



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 7.2.2007
COM(2007) 47 final

2007/0018 (ACC)

Proposal for a

COUNCIL DECISION

on a Community position within the EU-Chile Association Committee on the establishment of a list of arbitrators as required by Article 185 paragraph 2 of the Agreement establishing an association between the European Community and its Member States, of the one part, and the Republic of Chile, of the other part

(presented by the Commission)

EXPLANATORY MEMORANDUM

The EU/Chile Association Agreement ("The Agreement") includes in its Part IV, Title VIII a bilateral Dispute Settlement mechanism. Pursuant to Article 185 paragraph 2 of the Agreement, the Association Committee shall establish a list of individuals ready to serve as arbitrators in the bilateral dispute settlement procedures. The Commission and the Chilean government have agreed on a list of fifteen individuals willing and able to serve as arbitrators. As envisaged by the Agreement, this list is composed by five EU nationals, five Chilean nationals and five third country nationals. The EU-Chile Association Committee should now formally adopt this list.

Furthermore, in order to facilitate the task of ensuring that the list always contains fifteen individuals at any point of time, it is proposed that any updating of this list in the future is adopted upon joint written notification by the Parties to the Association Committee, once the Parties have reached an agreement. The Commission shall agree with the Chilean Government on the new list and consult the 133 Committee before the list is notified to Association Committee.

The Commission therefore proposes to the Council to adopt the enclosed Council Decision as the EU common position on the proposed EU-Chile Association Committee Decision in Annex.

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on a Community position within the EU-Chile Association Committee on the establishment of a list of arbitrators as required by Article 185 paragraph 2 of the Agreement establishing an association between the European Community and its Member States, of the one part, and the Republic of Chile, of the other part

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 133 and 300 (2) second subparagraph thereof,

Having regard to the proposal from the Commission¹,

Whereas:

- (1) The Agreement establishing an association between the European Community and its Member States, on the one part, and the Republic of Chile, on the other part, hereinafter the Association Agreement includes in its Part IV, Title VIII a dispute settlement mechanism.
- (2) Article 185(2) of the Association Agreement invites the Association Committee, no later than six months after the entry into force of the Agreement, to establish a list of at least fifteen individuals who are willing and able to serve as arbitrators.
- (3) A list of fifteen arbitrators has been agreed by the Parties.
- (4) According to Article 185(2), the Association Committee shall ensure that the list always contains 15 individuals at any point in time. Such list may be amended every three years.
- (5) In order to facilitate the update of the list of arbitrators, a lighter procedure based on a written notification to the Association Committee should be envisaged,

HAS DECIDED AS FOLLOWS:

Article 1

The position to be adopted by the Community within the Association Committee on the establishment of a list of arbitrators as required by Article 185 paragraph 2 of the Agreement establishing an association between the European Community and its Member States, of the

¹ OJ C , , p. .

one part, and the Republic of Chile, of the other part, shall be based on the draft Decision of the Association Committee annexed to this Decision.

Article 2

For any future updates of the list of arbitrators adopted on the basis of this Decision of the Association Committee, the Commission will seek an agreement with the Chilean Government. The Commission will consult the 133 Committee of the new list of arbitrators as a result of such agreement. Article 1

Done at Brussels,

*For the Council
The President*

ANNEX

DRAFT DECISION N°.../2006 OF THE EU-CHILE ASSOCIATION COMMITTEE

of.....

on the establishment of a list of arbitrators as required by Article 185 paragraph 2 of the Agreement establishing an association between the European Community and its Member States, of the one part, and the Republic of Chile, of the other part

THE ASSOCIATION COUNCIL,

Having regard to the Agreement establishing an association between the European Community and its Member States, of the one part, and the Republic of Chile, of the other part, signed in Brussels on 18 November 2002 (hereinafter referred to as "Association Agreement"), and in particular Article 185(2) thereof,

Whereas:

- (1) The Agreement establishing an association between the European Community and its Member States, of the one part, and the Republic of Chile, of the other part, thereafter the Association Agreement includes in its Part IV, Title VIII a dispute settlement mechanism.
- (2) Article 185 paragraph 2 of the Association Agreement invites the Association Committee, no later than six months after the entry into force of the Agreement, to establish a list of at least fifteen individuals who are willing and able to serve as arbitrators, a third of whom must not be national of either Party and are identified as chairperson of arbitration panels.
- (3) A list of fifteen arbitrators has been agreed by the Parties.
- (4) According to Article 185 paragraph 2, the Association Committee shall ensure that the list always contains fifteen individuals at any point of time. Such list may be amended every three years.
- (5) In order to facilitate any future modification of the list of arbitrators, the Parties shall notify in written their mutual agreement in this respect to the Association Committee,

HAS DECIDED AS FOLLOWS:

Article 1

The list of fifteen arbitrators annexed to this Decision, is adopted by the Parties.

Article 2

The list annexed to this Decision should include 15 arbitrators at any in time. For this purpose, this list shall be updated by mutual agreement between the Parties and simple written notification to the Association Committee.

Article 3

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

Done at...

*For the Association Committee
The President*

CHILE-EU Dispute Settlement Mechanism

List of arbitrators

Chilean arbitrators:

Osvaldo Rosales
Eliel Hasson
Sebastian Saez
Ernesto Tironi
Carlos Eugenie Jorquiera

EU arbitrators:

Claus Dieter Ehlerman
Jacques Bourgeois
Claudio Dordi
Peter Kleen
Ramon Torrent Macau

Third countries' arbitrators:

Miguel Rodriguez Mendoza (Venezuela)
Germain Denis (Canada)
Florentino Feliciano (Philippines)
Bill Davey (United States)
Crawford Falconer (New Zealand)