COUNCIL DECISION (EU) 2019/234

of 5 February 2019

on the position to be taken on behalf of the European Union within the Joint Council established under the Economic Partnership Agreement between the European Union and its Member States, of the one part, and the SADC EPA States, of the other part, as regards the adoption of the rules of procedure of the Joint Council and of the Trade and Development Committee

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207, in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) The Economic Partnership Agreement between the European Union and its Member States, of the one part, and the SADC EPA States, of the other part ([1]) ('the Agreement'), was signed by the European Union and its Member States on 10 June 2016. It has been provisionally applied between the Union, of the one part, and Botswana, Lesotho, Namibia, Eswatini and South Africa, of the other part, since 10 October 2016, and between the Union and Mozambique since 4 February 2018.

(2) Pursuant to Article 102(1) of the Agreement, the Joint Council is to have the power to take decisions in respect of all matters covered by this Agreement. Pursuant to points (h) and (i) of Article 101(3) of the Agreement, the Joint Council establishes its own rules of procedure and the rules of procedure of the Trade and Development Committee.

(3) The Joint Council is to adopt decisions with regard to its rules of procedure and the rules of procedure of the Trade and Development Committee during its first meeting.

(4) It is appropriate to establish the position to be taken on the Union's behalf within the Joint Council, as the envisaged Joint Council decision will be binding on the Union.

(5) The position of the Union within the Joint Council should therefore be based on the attached draft Decision,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf in the first Joint Council meeting as regards its rules of procedure and the rules of procedure of the Trade and Development Committee shall be based on the draft Decision of the Joint Council attached to this Decision.

Article 2

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

Done at Brussels, 5 February 2019.

For the Council
The President
G. CIAMBA

([1]) OJ L 250, 16.9.2016, p. 3.

DRAFT

DECISION No 1/2019 OF THE JOINT COUNCIL ESTABLISHED UNDER THE ECONOMIC PARTNERSHIP AGREEMENT BETWEEN THE EUROPEAN UNION AND ITS MEMBER STATES, OF THE ONE PART, AND THE SADC EPA STATES, OF THE OTHER PART

of …

on the adoption of the rules of procedure of the Joint Council and of the Trade and Development Committee

THE JOINT COUNCIL,

Having regard to the Economic Partnership Agreement between the European Union and its Member States, of the one part, and the SADC EPA States, of the other part ('the Agreement'), and in particular Articles 100, 101 and 102 thereof,

HAS ADOPTED THIS DECISION:

Article 1

The rules of procedure of the Joint Council are established as set out in Annex I to this Decision.

Article 2

The rules of procedure of the Trade and Development Committee are established as set out in Annex II to this Decision.

Article 3

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

Done at …,

For the Joint Council

Minister for Trade of *EU representative*

ANNEX I

RULES OF PROCEDURE OF THE JOINT COUNCIL

CHAPTER I

ORGANISATION

Article 1

Composition and Chair

1. The Joint Council established under Article 100 of the Economic Partnership Agreement between the European Union and its Member States, of the one part, and the SADC EPA States, of the other part ('the Agreement'), shall perform its duties as provided for in Articles 100 and 101 of the Agreement.

2. Reference to 'the Parties' in these rules of procedure shall be made in accordance with the definition provided for in Article 104 of the Agreement, namely the SADC EPA States and the EU Party (meaning the European Union or its Member States or the European Union and its Member States, having regard to their respective areas of competence).

3. In accordance with Article 101(1) of the Agreement, the Joint Council shall be composed, on the one hand, of the relevant members of the Council of the European Union and relevant members of the European Commission or their representatives, and, on the other hand, of the relevant Ministers of the SADC EPA States or their representatives.

4. The Joint Council meetings shall be chaired, at ministerial level, alternately for periods of 12 months by representatives of the EU Party, having regard to the respective areas of competence of the Union and its Member States, and by a representative of the SADC EPA States. The first Joint Council meeting shall be co-chaired by the Parties.

5. The mandate referred to in paragraph 4 that corresponds to the first period shall begin on the day following the first Joint Council meeting and end on 31 December of the same year. The chairmanship of that first period shall be held by [a representative of the SADC EPA States] [by the EU Party].

