

COUNCIL DECISION (EU) 2017/2434**of 18 December 2017**

on the position to be adopted on behalf of the European Union within the Joint Council established by the Political Dialogue and Cooperation Agreement between the European Union and its Member States, of the one part, and the Republic of Cuba, of the other part, as regards the adoption of a decision of the Joint Council on the rules of procedure of the Joint Council and those of the Joint Committee

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 37 thereof,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 207 and 209 in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission and the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

- (1) The Political Dialogue and Cooperation Agreement between the European Union and its Member States, of the one part, and the Republic of Cuba, of the other part ⁽¹⁾ ('the Agreement') was signed in Brussels on 12 December 2016 and has been applied in part on a provisional basis since 1 November 2017.
- (2) Articles 81 and 82 of the Agreement establish a Joint Council and a Joint Committee to facilitate the implementation of the Agreement.
- (3) Article 81(4) of the Agreement provides that the Joint Council is to establish its own rules of procedure, and Article 82(3) provides that the Joint Council is to establish the rules of procedure of the Joint Committee.
- (4) Article 81(3) and (5) of the Agreement provides that the Joint Council is composed of representatives of the Parties at ministerial level and is to be chaired alternately by a representative of the Union and of Cuba.
- (5) Article 82(1) and (5) of the Agreement provides that the Joint Committee is composed of representatives of the Parties at senior official level and is to be chaired alternately by a representative of the Union and of Cuba.
- (6) In order to ensure the effective implementation of the Agreement, the rules of procedure of the Joint Council and of the Joint Committee should be adopted.
- (7) The position of the Union within the Joint Council should therefore be based on the attached draft Decision,

HAS ADOPTED THIS DECISION:

Article 1

The position to be adopted on the Union's behalf within the Joint Council established by Article 81 of the Agreement shall be based on the draft Decision of the Joint Council attached to this Decision.

Article 2

This Decision shall enter into force on the date of its adoption.

Done at Brussels, 18 December 2017.

For the Council

The President

K. SIMSON

⁽¹⁾ OJ L 337 I, 13.12.2016, p. 3.

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DECISION No 1/... OF THE EU-CUBA JOINT COUNCIL
of ...
adopting its Rules of Procedure and those of the Joint Committee

THE EU-CUBA JOINT COUNCIL,

Having regard to the Political Dialogue and Cooperation Agreement between the European Union and its Member States, of the one part, and the Republic of Cuba, of the other part, ('the Agreement') and in particular Articles 81(4) and 82(3) thereof,

Whereas:

- (1) In accordance with Article 86(3) of the Agreement, parts of the Agreement have been applied provisionally between the Union and Cuba since 1 November 2017.
- (2) Pursuant to Article 81(4) of the Agreement, the Joint Council is to establish its own rules of procedure.
- (3) Pursuant to Article 82(1) of the Agreement, the Joint Council is to be assisted in the performance of its duties by a Joint Committee.
- (4) Pursuant to Article 82(3) of the Agreement, the Joint Council is to establish the rules of procedure of the Joint Committee,

HAS ADOPTED THIS DECISION:

Article 1

The Rules of Procedure of the Joint Council and those of the Joint Committee, as set out in Annexes 1 and 2 respectively, are hereby adopted.

Article 2

This Decision shall enter into force on the date of its adoption.

Done at ..., ...

For the Joint Council
The Chair

ANNEX 1

Rules of Procedure of the Joint Council

*Article 1***General provisions**

1. The Joint Council established in accordance with Article 81(1) of the Political Dialogue and Cooperation Agreement between the European Union and its Member States, of the one part, and the Republic of Cuba, of the other part ('the Agreement') shall perform its duties as provided for in Article 81(2) of the Agreement.
2. In accordance with Article 81(3) of the Agreement, the Joint Council shall be composed of representatives of the Parties. It shall meet at ministerial level.
3. As provided for in Article 81(6) of the Agreement, and for the purpose of attaining the objectives thereof, the Joint Council shall have the power to take decisions that are binding upon the Parties. The Joint Council shall take appropriate measures for the implementation of its decisions, including, if necessary, by empowering specific bodies established under the Agreement, to act on its behalf. The Joint Council may also make recommendations. It shall adopt its decisions and recommendations by agreement between the Parties after the completion of their respective internal procedures, in accordance with Article 11 of these Rules of Procedure. The Joint Council may delegate the power to take decisions to the Joint Committee.
4. The Parties in these Rules of Procedure are those defined as in Article 84 of the Agreement.

