



Brussels, 8.1.2014
COM(2013) 942 final

2013/0450 (NLE)

Proposal for a

COUNCIL DECISION

on a position to be taken by the European Union within the EU-Chile Association Committee regarding the amendment of Annex XII 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, setting out the list of Chilean entities which procure in accordance with the provisions of Title IV of Part IV (Government Procurement)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

The Association Agreement between the European Community and its Members States, of the one part, and the Republic of Chile, of the other part ('Association Agreement'), was signed on 18 November 2002.

Annex XII of the Association Agreement sets out the list of Chilean public entities covered under the commitments on government procurement.

The Republic of Chile proposes to modify the Annex XII. The proposal consists in simplifying the list of public entities listed under each Ministry under Appendix 1 A by replacing it with a catch-all clause which ensures that all entities subordinated to the listed Ministries are covered. In addition, the Chilean authorities propose a catch-all clause for all entities at sub-central level (municipalities) under Appendix 2 A.

The suggested amendment eliminates the need for future changes to the Annex should entities change (i.e. in the event that additional dependent services, regions, provinces or communes are created, merged or suppressed). Moreover, since Chile's coverage under Title IV of Part IV on Government Procurement remains unchanged, the European Commission considers this change is of a purely formal nature and no compensatory adjustments are warranted pursuant to Article 159(2) of the Association Agreement. On the contrary, it introduces a sensible improvement to the structure of the Agreement

Appendix 1 B and Appendix 2 B of Annex XII, which refer to the coverage of all other central and sub-central public entities that do not have an industrial or commercial character, remain unchanged.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

Not relevant since this proposal, which formally amends Annex XII, does not introduce a change in the scope.

3. LEGAL ELEMENTS OF THE PROPOSAL

The Council is asked to adopt a European Union position on a draft Decision of the European Union – Chile Association Committee amending the list of Chilean entities which procure in accordance with the provisions set out in the Title on government procurement of the Association Agreement.

Article 159 of the Association Agreement foresees the possibility to rectify the coverage of the Title on government procurement and the Association Committee is empowered to take this decision to modify Annex XII pursuant to paragraph 3 of this Article.

The proposal falls under the exclusive competence of the European Union. The subsidiarity principle therefore does not apply.

4. BUDGETARY IMPLICATION

The proposal has no financial implications for the European Union budget.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first paragraph of Article 207(4) in conjunction with Article 218(9), thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Association Agreement between the European Community and its Members States, of the one part, and the Republic of Chile, of the other part¹ ('Association Agreement'), was signed on 18 November 2002.
- (2) Annex XII to the Association Agreement provides a list of entities in the Republic of Chile which procure in accordance with the provisions on government procurement of Title IV of Part IV of the Association Agreement.
- (3) The Republic of Chile notified the European Union of its intention to modify the Annex XII on 10 February 2012 (with additional information notified on 18 October 2012). Following that notification, and pursuant to Article 159 (2) of the Association Agreement, the Parties have considered that it is appropriate that the Association Committee takes a decision to modify the relevant Annex to reflect the modification notified by the Republic of Chile.
- (4) The modification consists of (a) simplifying the list of public entities listed under each Ministry in Appendix 1 A of Annex XII by replacing it with a catch-all clause which ensures that all entities subordinated to the listed Ministries are covered, and (b) the introduction of a catch-all clause for all entities at sub-central level under Appendix 2 A.
- (5) The position to be taken by the Union within the EU-Chile Association Committee should be based on the attached draft Decision,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken by the European Union in the Association Committee regarding the amendment of Annex XII setting out the list of Chilean entities which procure in accordance

¹ OJ L 352, 30.12.2002, p. 3.

with the provisions of Title IV of Part IV on Government Procurement, shall be based on the draft Decision of that Committee attached to this Decision.

Article 2

After its adoption, the Decision of the Association Committee 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

LEGISLATIVE FINANCIAL STATEMENT FOR PROPOSALS HAVING A BUDGETARY IMPACT EXCLUSIVELY LIMITED TO THE REVENUE SIDE

1. NAME OF THE PROPOSAL:

Proposal for a Council Decision on a position to be taken by the European Union within the EU-Chile Association Committee regarding the amendment of Annex XII 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, setting out the list of Chilean entities which procure in accordance with the provisions of Title IV of Part IV (Government Procurement).

2. BUDGET LINES:

Chapter and Article

Amount budgeted for the year concerned:

3. FINANCIAL IMPACT:

- Proposal has no financial implications
- Proposal has no financial impact on expenditure but has a financial impact on revenue – the effect is as follows:

(€million to one decimal place)

Budget line	Revenue ²	1 year period, starting dd/mm/aaaa	[Year n]
Article 120	<i>Impact on own resources</i>		

Situation following action					
	[n+1]	[n+2]	[n+3]	[n+4]	[n+5]

² Regarding traditional own resources (agricultural duties, sugar levies, customs duties) the amounts indicated must be net amounts, i.e. gross amounts after deduction of 25 % of collection costs