



Brussels, 15.11.2019
COM(2019) 595 final

Recommendation for a

COUNCIL DECISION

**authorising the opening of negotiations to amend the International Sugar Agreement
1992**

EXPLANATORY MEMORANDUM

The present recommendation concerns a decision authorising the Commission to engage on behalf of the Union in the negotiations to partially review the International Sugar Agreement (“ISA”) that the International Sugar Council (“ISC”) decided to launch, under the guidance of the United Nations Conference on Trade and Development (UNCTAD). In accordance with the decision of the ISC of 19 July 2019, those negotiations shall concern the administrative budget and member contributions as well as limited amendments relating to the objectives and work programme of the ISO.

1. CONTEXT OF THE RECOMMENDATION

• Reform of the International Sugar Agreement 1992

The European Union is a party to the ISA.

The ISA aims to ensure enhanced international cooperation in connection with world sugar matters and related issues, provide a forum for intergovernmental consultations on sugar and on ways to improve the world sugar economy, to facilitate trade by collecting and providing information on the world sugar market and other sweeteners and to encourage increased demand for sugar, particularly for non-traditional uses. The ISA entered into force on 1 January 1993 for a period of three years until 31 December 1995. Since then it has been regularly extended for further periods of two years. It was last extended by decision of the ISC in July 2019 and will remain in force until 31 December 2021.

According to Article 8 of the ISA, the ISC is the responsible body for the performance of all functions necessary to carry out the provisions of the ISA. Article 13 of the ISA stipulates that all decisions of the ISC shall be taken in principle by consensus unless stipulated otherwise in the ISA. In the absence of consensus, decisions shall be made by simple majority vote unless the ISA provides for a special vote.

According to Article 25 of the ISA, Members to the ISO hold 2000 votes in total. Each Member to the ISO holds a specified number of votes, which is annually adjusted following predefined criteria in the ISA.

The Agreement, and especially the distribution of votes among Members which also determines a Member's contribution, no longer reflects the realities of the global sugar market. Currently, the Union is the largest contributor to the ISO budget by far. Since 2015, the ISO has been discussing at working group level possibilities to review the mechanism of distributing votes.

In 2017, the Commission received a mandate from the Council, to enter into negotiations with the other parties to the ISA, within the ISC, with a view to modernising the ISA, in particular as regards the discrepancies between the influence number of votes and financial contributions of members of the ISO on the one hand and their relative position in the global sugar market on the other. That mandate remains valid until 31 December 2019. Based on this mandate, the Commission has taken the initiative to engage in negotiations with member countries of the ISO and presented concrete proposals for the amendment of Article 25 of the ISA, which governs the adoption of the administrative budget and contributions of Members.

In its 55th session, on 19 July 2019, the ISC decided to open negotiations before the next Council meeting in November 2019, under UNCTAD guidance. These negotiations will concern a partial review of the ISA – focusing on Chapter I and Chapter VII, specifically in relation to matters of “administrative budget and contributions of Members”, as well as other limited amendments including Chapter IX and Chapter X that Members chose to bring

forward. In accordance to the ISC decision, this process must be completed before 31 December 2021. This means that the envisaged modernisation of the Agreement, in addition to the distribution of votes and the financial contribution of members (Chapter VII), should now also involve:

- (1) the overall objectives of the ISO (Chapter I), specifically in order to include ethanol,
- (2) a broader view on “information and studies” (Chapter IX), essentially to allow for the inclusion of ethanol in such activities,
- (3) a broader view on “research and development” (Chapter X).

The overall purpose of the ISO as outlined in Article 1 of the Agreement is not intended to change, even with the potential inclusion of ethanol.

Bringing reform to the ISO to further align it with the practices the Union fosters in other international commodity boards, as well as with developments in the global sugar market since 1992, is clearly in the interest of the Union. At the very least, this reform should lead to transparency concerning the Members' responsibilities in voting as well as their financial contributions. The allocation of votes in the ISO should be measurable according to indicators such as trade, consumption, production and ability to pay. The latter indicator is used in the United Nations to allow for the recognition of the development aspect of sugar. Taking into account this indicator results in allotting a greater part of the financial responsibilities to those Members that have a greater ability to contribute to the ISO budget. The formal inclusion of ethanol in the objectives and work programme of the ISO is in line with the Union's aim of modernising the ISA and aligns the content of the ISA with what is already existing practice.

