



EUROPEAN  
COMMISSION

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COM(2015) 333 final

2015/0145 (NLE)

Proposal for a

## **COUNCIL DECISION**

**on the position to be adopted on behalf of the European Union within the EU-Chile Association Committee relating to Article 12 of Annex III 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, concerning direct transport**

## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE PROPOSAL**

The Agreement between the European Community and its Member States, of the one part, and the Republic of Chile, of the other part, was signed in Brussels on 18 November 2002 and entered into force on 1 February 2003.

Annex III to the Association Agreement sets out the rules for originating products and Article 12 to Annex III the rules for the direct transport of those products between the Parties. For preferential treatment the products should be transported directly between the two Parties but may under certain conditions pass via a third country.

Chile and the European Union have agreed to introduce certain amendments to the rules of direct transport contained in Article 12 of Annex III to the Agreement. The aim is to clarify that when a consignment passes via a third country, and subject to fulfilling the conditions in Article 12, a consignment may be split for onward transport to a Party of the Agreement without affecting the preferential treatment of those products. Moreover, the splitting of consignments should not of itself give rise to doubt as to the origin of the products unless there is evidence to the contrary.

### **2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

- **Legal basis**

Article 207(4) first subparagraph in conjunction with Article 218(9) of the Treaty on the Functioning of the European Union.

- **Subsidiarity (for non-exclusive competence)**

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

- **Proportionality**

The proposal does not go beyond what is necessary or appropriate to achieve the expected objectives.

### **3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS**

- **Stakeholder consultations**

Not relevant. This proposal introduces amendments to a previous text.

- **Collection and use of expertise**

There was no need for external expertise.

- **Impact assessment**

Not relevant. This proposal introduces amendments to an existing bilateral trade agreement. There are no other options to be considered.

### **4. BUDGETARY IMPLICATIONS**

The proposal has no implication for the Union budget.

**5. OTHER ELEMENTS**

None

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

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Association Council set up by Article 3 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, (EU-Chile Association Agreement) is established to examine and adopt proposals from the Parties for the improvement of the EU-Chile Association Agreement. To help it fulfil its duties the Association Council is assisted by the Association Committee, which has been given the power to adopt decisions.
- (2) A Special Committee on Customs Cooperation and Rules of Origin has been set up by the Association Council to assist it in its duties. The Special Committee, which met on 4 November 2014 in Santiago, Chile, agreed to recommend an amendment to Article 12 of Annex III to the EU-Chile Association Agreement concerning direct transport.
- (3) The shipment of consignments from one Party of the EU-Chile Association Agreement should go directly to the other Party but may also pass via a third country subject to certain restrictions. The conditions for transport via a third country have been clarified to expressly allow for the splitting of consignments but without any relaxation of the existing restrictions.
- (4) The amendment to Article 12 of Annex III to the EU-Chile Association Agreement will provide legal certainty to importers and exporters, and consistency of interpretation for the Parties.
- (5) The position of 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 adopted by the Union within the Association Committee relating to Article 12 of Annex III 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, shall be based on the attached draft decision of the Association Committee.

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

*Article 2*

This Decision of the Association Committee shall be published in the *Official Journal of the European Union*.

*Article 3*

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

Done at Brussels,

*For the Council*  
*The President*