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Proposal for a

COUNCIL DECISION

on the position to be taken on behalf of the European Union in the International Grains Council with respect to establishing new rules on written procedure and Member access to International Grains Council's archives

EXPLANATORY MEMORANDUM

1. SUBJECT MATTER OF THE PROPOSAL

This proposal concerns the decision establishing the position to be taken on the Union's behalf in the International Grains Council (IGC) in connection with the envisaged amendment of the Rules of Procedure under the Grains Trade Convention, 1995 ('the Convention') as regards establishing new rules on decision-making by written procedure and member access to IGC's archives.

2. CONTEXT OF THE PROPOSAL

2.1. The Grains Trade Convention, 1995

The Convention aims to further international co-operation in all aspects of trade in grains, to promote the expansion of international trade in grains and to secure the freest possible flow of this trade. In addition, the Convention intends to contribute to the fullest extent possible to the stability of international grain markets in the interests of all members, to enhance world food security and to provide a forum for exchange of information and discussion of members' concerns regarding trade in grains.

The Convention entered into force on 1 July 1995.

The European Union is a party to the Convention¹.

The Convention was concluded for a period of three years, until 30 June 1998 and, since then, has been regularly extended by the IGC. On each occasion, the Convention is extended for a maximum period of two years in accordance with Article 33 of the Convention. It was last extended by decision of the International Grains Council on 14 June 2023 and remains in force until 30 June 2025.

A further extension of the Convention until 30 June 2027 is scheduled for 12 June 2025.

The Rules of Procedure under the Convention provide for detailed rules as for the implementation of the Convention and the functioning of the International Grains Council.

2.2. The International Grains Council

The IGC is an intergovernmental organisation that seeks to meet the objectives laid down in Article 1 of the Convention. In particular, the IGC aims at:

- furthering international cooperation in all aspects of trade in grains;
- promoting expansion, openness and fairness of the international trade in the grains sector;
- contributing to stability of international grain market, enhancing world food security and contributing to the development of countries whose economies depend on commercial sales of grain.

These objectives are sought by improving market transparency through information-sharing, analysis and consultation on market and policy developments.

¹ OJ L 21, 27.1.1996, p. 47.

The IGC has 30 members, including many of the world's largest cereals producers as well as importers. Besides the European Union and among others, its members are Argentina, Australia, Canada, India, Japan, Russia, Ukraine, the United Kingdom and the USA. However, China and Brazil are not members.

The 30 members of the IGC have a total number of 2,000 votes.

For budgetary procedures (see Article 11 of the Convention), i.e. for fixing the annual financial contributions of members, the Union has 375 votes in 2024/25².

For decision-making, i.e. where votes are held (see Article 12 of the Convention), 1,000 votes are distributed to the 11 exporting members (including the Union with 240 votes) and 1,000 votes to the 19 importing members. It needs to be emphasized that, in principle, the IGC operates on the basis of consensus and it is very rare that voting is actually held.

At the meetings of the International Grains Council, the European Union is represented by the European Commission. Member States can attend the IGC meetings, in particular the Council Sessions.

2.3. The envisaged acts of the International Grains Council

2.3.1. Council decisions by written procedure

During past years a few decisions of the IGC were taken by written procedure. However, there were no clear rules laid down in the Rules of Procedure. Therefore, at the meeting of the IGC Administrative Committee on 2 May 2024, the EU requested establishing a procedure for the adoption of Council decisions by written procedure.

The IGC Secretariat presented its first draft proposal³ at the meeting of the Administrative Committee on 11 December 2024. That Committee agreed to circulate the draft proposal⁴ as information to the 61st Session of the IGC scheduled for 23 January 2025.

The proposal ('the envisaged act'), reviewed as necessary, will be put on the agenda of the 62nd Session of the IGC for decision on 12 June 2025.

According to the proposal, which is based on Article 14 (Decisions) of the Convention, Rule 19 (Council sessions: voting) and Rule 20 (Administrative Committee) of the Rules of Procedure will be amended.

A new point (c) *Decisions by written procedure* will be inserted in Rule 19 and a new point (d) *Decision by written procedure* will be added to Rule 20.

The envisaged act, which is a follow-up of an EU request, will establish clear rules as for the conditions of decision-making by written procedure in the IGC.

2.3.2. Member access to IGC's archives

Under Article 20 (Privileges and immunities) of the Convention "*the status, privileges and immunities of the Council in the territory of the United Kingdom shall continue to be governed by the Headquarters Agreement between the Government of the United Kingdom of*

² The International Grains Council operates on a fiscal year basis, which runs from 1 July to 30 June.

³ IGC document AC(24/25)1/8 of 11 November 2024

⁴ IGC document GC61/6 of 16 December 2024

Great Britain and Northern Ireland and the International Wheat Council”. Under Article 6 of the Headquarters Agreement, the archives of the Organisation (IGC) shall be inviolable.

Following unauthorised access to the IGC member website in 2024, as well as acknowledging that in certain instances exceptions to the inviolability of the IGC’s archives should be considered, the IGC Secretariat proposed inserting a new Rule 26 to the Rules of Procedure.

A first draft of the proposal⁵ was presented for information of the 61st Session of the IGC on 23 January 2025.

The proposal (‘the envisaged act’), reviewed as necessary, will be put on the agenda of the 62nd Session of the IGC for decision on 12 June 2025.

According to the proposal, which is based on Article 20 of the Convention, a new *Rule 26 on Member access to IGC’s archives* will be added to the Rules of Procedure.