- **Consistency with existing practice in International Commodity Boards**

In international commodity boards such as the International Grains Council (IGC), and the International Olive Council (IOC), the Union has negotiated voting rights allocations and clear annual update mechanisms which reflect the Union's relative importance in the grains as well as the olive and olive oil markets. In the IGC the indicators are trade, consumption, and production. This is in contrast to the current ISO practice, where the Agreement, since 1992, has not allowed for adjustments reflecting the changing positions of Members in the international sugar economy. Furthermore, currently, the allocation of voting rights cannot be calculated in advance by Members, but results instead from an intransparent calculation. The partial review of the ISA should seek to bring ISO practices in line with those existing in the other international commodity boards.

- **Consistency with other Union policies**

Sugar is a sensitive product under the Common Commercial Policy of the Union and the Common Agricultural Policy. In international trade negotiations for the Union, sugar plays a key role and both production and trade are carefully monitored by the Commission. Sugar is also an important commodity to many developing countries and the development aspect of sugar is of paramount importance in the Common Commercial Policy. The ISO provides for a neutral platform for discussing sugar related issues among a broad membership. At the same time, monitoring of developments in the world sugar market serves the interests of the market management possibilities under the Common Agricultural Policy.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

Article 218(3) of the Treaty on the Functioning of the European Union (TFEU) provides for authorising the opening of negotiations and, depending on the subject of the agreement envisaged, nominating the Union negotiator or the head of the Union's negotiating team. Article 218(4) TFEU provides for the Council to address directives to the negotiator and designate a special committee in consultation with which the negotiations must be conducted.

- **Application to the present case**

The envisaged negotiating mandate should give the negotiators on behalf of the Union the means to achieve the overall objectives as set out under the first bullet of point 1.

The procedural legal basis for the proposed decision, therefore, is Article 218(3) and 218(4) TFEU.

- **Conclusion**

The legal basis of the proposed decision should be Article 218(3) and (4) TFEU.

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

The Union is a party to the ISA and is represented by the Commission in the ISC. Member States are not a separate party to the ISA. The Union's negotiation of the partial review of the ISA pertains to the exclusive competence of the Union.

- **Proportionality**

Amending the ISA in order to achieve a voting structure that represents the relative importance of ISO Members in the global sugar economy, as well as other issues leading to the modernisation of the Agreement is in the interest of the Union. Currently, the EU's participation in the ISO is beneficial both to the Union and to other ISO Member states. However, since changes in the EU's relative importance have not been translated into less votes and as a consequence reduced financial contributions, this participation comes at too high a price. Other ISO Members, who have increased their presence on global sugar markets, have not seen their contribution rise to the same degree. Modernising the Agreement and broadening the scope of the Agreement would not lead to higher cost and is estimated to attract more interest in the ISO, potentially by attracting new members as well as increasing the relevance of its work.

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

- **Stakeholder consultations**

The Union is a Member to the ISO and its Membership is generally supported since 1992 by the sugar sector in the EU as well as by most of the Member States. It is not deemed necessary to engage in stakeholder consultations regarding a process which merely aims to continue the Union's membership to the ISO albeit under a set of rules that are in line with those of other international commodity bodies of which the EU is a member. Ultimately, the reduced relative weight of the EU in the world sugar market should also lead to a modest reduction in contributions to the ISO.

- **Impact assessment**

A full-fledged impact assessment is not necessary, since the measure is not likely to have significant economic, environmental or social impacts. The successful amendment of the ISA would result in a lower financial contribution of the Union to the ISO. At the same time, a more transparent and equitable allocation of votes may even help attract new members to the ISO, which would result in further cost reductions.

Although a fair and equitable contribution of the EU to the ISO budget is certainly at the heart of the need to amend the ISA, there are more than budgetary reasons calling for reform. The need for ISO Members to carry their weight in terms of their contributions to the ISO administrative budget is a key starting point for the modernisation of the ISO and should also result in a more active participation in the ISO by its Members.

4. BUDGETARY IMPLICATIONS

The opening of negotiations is not deemed to have a budgetary impact.