Article 2

Meetings

1. In accordance with Article 102(4) of the Agreement, the Joint Council shall meet at regular intervals, not exceeding a period of two years, and extraordinarily whenever circumstances so require, if the Parties so agree.

2. The Joint Council meetings shall be held alternately in Brussels or in the territory of one of the SADC EPA States, unless the Parties agree otherwise.

3. Unless the Parties agree otherwise, the Joint Council meetings shall be convened by the Party holding the chair, after consulting the other Party.

4. The Parties may agree to hold the meetings of the Joint Council via electronic means.

Article 3

Observers

The Joint Council may decide to invite observers to attend its meetings on an *ad hoc* basis and determine which agenda items will be open to those observers.

Article 4

Secretariat

1. The General Secretariat of the Council of the European Union and the European Commission on the one hand, and the SADC EPA Unit within the SADC Secretariat on the other hand, shall act alternately for periods of 12 months as the Secretariat of the Joint Council ('the Secretariat'). Those periods shall coincide with the chairmanship arrangements established under Article 1(4) and (5).

2. On the part of the EU Party, provisional agendas and draft minutes shall be drawn up by the European Commission and all official documents intended for, or emanating from, the Joint Council shall be circulated by the General Secretariat of the Council of the European Union.

CHAPTER II

FUNCTIONING

Article 5

Documents

Where the deliberations of the Joint Council are based on written supporting documents, such documents shall be numbered and circulated by the Secretariat as documents of the Joint Council.

Article 6

Notification and agenda for the meetings

1. The Secretariat shall notify the Parties of the convening of a Joint Council meeting and request inputs for the agenda no later than 30 days before the meeting. In case of an urgent matter or unforeseen circumstances to be considered, the meeting may be convened at short notice.

2. A provisional agenda shall be drawn up by the Secretariat for each meeting. It shall be forwarded by the Secretariat to the Chair and to the members of the Joint Council no later than 14 days before the meeting.

3. The provisional agenda shall include items in respect of which the Secretariat has received a request for inclusion by a Party.

4. The agenda shall be adopted by the Joint Council at the beginning of each meeting. Items other than those on the provisional agenda may be placed on the agenda if the Parties so agree.

5. The Chairperson of the Joint Council may, upon agreement by all Parties, invite experts to attend its meetings in order to provide information on specific subjects.

Article 7

Minutes

1. Draft minutes of each meeting shall be drawn up by the Secretariat within 21 days following the meeting, unless otherwise decided by mutual consent of the Parties.

2. The minutes shall, as a rule, indicate in respect of each item on the agenda:

(a) the documents submitted to the Joint Council;

(b) any statement which a member of the Joint Council requested to be entered in the minutes; and

(c) issues agreed upon by the Parties, such as decisions adopted, recommendations made and operational conclusions adopted.

3. The draft minutes of each meeting shall be approved in writing by both Parties within 42 days following the meeting, unless otherwise agreed by the Parties. Once approved, two copies of the minutes shall be signed by the Secretary and each of the Parties shall receive an original copy of these authentic documents.

Article 8

Decisions and recommendations

1. In accordance with Article 102 of the Agreement, the Joint Council shall adopt decisions or recommendations by consensus in the cases provided for in the Agreement.

2. Where the Joint Council is empowered under the Agreement to adopt decisions or recommendations, such acts shall be entitled 'Decision' or 'Recommendation' respectively in the minutes. The Secretariat shall give any adopted decision or recommendation a serial number, the date of adoption and a description of its subject-matter. Each decision or recommendation shall provide for the date of its entry into force.

3. In the event that an SADC EPA State is unable to attend a Joint Council meeting, the decisions or recommendations agreed to during that meeting shall be communicated to that member by the Secretariat. The SADC EPA State concerned shall provide a written response within 10 calendar days from dispatch of the decisions or recommendations, indicating those decisions or recommendations it disagrees with, including the reasons thereof. In the absence of that written response within the given deadline, the decisions or recommendations shall be deemed adopted. In the event that the SADC EPA State that did not attend the meeting disagrees with one or several decisions or recommendations, the procedure provided for in paragraph 4 shall apply.

