



Brussels, 24.4.2014
COM(2014) 237 final

2014/0130 (NLE)

Proposal for a

COUNCIL DECISION

on a position to be taken by the European Union within the Association Council set up by the Association Agreement between the European Union and its Member States, of the one part, and Central America, of the other part, as regards the adoption of decisions in the Association Council on the Rules of Procedure of the Association Council and those of the Association Committee, on the Rules of Procedure governing Dispute Settlement under Title X and the Code of Conduct for members of panels and mediators, on the List of Panellists and on the List of Trade and Sustainable Development Experts

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

The Association Agreement between the European Union and its Member States, of the one part, and Central America, of the other part (hereinafter referred to as "Agreement") was signed on 29 June 2012, and it has been provisionally applied since 1 August 2013 with Nicaragua, Honduras and Panama, since 1st October 2013 with El Salvador and Costa Rica and since 1st December 2013 with Guatemala.

Article 5(2) of the Agreement stipulates that the Association Council shall adopt its own Rules of Procedure.

Article 7(3) of the Agreement stipulates that the Association Council shall adopt the Rules of Procedure of the Association Committee.

Article 8(6) of the Agreement stipulates that the Association Council shall adopt the Rules of Procedure of the Subcommittees.

Article 297(2) stipulates that the Association Council shall endorse a list of a list of seventeen experts with expertise in environmental law, international trade or the resolution of disputes arising under international agreements and a list of seventeen experts with expertise in labour law, international trade or the resolution of disputes arising under international agreements.

Article 325(1) stipulates that the Association Council shall establish a list of thirty six individuals who are willing and able to serve as panellists in the meaning of Title X of Part IV of the Agreement on dispute settlement.

Article 328(1) stipulates that the Association Council shall adopt rules of procedure as well as a code of conduct, governing dispute settlement under Title X of the Agreement,

The attached proposal constitutes the proposal for a Council decision approving the position that the European Union will be taking in the Association Council on the above mentioned issues.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES

The Rules of Procedure of the Association Council and those of the Association Committee, the Rules of Procedure governing Dispute Settlement under Title X and the Code of Conduct for members of panels and mediators, the list of panellists and the list of Trade and Sustainable Development experts have been previously discussed and agreed with Central America in the framework of the preparation of the first Association Council for the implementation of the Agreement. The discussions started before the Agreement was provisionally applied in March 2013. They could, however, only be finalised after the Agreement was provisionally applied also with the whole region in December 2013. The final text of this proposal is the result of these detailed discussions.

On 30 July 2010 (TPC note m.d. 452/10) the Commission asked the Member States to submit candidates for the establishment of the Dispute Settlement rosters. The proposed EU individuals to serve as arbitrators or experts on the Trade and Sustainable Development Title for this Agreement have been chosen from the nominations that were sent by the Member States.

3. LEGAL ELEMENTS OF THE PROPOSAL

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 217 in conjunction with Article 218(9) thereof, the Commission is submitting a proposal to the Council for a decision on establishing the position to be adopted on the Union's behalf in the Association Council set up by this Agreement.

Proposal for a

COUNCIL DECISION

on a position to be taken by the European Union within the Association Council set up by the Association Agreement between the European Union and its Member States, of the one part, and Central America, of the other part, as regards the adoption of decisions in the Association Council on the Rules of Procedure of the Association Council and those of the Association Committee, on the Rules of Procedure governing Dispute Settlement under Title X and the Code of Conduct for members of panels and mediators, on the List of Panellists and on the List of Trade and Sustainable Development Experts

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 217 in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) On 23 April 2007, the Council authorised the Commission to negotiate an Association Agreement on behalf of the European Union and its Member States with Central America. The negotiating directives were amended on 10 March 2010 to include Panama in the negotiation process.
- (2) These negotiations were concluded at the occasion of the EU-Latin American and Caribbean Summit in Madrid in May 2010.
- (3) The Association Agreement between the European Union and its Member States, of the one part, and Central America, of the other part (hereinafter referred to as ‘the Agreement’)¹ was initialled on 22 March 2011 and signed on 29 June 2012.
- (4) Pursuant to Article 353(4) of the Agreement, the Agreement has been provisionally applied since 1 August 2013 with Nicaragua, Honduras and Panama, since 1st October 2013 with El Salvador and Costa Rica and since 1st December 2013 with Guatemala.
- (5) Article 4 of the Agreement establishes an Association Council, which shall oversee the fulfilment of the objectives of this Agreement and supervise its implementation.
- (6) Article 6 of the Agreement stipulates that the Association Council shall have the power to take decisions in the cases provided for in this Agreement in order to attain the objectives of this Agreement.
- (7) Article 5(2) of the Agreement stipulates that the Association Council shall adopt its own Rules of Procedure.
- (8) Article 7(3) of the Agreement stipulates that the Association Council shall adopt the Rules of Procedure of the Association Committee.

¹ OJ L346, 15.12.2012.

- (9) Article 8(6) of the Agreement stipulates that the Association Council shall adopt the Rules of Procedure of the Subcommittees.
- (10) Article 297(2) stipulates that the Association Council shall endorse a list of a list of seventeen experts with expertise in environmental law, international trade or the resolution of disputes arising under international agreements and a list of seventeen experts with expertise in labour law, international trade or the resolution of disputes arising under international agreements.
- (11) Article 325(1) stipulates that the Association Council shall establish a list of thirty six individuals who are willing and able to serve as panellists in the meaning of Title X of the Agreement on Dispute Settlement.
- (12) Article 328(1) stipulates that the Association Council shall adopt rules of procedure as well as a code of conduct, governing Dispute Settlement under Title X of the Agreement.
- (13) The Union should determine the position to be taken as regards the adoption of the Rules of Procedure of the Association Council and those of the Association Committee, the Rules of Procedure governing Dispute Settlement under Title X and the Code of Conduct for members of panels and mediators, the list of panellists as well as the list of Trade and Sustainable Development experts,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken by the European Union in the Association Council, set up by the Association Agreement between the European Union and its Member States, of the one part, and Central America, of the other part, as regards the adoption of the Rules of Procedure of the Association Council and those of the Association Committee, the Rules of Procedure governing Dispute Settlement under Title X and the Code of Conduct for members of panels and mediators, the list of panellists as well as the list of Trade and Sustainable Development experts shall be based on the draft decisions of the Association Council annexed to this Decision.

Minor changes to the draft Association Council Decisions may be agreed to by the representatives of the Union in the Association Council without further decision of the Council.

Article 2

After its adoption, the Decision of the Association Council shall be published in the *Official Journal of the European Union*.

Article 3

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

Done at Brussels,

*For the Council
The President*