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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 218(3) and (4) thereof,

Having regard to the recommendation from the European Commission,

Whereas:

- (1) The Union is a Party to the International Sugar Agreement 1992¹ (“ISA”) and a member of the International Sugar Organisation (“ISO”).
- (2) The Union has since 1995 approved the extension of the ISA for two-year periods. On 19 July 2019, during the 55th Session of the International Sugar Council, the Commission, upon authorisation by the Council², expressed its position in favour of a further extension of the ISA for a period of up to two years, ending on 31 December 2021.
- (3) Pursuant to Article 8 of the ISA, the International Sugar Council (“ISC”) performs or arranges for the performance of all such functions as are necessary to carry out the provisions of the ISA. Pursuant to Article 13 of the ISA, all decisions of the ISC are taken in principle by consensus. In the absence of consensus, decisions are made by a simple majority vote, unless the ISA provides for a special vote.
- (4) Pursuant to Article 25 of the ISA, members of the ISO hold 2000 votes in total. Each member of the ISO holds a specified number of votes which is adjusted annually in accordance with the criteria set out in the ISA.
- (5) It is in the Union's interests to participate in an international agreement on sugar, considering the importance of that sector for a number of Member States and for the economy of the European sugar sector.
- (6) However, the institutional framework of the ISA, and especially the distribution of votes among members of the ISO that also determines the members' financial contribution to the ISO, no longer reflects the realities of the global sugar market.
- (7) Under the ISA rules on financial contributions to the ISO, the Union's share has remained the same since 1992, although the global sugar market, and notably the Union's relative position in it, has substantially changed since then. As a result, the Union has assumed a disproportionately large share of the budgetary costs and responsibility in the ISO in recent years.

¹ Council Decision 92/580/EEC of 13 November 1992 on the signing and conclusion of the International Sugar Agreement 1992 (OJ L 379, 23.12.1992, p. 15).

² Council Decision (EU) 2019/1251 of 15 July 2019 on the position to be taken, on behalf of the European Union, within the International Sugar Council as regards the extension of the International Sugar Agreement 1992 (OJ L 195, 23.7.2019, p. 18).

- (8) By Council Decision (EU) 2017/2242³, the Commission received a mandate from the Council, to enter into negotiations with the other parties to the ISA within the ISC with a view to modernising the ISA, in particular as regards the discrepancies between the number of votes and financial contributions of members of the ISO on the one hand and their relative position in the global sugar market on the other. That mandate remains valid until 31 December 2019.
- (9) Based on the mandate received by Decision (EU) 2017/2242, the Commission engaged in negotiations with member countries of the ISO and presented concrete proposals for the amendment of Article 25 of the ISA, which governs the adoption of the administrative budget and contributions of Members. In its 55th Session, on 19 July 2019, the ISC decided to open negotiations for a partial review of the ISA before its next meeting in November 2019, under the guidance of the United Nations Conference on Trade and Development (UNCTAD). Following requests of several ISO member countries, the ISC decided that, in addition to the review of Article 25 of the ISA, proposed by the Union, other areas of the ISA are to be the subject of formal negotiations. These other areas are in particular the objectives and the work priorities of the ISO.
- (10) In accordance with the ISC decision of 19 July 2019, these negotiations are to be concluded no later than on 31 December 2021. This timeframe means that the negotiations are not to be concluded before the end of validity of the mandate received by Decision (EU) 2017/2242. A new mandate from the Council is therefore required to cover for the extended timeframe and scope of the negotiations.
- (11) Any amendments agreed in these negotiations should be adopted in accordance with the procedure set out in Article 44 of the ISA. Pursuant to that Article, the ISC may, by special vote, recommend an amendment of the ISA to members of the ISO. As a member of the ISC, in accordance with Article 7 of the ISA, the Union should be able to participate in negotiations with a view to amending the institutional framework of the ISA.
- (12) It is therefore appropriate that the Commission be authorised to engage in negotiations within the ISC to amend the ISA, that negotiating guidelines be established and that the same special committee appointed by Decision (EU) 2017/2242 continue to be consulted by the Commission when conducting the negotiations,

HAS ADOPTED THIS DECISION:

Article 1

The Commission is hereby authorised to negotiate, on behalf of the Union, to amend the International Sugar Agreement 1992.

Article 2

The negotiating directives are set out in the Annex.

Article 3

The negotiations shall be conducted in consultation with the Working Party on Commodities.

³ Council Decision (EU) 2017/2242 of 30 November 2017 authorising the opening of negotiations to amend the International Sugar Agreement 1992 (OJ L 322, 7.12.2017, p.29).

Article 4

This Decision shall apply until 31 December 2021.

Article 5

This Decision is addressed to the Commission.

Done at Brussels,

*For the Council
The President*