votes. Each vote has a weight of £745 for the 2023 administrative budget and therefore the contribution due for 2023 amounts to £378,460. These figures are adjusted on a yearly basis.

A formal decision about the extension of the Agreement up to 31 December 2024 is scheduled for the 63rd Session of the International Sugar Council to be held on 24 November 2023 in London.

The purpose of this proposal is to seek the Council's authorisation for the Commission to vote in the International Sugar Council, on the Union's behalf, in favour of the extension of the Agreement up to 31 December 2024.

## 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*

[3] Council Decision (EU) 2021/1851 of 15 October 2021 on the position to be taken on behalf of the European Union within the International Sugar Council as regards amendments to the International Sugar Agreement 1992 and the timetable for their implementation (OJ L 374, 22.10.2021, p. 49).

*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*'[4].

*4.1.2. Application to the present case*

The International Sugar Council has been set up by Articles 3 and 8 of the Agreement, and can be called upon to adopt certain decisions.

The envisaged act, for which the International Sugar Council is empowered under Article 45(2) of the Agreement, has the effect of extending the validity of the Agreement, which is an international agreement binding the Union. The envisaged act has therefore legal effects.

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 common commercial policy (trade in agricultural products).

Therefore, the substantive legal basis of the proposed decision 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.

## 5. PUBLICATION OF THE ENVISAGED ACT

As the act of the International Sugar Council will amend the Agreement, it is appropriate to publish it in the *Official Journal of the European Union* after its adoption.

[4] 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.

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Proposal for a

# COUNCIL DECISION

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

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 International Sugar Agreement, 1992 ('the Agreement') was concluded by the Union by Council Decision 92/580/EEC[1] and entered into force on 1 January 1993. The Agreement was concluded for a period of three years until 31 December 1995.

(2) Pursuant to Articles 3 and 8 of the Agreement, the International Sugar Council ('ISC') has been set up to adopt certain decisions. Pursuant to Article 45(2) of the Agreement, the ISC may extend the Agreement for successive periods, not exceeding two years on each occasion. Since its conclusion, the Agreement has regularly been extended for further periods of two years. The Agreement was last extended by decision of the ISC in November 2021[2] and remains in force until 31 December 2023.

(3) In 2021, the ISC agreed to amend the Agreement and in particular Articles 1, 23, 25, 32, 33, and 34 thereof. The amendments to the Agreement were originally intended to enter into force on 1 January 2024. During its 62nd session the ISC agreed to prolong the period in which Members could deposit their instrument of acceptance of the amendments until 30 April 2024 while the entry into force of the amended Agreement was postponed to 1 January 2025. In view of this, the validity of the Agreement in its current wording needs to be extended.

(4) The ISC, during its 63rd session to be held on 24 November 2023, is to adopt a decision on the extension of the Agreement in its current wording until 31 December 2024.

(5) It is appropriate to establish the position to be taken on the Union's behalf in the 63rd session of the ISC, as a further extension of the Agreement is in the interest of the Union,

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[1] Council Decision 92/580/EEC of 13 November 1992 on the signing and conclusion of the International Sugar Agreement 1992 (OJ L 379, 23.12.1992, p. 15).

[2] Council Decision (EU) 2021/1843 of 15 October 2021 on the position to be taken on behalf of the European Union within the International Sugar Council as regards the extension of the International Sugar Agreement 1992 (OJ L 373, 21.10.2021, p. 90).

HAS ADOPTED THIS DECISION:

*Article 1*

The position to be taken on the Union's behalf in the 63rd session of the International Sugar Council shall be to vote in favour of the extension of the International Sugar Agreement, 1992, for a further period of one year, from 1 January 2024 to 31 December 2024.

*Article 2*

This Decision is addressed to the Commission.

Done at Brussels,

*For the Council*
*The President*

# FINANCIAL STATEMENT

FinancSt/10/ PS/nd/xxxxxx
6.22.2023.1
DATE: 14.06.2023

| | | |
|---|---|---|
| 1. | BUDGET HEADING:<br>14 20 03 06 International organisations and agreements | APPROPRIATIONS:<br>DB2024 4 861 000 EUR |

2. TITLE:
Proposal for a Council Decision on the position to be taken on behalf of the European Union in the International Sugar Council on 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 one year (1 January 2024 - 31 December 2024).

| 5. | FINANCIAL IMPLICATIONS | 12 MONTH PERIOD<br>(EUR million) | CURRENT FINANCIAL YEAR 2023<br>(EUR million) | FOLLOWING FINANCIAL YEAR 2024<br>(EUR million) |
|---|---|---|---|---|
| 5.0 | EXPENDITURE<br>- CHARGED TO THE EU BUDGET (REFUNDS/INTERVENTIONS)<br>- NATIONAL AUTHORITIES<br>- OTHER | | | |
| 5.1 | REVENUE<br>- OWN RESOURCES OF THE EU (LEVIES/CUSTOMS DUTIES)<br>- NATIONAL | | | |
| 5.0.1 | ESTIMATED EXPENDITURE | | | 0.55 |
| 5.1.1 | ESTIMATED REVENUE | | | |

| | | |
|---|---|---|
| 5.2 | METHOD OF CALCULATION: Based on assumptions on an estimated number of votes (508) of the EU, on an estimated amount to be paid per vote in GBP (745). The figures are adjusted on a yearly basis. | |
| 6.0 | CAN THE PROJECT BE FINANCED FROM APPROPRIATIONS ENTERED IN THE RELEVANT CHAPTER OF THE CURRENT BUDGET? | YES |
| 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 |

OBSERVATIONS:

The amount to be effectively paid can vary depending on the final number of votes allocated to the EU, on the amount to be paid per vote in GBP and on the exchange rate EUR/ GBP. Moreover, the EU contribution amount may change for 2024 in case of changes in the membership of the ISC.