4. In the period between meetings, the Joint Council may adopt decisions or recommendations by written procedure or by electronic means if both Parties so agree. A written procedure shall consist of an exchange of notes between representatives of the Parties.

5. Decisions and recommendations adopted by the Joint Council shall be authenticated by two original copies signed by a representative of the European Commission on behalf of the EU Party and by a representative of the SADC EPA States.

Article 9

Public Access

1. The Joint Council meetings shall not be public, unless otherwise decided by the Parties.

2. The Parties may decide to publish the decisions and recommendations of the Joint Council.

Article 10

Working languages

Unless otherwise decided by the Parties, all the correspondence and communication between the Parties relating to the work of the Joint Council, as well as the deliberations during the Joint Council meetings, shall be carried out in English or Portuguese.

CHAPTER III

FINAL PROVISIONS

Article 11

Expenses

1. Each Party shall meet any expenses it incurs as a result of participating in the Joint Council meetings, both with regard to staff, travel and subsistence expenditure and with regard to postal and telecommunications expenditure.

2. Expenses in connection with the organisation of a meeting, the provision of interpretation services and the reproduction of documents shall be borne by the Party hosting the meeting.

Article 12

Trade and Development Committee

In accordance with Article 103(5) of the Agreement, the Trade and Development Committee shall report and be responsible to the Joint Council.

Article 13

Amendment of the rules of procedure

These rules of procedure may be amended in writing by a decision of the Joint Council adopted in accordance with Article 8.

ANNEX II

RULES OF PROCEDURE OF THE TRADE AND DEVELOPMENT COMMITTEE

CHAPTER I

ORGANISATION

Article 1

Composition and Chair

1. The Trade and Development Committee established under Article 103 of the Economic Partnership Agreement between the European Union and its Member States, of the one part, and the SADC EPA States, of the other part ('the Agreement'), shall perform its duties in accordance with that Article.

2. Reference to 'the Parties' in these rules of procedure shall be made in accordance with the definition provided for in Article 104 of the Agreement, namely the SADC EPA States and the EU Party (meaning the European Union or its Member States or the European Union and its Member States, having regard to their respective areas of competence).

3. In accordance with Article 103(1) of the Agreement, the Trade and Development Committee shall be composed of representatives of the Parties, normally at the level of senior officials.

4. The meetings of the Trade and Development Committee shall be chaired alternately by a senior official of the European Commission and by a senior official of the SADC EPA States. The first meeting of the Trade and Development Committee shall be co-chaired by the relevant representatives of the Parties.

5. The mandate referred to paragraph 4 that corresponds to the first period shall begin on the date of the first meeting of the Trade and Development Committee and end on 31 December of the same year.

Article 2

Meetings

1. The Trade and Development Committee shall meet at regular intervals, at least once a year, and at the request of either Party. The meetings shall be held alternately in Brussels or in the territory of one of the SADC EPA States, unless the Parties agree otherwise.

2. Unless the Parties agree otherwise, meetings of the Trade and Development Committee shall be convened by the Party holding the chair, after consulting the other Party.

3. The Parties may agree to hold the meetings of the Trade and Development Committee via electronic means.

Article 3

Observers

The Trade and Development Committee may decide to invite observers to attend its meetings on an *ad hoc* basis and determine which agenda items will be open to those observers.

Article 4

Secretariat

1. The Party hosting the meeting of the Trade and Development Committee shall act as the Secretariat of the Trade and Development Committee ('the Secretariat').

2. When the meeting takes place via electronic means, the Party holding the chair shall act as the Secretariat.

CHAPTER II

FUNCTIONING

Article 5

Documents

Where the deliberations of the Trade and Development Committee are based on written supporting documents, such documents shall be numbered and circulated by the Secretariat as documents of the Trade and Development Committee.

Article 6

Notification and agenda for the meetings

1. The Secretariat shall notify the Parties of the convening of a meeting and request inputs for the agenda no later than 30 days before the meeting. In case of an urgent matter or unforeseen circumstances to be considered, the meeting may be convened at short notice.

2. A provisional agenda shall be drawn up by the Secretariat for each meeting. It shall be forwarded by the Secretariat to the Chair and to the members of the Trade and Development Committee no later than 14 days before the meeting.