*Article 2***Chairmanship**

The Joint Council shall be chaired alternately, from one meeting to the next, by a representative of the European Union and a representative of the Republic of Cuba. The first Joint Council shall be chaired by a representative of the European Union.

*Article 3***Meetings**

1. The Joint Council shall meet regularly at least every two years, and when circumstances require, if the Parties so agree. Unless otherwise agreed by the Parties, the Joint Council shall be held at the usual venue for meetings of the Council of the European Union.
2. The meetings of the Joint Council shall be held at a date agreed by the Parties.
3. The meetings of the Joint Council shall be convened jointly by the Secretaries of the Joint Council, in agreement with the Chair of the Joint Council, not later than 30 days before the date of the meeting.

*Article 4***Representation**

1. The members of the Joint Council may be represented if unable to attend. If a member wishes to be represented, that member shall inform the Chair in writing of the name of his representative before the meeting in question.
2. The representative of a member of the Joint Council shall exercise all the rights of that member.

*Article 5***Delegations**

The members of the Joint Council may be accompanied by officials. Before each meeting, the Chair shall be informed, through the Secretariat, of the intended composition of the delegation of each Party.

*Article 6***Secretariat**

An official of the General Secretariat of the Council of the European Union and an official of the Government of Cuba shall act jointly as Secretaries of the Joint Council.

*Article 7***Correspondence**

1. Correspondence addressed to the Joint Council shall be directed to either Secretary, who in turn shall inform the other Secretary.
2. The two Secretaries shall ensure that correspondence is forwarded to the Chair and, where appropriate, circulated to the members of the Joint Council.
3. Correspondence circulated in accordance with paragraph 2 shall be sent, as appropriate, to the Secretariat-General of the European Commission, the European External Action Service and the Permanent Representations of the Member States to the European Union, as well as to the Mission of Cuba to the European Union and the Ministry of Foreign Affairs of the Republic of Cuba.
4. Communications from the Chair of the Joint Council shall be sent to the addressees by the two Secretaries on behalf of the Chair of the Joint Council. Such communications shall be circulated, where appropriate, to the members of the Joint Council as provided for in paragraph 3.

*Article 8***Confidentiality**

1. Unless decided otherwise by the Parties, the meetings of the Joint Council shall not be public.
2. When a Party submits to the Joint Council information designated as confidential, the other Party shall treat that information as such.

*Article 9***Agendas for the meetings**

1. The Chair shall draw up a provisional agenda for each meeting. It shall be circulated by the Secretaries to the addressees referred to in Article 7 not later than 15 calendar days before the meeting.
2. The provisional agenda shall include the items in respect of which the Chair has received a request for inclusion in the agenda not later than 21 calendar days before the meeting. Such items shall be accompanied by the relevant supporting documents to be sent to the Secretaries before the date of dispatch of the agenda.
3. The agenda shall be adopted by the Joint Council at the beginning of each meeting. An item other than those appearing on the provisional agenda may be placed on the agenda if the Parties so agree.
4. The Chair may reduce, in consultation with the Parties, the time limits specified in paragraphs 1 and 2 in order to take account of the requirements of a particular case.
5. The Joint Council may, by agreement between the Parties, invite independent experts in a subject area to attend its meetings as observers or in order to provide information on particular subjects. The Parties shall agree on a case-by-case basis on the terms and conditions under which these experts may attend the meetings and ensure that they respect any confidentiality requirements.

*Article 10***Minutes**

1. Draft minutes of each meeting shall be drawn up jointly by the two Secretaries.

2. The minutes shall, unless otherwise agreed at the meeting, indicate in respect of each item on the agenda:
 - (a) the documentation submitted to the Joint Council;
 - (b) statements which a member of the Joint Council has asked to be entered in the minutes; and
 - (c) issues agreed to by the Parties, such as decisions adopted, statements agreed upon and any conclusions.
3. The draft minutes shall be submitted to the Joint Council for approval. The Joint Council shall approve the draft minutes at its next meeting. Alternatively, the draft minutes may be approved in writing by the Joint Council prior to the next meeting.

