



Brussels, 13.8.2021
COM(2021) 480 final

2021/0273 (NLE)

Proposal for a

COUNCIL DECISION

**on the position to be taken on behalf of the European Union in the International Sugar
Council with respect to the extension of the International Sugar Agreement, 1992**

EXPLANATORY MEMORANDUM

1. SUBJECT MATTER OF THE PROPOSAL

This proposal concerns a 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 extending the International Sugar Agreement, 1992 until 31 December 2023

2. CONTEXT OF THE PROPOSAL

2.1. The International Sugar Agreement, 1992

The International Sugar Agreement, 1992 (hereinafter referred to as ‘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 Union is a party to the Agreement¹.

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 International Sugar Organisation (‘ISO’). 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

The Agreement was concluded by Council Decision 92/580/EEC and entered into force on 1 January 1993. It was 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 foreseen by its Article 45. The Agreement was last extended in July 2019² and remains in force until 31 December 2021.

On 26 November 2021, during its 59th Session, the International Sugar Council is to adopt a decision regarding the extension of the International Sugar Agreement 1992 by another 2 years (‘the envisaged act’).

The purpose of the envisaged act is to enable the ISO to continue with its work.

The extension of the Agreement will cover the period of 1 January 2022 - 31 December 2023.

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) 2019/1251 of 15 July 2019 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 (OJ L 195, 23.7.2019, p. 18).

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. The Agreement was extended last time by decision of the International Sugar Council at its 55th Session on 19 July 2019 and remains in force until 31 December 2021.

The Union has always been an active member of the ISO and a further extension of the Agreement by up to two years 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 87 Members of the ISO have a total number of 2,000 votes. The EU counts as one Member. Each vote has a weight of £661 for the 2021 administrative budget. For budgetary procedures (see Article 25 of the ISA 1992), i.e. for fixing the annual financial contributions of Members, the number of votes allocated to the Union is 538 and therefore the contribution due for 2021 amounts to £355 618. These numbers are adjusted on a yearly basis.

A formal decision about the extension of the Agreement up to 31 December 2023 is scheduled for the 59th Session of the International Sugar Council to be held on 26 November 2021 in London.

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 extension of the Agreement up to 31 December 2023 in the International Sugar Council.

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. 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'*³.

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.

³ 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.

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.

Proposal for a

COUNCIL DECISION

on the position to be taken on behalf of the European Union in the International Sugar Council with respect to 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/EEC¹ 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 has been set up to adopt certain decisions. Pursuant to Article 45(2) of the Agreement, the International Sugar Council 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 International Sugar Council in July 2019² and remains in force until 31 December 2021.
- (3) The International Sugar Council, during its 59th session to be held on 26 November 2021, is set to adopt a decision on the extension of the Agreement for a further period of up to two years, from 1 January 2022 to 31 December 2023.
- (4) It is appropriate to establish the position to be taken on the Union's behalf in the 59th session of the International Sugar Council, as a further extension of the Agreement is in the interest of the Union,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf in the 59th 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 up to two years, from 1 January 2022 to 31 December 2023.

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) 2019/1251 of 15 July 2019 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 (OJ L 195, 23.7.2019, p. 18).

Article 2

This Decision is addressed to the Commission.

Done at Brussels,

*For the Council
The President*

| FINANCIAL STATEMENT | | FinancSt/10/ LK/hn/4760052 | | |
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| | | 6.22.2021.1 | | |
| | | DATE: 28.06.2021 | | |
| 1. | BUDGET HEADING: 14 20 03 06 International organisations and agreements | APPROPRIATIONS: B2021 6 300 000 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 with respect to 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 January 2022 - 31 December 2023). | | | |
| 5. | FINANCIAL IMPLICATIONS | 12 MONTH PERIOD (EUR million) | CURRENT FINANCIAL YEAR 2021 (EUR million) | FOLLOWING FINANCIAL YEAR 2022 (EUR million) |
| 5.0 | EXPENDITURE - CHARGED TO THE EU BUDGET (REFUNDS/INTERVENTIONS) - NATIONAL AUTHORITIES - OTHER | | | 0.41 |
| 5.1 | REVENUE - OWN RESOURCES OF THE EU (LEVIES/CUSTOMS DUTIES) - NATIONAL | | | |
| | | 2023 (EUR million) | | |
| 5.0.1 | ESTIMATED EXPENDITURE | 0.46 | | |
| 5.1.1 | ESTIMATED REVENUE | | | |
| 5.2 | METHOD OF CALCULATION: Based on assumptions on an estimated number of votes (538) of the EU (varies each year), on an estimated amount to be paid per vote in GBP (661). | | | |
| 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 the EU gets attributed to, the amount to be paid per vote in GBP and on the exchange rate EUR/ GBP. | | | | |