The new Rule 26 will clarify the conditions for accessing the IGC’s archives and the procedure for doing so. In particular, all requests for access to the IGC’s archives shall be made in writing and the applicant must be clearly identified

3. POSITION TO BE TAKEN ON THE UNION'S BEHALF

The proposed new rules on the written procedure were requested by the EU and will introduce clarity on the conditions of decision-making by written procedure in the IGC.

The proposal for establishing a new Rule on access to the IGC’s archives was made by the IGC Secretariat. It will provide clarity on the conditions for accessing IGC’s archives.

The European Union has always been an active member of the IGC, and the proposed new Rules are expected to bring more clarity to the functioning of the organisation and to further improve the transparency of the IGC.

The purpose of this proposal is to seek the Council’s authorisation to the Commission to vote on the European Union’s behalf, in favour of the proposed amendments to the Rules of Procedure in the IGC. The formal decisions about the proposals are scheduled for the 62nd Session of the IGC to be held on 12 June 2025.

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

⁵ IGC document GC61/7 of 16 December 2024

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*’⁶.

4.1.2. Application to the present case

The envisaged acts of the IGC have the effects of amending the Rules of Procedure by establishing new Rules with respect to the decision-making by written procedure and concerning Member access to IGC’s archives.

The Rules of Procedure provide for detailed rules for the management of the Convention, which is an international agreement binding the Union. The envisaged acts have therefore legal effects.

The envisaged acts do not supplement or amend the institutional framework of the Convention.

Therefore, the procedural legal basis for the proposed decision is Article 218(9) TFEU.

4.2. Substantive legal basis

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 European 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.

Application to the present case

The main objective and content of the envisaged act relate to trade in agricultural products.

Therefore, the substantive legal basis of the proposed decision is Article 207(4), first subparagraph, TFEU (common commercial policy).

4.3. Conclusion

The legal basis of the proposed decision should be Article 207(4), first subparagraph, TFEU, in conjunction with Article 218(9) TFEU.

5. COMPLIANCE WITH THE DIGITAL-BY-DEFAULT PRINCIPLE

According to the digital assessment carried out, the current proposal has no digital dimensions as there is no digital relevance.

The proposal establishes the EU position with respect to amending the Rules of Procedure under the Convention. The amendments will establish new rules on decision-making by written procedure in the IGC and Member access to IGC’s archives.

⁶ Judgment of the Court of Justice of 7 October 2014, Germany v Council, C-399/12, ECLI:EU:C:2014:2258, paragraphs 63 and 64.

Digital means or data exchange are not under the scope of the proposal.

6. PUBLICATION OF THE ENVISAGED ACT

As the acts of the IGC will amend the Rules of Procedure under the Convention, they will be published on the official website of the IGC.

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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 Article 207(4), first subparagraph, in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Grains Trade Convention, 1995 ('the Convention') was concluded by the Union by means of Council Decision 96/88/EC⁷ and entered into force on 1 July 1995. The Convention was concluded for a period of three years and has been regularly extended.
- (2) The Rules of Procedure under the Convention were approved by the International Grains Council on 6 July 1995.
- (3) Article 14 of the Convention and Rule 19 of the Rules of Procedure lay down rules on decisions made by the International Grains Council. However, decision-making by written procedure is not clearly defined.
- (4) On 16 December 2024, the Secretariat of the International Grains Council proposed to amend Rule 19 and Rule 20 of the Rules of Procedure with a view to establish new rules on decision-making by written procedure in the Council and the Administrative Committee. The objective of the amendments is to clearly define the conditions for adopting decisions by written procedure.
- (5) According to Article 20 of the Convention, the status, privileges and immunities of the Council in the territory of the United Kingdom are governed by the Headquarters Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the International Wheat Council, which legally preceded the International Grains Council. That Agreement lays down that the archives of the International Grains Council shall be inviolable.
- (6) On 16 December 2024, the Secretariat of the International Grains Council proposed to add a new Rule 26 on member access to International Grains Council's archives to the Rules of Procedure. The objective of the proposed new Rule is to establish clear conditions for accessing the International Grains Council's archives and the procedure

⁷ Council Decision 96/88/EC of 19 December 1995 concerning the approval by the European Community of the Grains Trade Convention and the Food Aid Convention, constituting the International Grains Agreement 1995 (OJ L 21, 27.1.1996, p. 47).

for doing so. In particular, all requests for access to the IGC's archives shall be made in writing and the applicant must be clearly identified.

- (7) It is appropriate to establish the positions to be taken on the Union's behalf in the 62nd session of the International Grains Council with respect to the amendment of the Rules of Procedure under the Convention concerning the introduction of new rules on decision-making by written procedure and the conditions for access to the International Grains Council's archives. The proposed amendments aim at bringing more clarity to the functioning of the organisation and further improving the transparency of the International Grains Council and therefore are in the interest of the Union,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf in the 62nd session of the International Grains Council shall be to vote in favour of inserting a new point (c) in Rule 19 and a new point (d) in Rule 20 of the Rules of Procedure under the Grains Trade Convention, 1995, in accordance with the proposal submitted by the Secretariat of the International Grains Council on 16 December 2024, with the objective to establish a procedure for the adoption of International Grains Council decisions by written procedure.

Article 2

The position to be taken on the Union's behalf in the 62nd session of the International Grains Council shall be to vote in favour of adding a new Rule 26 to the Rules of Procedure under the Grains Trade Convention, 1995, in accordance with the proposal submitted by the Secretariat of the International Grains Council on 16 December 2024, with the objective to clarify conditions for accessing the International Grains Council's archives.

Article 3

This Decision is addressed to the Commission.

Done at Brussels,

*For the Council
The President*