



Brussels, 18.12.2013  
COM(2013) 924 final

2013/0440 (NLE)

Proposal for a

## **COUNCIL DECISION**

**on the conclusion of the Framework Agreement on Comprehensive Partnership and Cooperation between the European Union and its Member States, of the one part, and the Socialist Republic of Viet Nam, of the other part**

## **EXPLANATORY MEMORANDUM**

In May 2007, the Council authorised the Commission to negotiate a Framework Agreement on Partnership and Cooperation (PCA) with Vietnam, based on the November 2004 authorisation for negotiations with Thailand, Indonesia, Singapore, the Philippines, Malaysia and Brunei. Negotiations with Vietnam were launched in Hanoi in November 2007. Both sides initialled the PCA in Brussels on 4 October 2010. The PCA was signed in Brussels on 27 June 2012.

The PCA with Vietnam will supersede the current legal framework of the 1995 Agreement between the European Community and Vietnam and the 1980 Cooperation Agreement between the European Economic Community and member countries of the Association of South-East Asian Nations (ASEAN), which was extended in 1999 to include Vietnam.

The PCA with Vietnam constitutes an important step towards enhanced political and economic involvement of the EU in South-East Asia. It covers the EU's standard political clauses on human rights, International Criminal Court, weapons of mass destruction, small arms and light weapons and counter-terrorism.

The PCA strengthens the sectoral cooperation across a wide range of policy fields, such as taxation, migration, health, environment, climate change, energy, education and culture, labour, employment and social affairs, science and technology and transport. It also addresses legal cooperation, money laundering and terrorist financing, organised crime and corruption, and covers areas of particular interest to Vietnam such as cooperation on human rights and the rule of law, remnants of war and natural disaster prevention.

The PCA provides the basis for more effective engagement by the EU and its Member States with Vietnam in the development, trade and economic fields and will facilitate the conclusion of a Free Trade Agreement with Vietnam. The conclusion of the PCA is in line with the EU's objective of creating a comprehensive and coherent economic and political framework for relations between the EU and ASEAN countries.

The Commission notes that Council Decision No 2012/272/EU on the signature of the PCA Philippines is the subject of Court Case C-377/12: the Commission asked the Court to annul this Decision insofar as the Council had added legal bases relating to transport (Articles 91 and 100 TFEU), readmission (Article 79(3) TFEU) and the environment (Article 191(4) TFEU). Council Decision No 2012/279/EU on the signature of the PCA Vietnam raises, *mutatis mutandis*, the same legal issues as Council Decision No 2012/272/EU on the signature of the PCA Philippines. Court Case C-377/12 is therefore of relevance to the proposal for a Council Decision on the conclusion of the PCA with Vietnam too. Subject to the Court ruling in Case-377/12, this proposal for a Council Decision on the conclusion of the PCA Vietnam is based on Articles 207, 209 and 218(6).

The Commission draws the attention of the Council to the recital in the Agreement relating to the specific position of the UK, Ireland and Denmark based on Protocols 21 and 22 of the Treaties. The addition of this recital is due to the genesis of this text only. Depending on the outcome of case C-377/12, currently pending before the Court of Justice, this recital may have to be dropped or reworded at a later stage. The Commission takes the view that, as long as this case is pending, the procedure for conclusion of this Agreement cannot be finalised.

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## **COUNCIL DECISION**

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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 Articles 207 and 209, in conjunction with Article 218(6)(a) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament,

Whereas:

- (1) In accordance with the Council Decision No 2012/279/EU<sup>1</sup>, the Framework Agreement on Comprehensive Partnership and Cooperation between the European Union and its Member States, of the one part, and the Socialist Republic of Viet Nam, of the other part was signed on 27 June 2012, subject to its conclusion at a later date.
- (2) The Agreement should be approved on behalf of the European Union.

HAS ADOPTED THIS DECISION:

### *Article 1*

The Framework Agreement on Comprehensive Partnership and Cooperation between the European Union and its Member States, of the one part, and the Socialist Republic of Viet Nam, of the other part is hereby approved on behalf of the Union.

The text of the Agreement is attached to this Decision.

### *Article 2*

The High Representative of the Union for Foreign Affairs and Security Policy shall chair the Joint Committee provided for in Article 52 of the Agreement.

The Union or, as the case may be, the Union and the Member States, shall be represented in the Joint Committee depending on the subject matter.

### *Article 3*

The President of the Council shall designate the person empowered to give, on behalf of the European Union, the notification provided for in Article 63(1) of the Agreement.

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<sup>1</sup> OJ L 137, 26.5.2012, p. 1

*Article 4*

This Decision shall enter into force on the day of its adoption. It shall be published in the *Official Journal of the European Union*.

Done at Brussels,

*For the Council*  
*The President*