Article 11

Decisions and recommendations

1. The Joint Council shall take decisions and make recommendations by mutual agreement between the Parties after the completion of their respective internal procedures.
2. The Joint Council may also take decisions or make recommendations by written procedure if the Parties so agree. For this purpose, the draft of the proposal shall be circulated in writing by the Chair of the Joint Council to its members pursuant to Article 7, with a time limit of no less than 21 calendar days, within which members shall make known any reservations or amendments they wish to make. The Chair may reduce, in consultation with the Parties, the aforementioned time limit in order to take account of the requirements of a particular case.
3. The acts of the Joint Council shall be entitled 'Decision' or 'Recommendation', as appropriate, followed by a serial number, the year of their adoption and a description of their subject-matter. The decisions and recommendations of the Joint Council shall be signed by the Chair and circulated to the addressees referred to in Article 7 of these Rules of Procedure. Each Party may decide on the publication of the decisions and recommendations of the Joint Council in its respective official publication.
4. Each decision shall enter into force on the date of its adoption unless the decision provides otherwise.

Article 12

Languages

1. The official languages of the Joint Council shall be English and Spanish.
2. Unless decided otherwise, the Joint Council shall base its deliberations on documentation prepared in those languages.

Article 13

Expenses

1. Each Party shall meet any expenses it incurs as a result of participating in the meetings of the Joint Council, with regard to both staff, travel and subsistence expenditure and postal and telecommunications expenditure.
2. Expenditure in connection with interpretation at meetings, translation and reproduction of documents shall be borne by the European Union. In the event that Cuba requires interpretation or translation into or from languages other than those provided for in Article 12, it shall bear the related expenses.
3. Other expenditure relating to the organisation of meetings shall be borne by the Party hosting the meetings.

Article 14

Joint Committee

1. In accordance with Article 82 of the Agreement, the Joint Council shall be assisted in the performance of its duties by the Joint Committee. The Joint Committee shall be composed of representatives of the Parties, in principle at senior official level.

2. The Joint Committee shall prepare the meetings and deliberations of the Joint Council, implement the decisions of the Joint Council where appropriate and, in general, ensure continuity of the relationship and the proper functioning of the Agreement. It shall consider any matter referred to it by the Joint Council as well as any other matter that may arise in the course of the implementation of the Agreement. It shall submit proposals or any draft decisions or recommendations to the Joint Council for its approval.
3. The Joint Committee shall take decisions and make recommendations where it is empowered to do so by the Agreement. In accordance with Article 82(4) of the Agreement, the Joint Council may empower the Joint Committee to take decisions.
4. In cases where the Agreement refers to an obligation to consult or a possibility of consultation or where the Parties decide by mutual agreement to consult each other, such consultation may take place within the Joint Committee, except as otherwise specified in the Agreement. The consultation may continue in the Joint Council if the Parties so agree.

Article 15

Amendment of Rules of Procedure

These Rules of Procedure may be amended by a decision of the Joint Council, in accordance with Article 11.

ANNEX 2

Rules of Procedure of the Joint Committee

*Article 1***General provisions**

1. The Joint Committee established in accordance with Article 82 of the Political Dialogue and Cooperation Agreement between the European Union and its Member States, of the one part, and the Republic of Cuba, of the other part ('the Agreement') shall assist the Joint Council in the performance of its duties and functions and perform the tasks provided for in the Agreement and assigned to it by the Joint Council.
2. The Joint Committee shall prepare the meetings and deliberations of the Joint Council, implement the decisions of the Joint Council where appropriate and, in general, ensure continuity of the relationship and the proper functioning of the Agreement. It shall consider any matter referred to it by the Joint Council as well as any other matter that may arise in the course of the day-to-day implementation of the Agreement. It shall submit proposals or any draft decisions or recommendations for adoption by the Joint Council.
3. In accordance with Article 82(1) of the Agreement, the Joint Committee shall be composed of representatives of the Parties, at senior official level, taking into consideration the specific issues to be addressed.
4. The Parties in these Rules of Procedure are those defined as in Article 84 of the Agreement.

