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Proposal for a

**COUNCIL DECISION**

**on the position to be adopted on behalf of the European Union  
in the EU-Turkey Association Council**

## EXPLANATORY MEMORANDUM

The Agreement of 12 September 1963 establishing an association between the European Economic Community and Turkey<sup>1</sup> (hereinafter referred to as "the Ankara Agreement") entered into force on 1 December 1964. Pursuant to Article 22 of the Ankara Agreement, the EU-Turkey Association Council may adopt appropriate decisions for the attainment of an objective of this Agreement. On 22 December 1995, the Association Council adopted Decision No 1/95 on implementing the final phase of the Customs Union<sup>2</sup>.

The proper functioning of the Customs Union requires that Turkey incorporates into its internal legal order the Union instruments relating to the removal of technical barriers to trade. To that effect, Decision No 2/97 of the Association Council established the list of relevant Union instruments in force at that time. However, the continued evolution of the Union *acquis* with regard to technical barriers to trade requires an expedient procedure to update Decision No 2/97. Furthermore, the continued evolution of the Union *acquis* requires the systematic update of the Union instruments relating to the removal of technical barriers to trade that Turkey needs to incorporate into its internal legal order. To this end the amendment of some Articles of Decision No 1/95 is necessary.

This proposal for a Council Decision defines the position to be taken by the European Union in the EU-Turkey Association Council with regard to the amendment of Articles 8, 9 and 52 of the Association Council Decision No 1/95.

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<sup>1</sup> OJ 217, 29.12.1964, p. 3687

<sup>2</sup> OJ L35, 13.2.1996, p.1

Proposal for a

**COUNCIL DECISION**

**on the position to be adopted on behalf of the European Union  
in the EU-Turkey Association Council**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 217, in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Agreement of 12 September 1963 establishing an association between the European Economic Community and Turkey<sup>1</sup> (hereinafter referred to as "the Ankara Agreement") entered into force on 1 December 1964.
- (2) Pursuant to Article 22 of the Ankara Agreement, the EU-Turkey Association Council may adopt appropriate decisions for the attainment of an objective of this Agreement.
- (3) On 22 December 1995, the Association Council adopted Decision No 1/95 on implementing the final phase of the Customs Union<sup>2</sup>.
- (4) The proper functioning of the Customs Union requires that Turkey incorporates into its internal legal order the Union instruments relating to the removal of technical barriers to trade.
- (5) To that effect, Decision No 2/97 of the Association Council established the list of relevant Union instruments in force at that time. The continued evolution of the Union *acquis* with regard to technical barriers to trade requires an expedient procedure to update Decision No 2/97.
- (6) The continued evolution of the Union *acquis* requires the systematic update of the Union instruments relating to the removal of technical barriers to trade that Turkey needs to incorporate into its internal legal order. To this end the amendment of some Articles of Decision No. 1/95 is necessary,

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<sup>1</sup> OJ 217, 29.12.1964, p. 3687

<sup>2</sup> OJ L35, 13.2.1996, p.1

HAS ADOPTED THIS DECISION:

*Article 1*

The position to be taken by the European Union in the EU-Turkey Association Council shall be based on the draft Decision of that Association Council, attached to this Decision.

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

*Article 2*

After its adoption, the Decision of the EU-Turkey Association Council shall be published in the *Official Journal of the European Union*.

*Article 3*

This Decision shall enter into force on the day of its adoption.

Done at Brussels,

*For the Council*  
*The President*

**Annex**

**Draft**

**DECISION No [.../2011] OF THE EU-TURKEY ASSOCIATION COUNCIL**

**of [...]**

**amending Articles 8, 9 and 52 of Decision 1/95 of the EC-Turkey Association Council**

THE EU-TURKEY ASSOCIATION COUNCIL,

Having regard to the Agreement of 12 September 1963 establishing an association between the European Economic Community and Turkey, and in particular Article 22(3) thereof,

Whereas:

- (1) In accordance with Article 8 of Decision No 1/95 of 22 December 1995 of the EC-Turkey Association Council on implementing the final phase of the Customs Union<sup>1</sup>, Turkey has to incorporate into its internal legal order the Community instruments relating to the removal of technical barriers to trade.
- (2) To that effect, the Association Council has adopted on 2 June 1997 Decision No 2/97 establishing the list of Community instruments relating to the removal of technical barriers to trade and the conditions and detailed arrangements governing their implementation by Turkey<sup>2</sup>.
- (3) The continued evolution of the Union *acquis* with regard to technical barriers to trade requires an expedient procedure to up-date Decision No 2/97.
- (4) Articles 8, 9 and 52 of Decision No 1/95 should be amended in order to allow for the continued updating of the relevant Association Council Decision.
- (5) This decision is without prejudice to any position that Turkey may take in the accession negotiations of the relevant chapters,

HAS ADOPTED THIS DECISION:

*Article 1*

The following sub-paragraphs shall be added to Article 8 (2) of Decision No 1/95:

"The European Commission shall, at the beginning of each year, propose to the Customs Union Joint Committee an up-dated list of European Union instruments by adding newly adopted acts and deleting the acts which are no longer relevant. The Customs Union Joint Committee shall adopt the up-dated list of the European Union instruments within four

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<sup>1</sup> OJ, L35, 13.2.1996, p. 1.

<sup>2</sup> OJ L191, 21.7.1997, p. 1.

months from the date of presentation of the proposal. If the Customs Union Joint Committee cannot reach an agreement on the inclusion of a new act in this list or on the date by which Turkey shall incorporate a particular act into its internal legal order, it shall adopt the list of acts on which there is agreement, and the Association Council shall decide on the other acts referred to in the proposal from the Commission.

Turkey shall incorporate into its internal legal order the newly adopted acts as soon as possible, and at the latest within fifteen months from the date of the decision on their incorporation by the Customs Union Joint Committee or the Association Council, unless a longer period is specified in the act itself or otherwise specified by the Customs Union Joint Committee or the Association Council."

#### *Article 2*

The following sub-paragraph shall be added to the beginning of Article 9 of Decision No 1/95:

"Where the assessment of the Commission is needed for draft Turkish legislation, the Commission shall send its comments within three months or in duly justified specific cases within six months from the date of notification. The overall period of time spent by the Commission for reacting to the Turkish draft legislation shall not be considered as part of the period in which Turkey has to incorporate into its internal legal order the newly adopted European Union acts in accordance with Article 8(2). The Commission shall keep Turkey informed of the expected time of response. The Parties will work closely together to ensure that Turkish legislation is fully and timely aligned with the European Union acts."

#### *Article 3*

The following new sub-paragraph shall be added to Article 52 of Decision No 1/95:

"The Customs Union Joint Committee shall adopt each year the up-dated list of European Union instruments referred to in Article 8."

#### *Article 4*

The instruments referred to in Article 1 shall be subject to horizontal adaptations set out in Annex I of Decision 2/97 of the EC-Turkey Association Council.

#### *Article 5*

This Decision shall enter into force on the first day following its adoption.

Done at Brussels,

*For the EU-Turkey Association Council*

*The President*