3. The provisional agenda shall include items in respect of which the Secretariat has received a request for inclusion by a Party.

4. The agenda shall be adopted by the Trade and Development Committee at the beginning of each meeting. Items other than those on the provisional agenda may be placed on the agenda if the Parties so agree.

5. The Chairperson of the Trade and Development Committee may, upon agreement by all Parties, invite experts to attend its meetings in order to provide information on specific subjects.

Article 7

Report of meeting

Unless the Parties agree otherwise, the report of each meeting shall be drawn up by the Secretariat and adopted at the end of each meeting.

Article 8

Decisions and recommendations

1. In accordance with Article 103(6) of the Agreement, the Trade and Development Committee shall adopt decisions or recommendations by consensus in the cases provided for in the Agreement or where such power has been delegated to it by the Joint Council.

2. Where the Trade and Development Committee is empowered under the Agreement to adopt decisions or recommendations, or where such power has been delegated to it by the Joint Council, such acts shall be entitled 'Decision' or 'Recommendation' respectively in the report of the meetings referred to in Article 7. The Secretariat shall give any adopted decision or recommendation a serial number, the date of adoption and a description of its subject-matter. Each decision or recommendation shall provide for the date of its entry into force.

3. In the event that a SADC EPA State is unable to attend a meeting, the decisions or recommendations agreed during that meeting shall be communicated to that member by the Secretariat. The SADC EPA State concerned shall provide a written response within 10 calendar days from dispatch of the decisions or recommendations, indicating those decisions or recommendations it disagrees with, including the reasons thereof. In the absence of that written response within the given deadline, the decisions or recommendations shall be deemed adopted. In the event that the SADC EPA State that did not attend the meeting disagrees with one or several decisions or recommendations, the procedure provided for in paragraph 4 shall apply.

4. In the period between meetings, the Trade and Development Committee may adopt decisions or recommendations by written procedure or by electronic means if both Parties so agree. A written procedure shall consist of an exchange of notes between representatives of the Parties.

5. Decisions and recommendations adopted by the Trade and Development Committee shall be authenticated by two original copies signed by a representative of the EU and by a representative of the SADC EPA States.

Article 9

Public Access

1. The meetings of the Trade and Development Committee shall not be public, unless otherwise decided by the Parties.

2. The Parties may decide to publish the decisions and recommendations of the Trade and Development Committee.

CHAPTER III

FINAL PROVISIONS

Article 10

Expenses

1. Each Party shall meet any expenses it incurs as a result of participating in the meetings of the Trade and Development Committee, both with regard to staff, travel and subsistence expenditure and with regard to postal and telecommunications expenditure.

2. Expenses in connection with the organisation of a meeting, the provision of interpretation services and the reproduction of documents shall be borne by the Party hosting the meeting.

Article 11

Special Committees and other bodies

1. The Special Committee on Customs and Trade Facilitation, established under Article 50 of the Agreement, the agricultural partnership, established under Article 68 of the Agreement, and the Special Committee on geographical indications and trade in wines and spirits, established under Article 13 of Protocol 3 of the Agreement, shall report to the Trade and Development Committee.

2. In accordance with point (f) of Article 50(2) of the Agreement and Article 13(5) of Protocol 3 of the Agreement respectively, the Special Committee on Customs and Trade Facilitation and the Special Committee on geographical indications and trade in wines and spirits shall determine their own rules of procedure.

3. In accordance with Article 68(3) of the Agreement, the operational rules for the agricultural partnership shall be established by common agreement of the Parties acting within the Trade and Development Committee.

4. Pursuant to Article 103(3) of the Agreement, the Trade and Development Committee may establish any special technical groups to deal with specific matters that fall within their competence.

5. The Trade and Development Committee shall establish the rules of procedure of the special technical groups referred to in paragraph 4. The Trade and Development Committee may decide to abolish special technical groups and define or amend their terms of reference.

6. Special technical groups shall report to the Trade and Development Committee after each meeting.

Article 12

Amendment of the rules of procedure

These rules of procedure may be amended in writing by a decision of the Trade and Development Committee adopted in accordance with Article 8.