*Article 2***Chairmanship**

The Joint Committee shall be chaired alternately, from one meeting to the next, by a representative of the European Union and a representative of the Republic of Cuba. The first Party to hold the Chairmanship is the Republic of Cuba.

*Article 3***Meetings**

1. Unless otherwise agreed by the Parties, the Joint Committee shall meet regularly, at least once a year. Special sessions of the Joint Committee may be held if the Parties so agree, at the request of either Party.
2. Each meeting shall be convened by the Chair at a date and place agreed by the Parties. The notice concerning the convening of the meeting shall be issued by the Secretariat of the Joint Committee not later than 28 calendar days before the date of the meeting, unless the Parties agree otherwise.
3. Whenever possible, the regular meeting of the Joint Committee shall be convened in due time in advance of the regular meeting of the Joint Council.
4. By way of exception and if the Parties agree, the meetings of the Joint Committee may be held by any agreed technological means, such as video-conference.

*Article 4***Delegations**

Before each meeting, the Parties shall be informed, through the Secretariat, of the intended composition of the delegations attending the meeting on either side.

*Article 5***Secretariat**

An official of the European Union and an official of the Government of Cuba shall act jointly as Secretaries of the Joint Committee and shall execute secretarial tasks in a joint manner unless these Rules of Procedure provide otherwise, in a spirit of mutual trust and cooperation.

*Article 6***Correspondence**

1. Correspondence addressed to the Joint Committee shall be directed to either Secretary, who in turn shall inform the other Secretary.
2. The Secretariat shall ensure that correspondence addressed to the Joint Committee is forwarded to the Chair and circulated, where appropriate, in accordance with Article 7.
3. Correspondence from the Chair shall be sent to the Parties by the Secretariat on behalf of the Chair. Such correspondence shall be circulated, where appropriate, in accordance with Article 7.

*Article 7***Documents**

1. Documents shall be circulated through the Secretaries.
2. A Party shall transmit its documents to its Secretary. The Secretary shall transmit those documents to the Secretary of the other Party without undue delay.
3. Each Secretary shall circulate the documents to the responsible representatives of his or her Party, systematically including the Secretary of the other Party in copy.

*Article 8***Confidentiality**

Unless otherwise decided by the Parties, the meetings of the Joint Committee shall not be public. When a Party submits to the Joint Committee information designated as confidential, the other Party shall treat that information as such.

*Article 9***Agendas for the meetings**

1. A provisional agenda for each meeting as well as draft operational conclusions as provided for in Article 10 shall be drawn up by the Secretariat on the basis of proposals made by the Parties. The provisional agenda shall include items in respect of which the Secretariat has received a request for inclusion in the agenda by a Party, supported by relevant documents, not later than 21 calendar days before the meeting.
2. The provisional agenda, together with the relevant documents, shall be circulated in accordance with Article 7, not later than 15 calendar days before the meeting date.
3. The agenda shall be adopted by the Joint Committee at the beginning of each meeting. Items other than those appearing on the provisional agenda may be placed on the agenda if the Parties so agree.
4. The Chair of the meeting of the Joint Committee may, on an ad hoc basis and subject to the agreement of the other Party, invite independent experts in a subject-area to attend its meetings in order to provide information on specific subjects. The Parties shall ensure that those observers or experts respect any confidentiality requirements.
5. The Chair of the meeting of the Joint Committee may reduce, in consultation with the Parties, the time limits specified in paragraphs 1 and 2 in order to take account of special circumstances.

*Article 10***Minutes and operational conclusions**

1. Draft minutes of each meeting shall be drawn up jointly by the two Secretaries.
2. The minutes shall, as a general rule, indicate in respect of each item on the agenda:
 - (a) a list of participants, a list of accompanying officials and a list of any observers or experts who attended the meeting;
 - (b) the documentation submitted to the Joint Committee;

- (c) statements which the Joint Committee has asked to be entered in the minutes; and
 - (d) operational conclusions from the meeting.
3. The draft minutes shall be submitted to the Joint Committee for approval. The Joint Committee shall approve the minutes at its next meeting or, alternatively, in writing.
 4. Draft operational conclusions of each meeting shall be drawn up by the Secretary of the Party holding the Chairmanship, and circulated to the Parties together with the agenda, normally not later than 15 calendar days before the meeting. That draft shall be updated as the meeting proceeds so that at the end of the meeting, unless agreed otherwise by the Parties, the Joint Committee adopts the operational conclusions, reflecting follow-up action to be taken by the Parties. Once agreed, the operational conclusions shall be attached to the minutes and their implementation shall be reviewed in any subsequent meeting of the Joint Committee. To that end, the Joint Committee shall adopt a template, allowing for each action point to be tracked against a specific deadline.

Article 11

Decisions and recommendations

1. In the specific cases where the Agreement confers the power to take decisions or where such power has been delegated to it by the Joint Council, the Joint Committee shall take decisions. It shall also make recommendations to the Joint Council. Decisions and recommendations shall be made by mutual agreement between the Parties and on completion of the respective internal procedures. Each decision or recommendation shall be signed by the Chair.
2. The Joint Committee may take decisions or make recommendations by written procedure if the Parties so agree. The written procedure shall consist of an exchange of notes between the two Secretaries, acting in agreement with the Parties. For this purpose, the text of the proposal shall be circulated in accordance with Article 7, with a time limit of no less than 21 calendar days, within which any comments or objections shall be made known. The Chair of the Joint Committee may, in consultation with the Parties, reduce that time limit, in order to take account of special circumstances. Once the text is agreed, the decision or recommendation shall be signed by the Chair.
3. The acts of the Joint Committee shall be entitled 'Decision' or 'Recommendation', as appropriate, followed by a serial number, the year of their adoption and a description of their subject-matter. Each decision shall enter into force on the date of its adoption unless it provides otherwise.
4. The decisions and recommendations shall be circulated to the Parties.
5. Each Party may decide on the publication of the decisions and recommendations of the Joint Committee in its respective official publication.

Article 12

Reports

The Joint Committee shall report to the Joint Council on its activities and those of its subcommittees at each regular meeting of the Joint Council.

Article 13

Languages

1. The official languages of the Joint Committee shall be the official languages of the Joint Council.
2. The working languages of the Joint Committee shall be English and Spanish. Unless decided otherwise, the Joint Committee shall base its deliberations on documentation prepared in those languages.

Article 14

Expenses

1. Each Party shall meet any expenses it incurs as a result of participating in the meetings of the Joint Committee, with regard to both staff, travel and subsistence expenditure and postal and telecommunications expenditure.

2. Expenditure in connection with the organisation of meetings, the reproduction of documents and interpreting at meetings and translation of documents into or from English and Spanish shall be borne by the Party hosting the meeting. Interpreting and translation into or from other languages shall be borne directly by the requesting Party.

Article 15

Amendment of Rules of Procedure

These Rules of Procedure may be amended by a decision of the Joint Council in accordance with Article 11 of the Rules of Procedure of the Joint Council.

Article 16

Subcommittees

1. In accordance with Article 83(1) of the Agreement, the Joint Committee may decide to create a subcommittee in specific areas necessary for the implementation of the Agreement to assist it in the performance of its duties. The Joint Committee may decide to abolish any such subcommittee, and define or amend its rules of procedure. Unless decided otherwise, those subcommittees shall work under the authority of the Joint Committee, to which they shall report after each of their meetings.

2. Unless provided otherwise by the Agreement or agreed in the Joint Council, these Rules of Procedure shall be applied *mutatis mutandis* to any subcommittee established by the Agreement or under paragraph 1.

3. The meetings of the subcommittees may be held as and when the need arises in person, either in Brussels or in Cuba, or, for example, by videoconference. The subcommittees shall be the platform for monitoring progress on approximation in specific areas, discussing certain issues and challenges arising from that process and formulating recommendations and operational conclusions.

4. The Secretariat of the Joint Committee shall be in copy for all relevant correspondence, documents and communications pertaining to the work of a subcommittee.

5. Unless agreed otherwise by the Parties within the Joint Council, the subcommittees shall only have the power to make recommendations to the Joint Committee.
