



EUROPEAN
COMMISSION

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2014/0282 (NLE)

Proposal for a

COUNCIL DECISION

**amending the Council Decision on the signing, on behalf of the European Union, and provisional application of the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part,
as regards Title III (with the exception of the provisions relating to the treatment of third-country nationals legally employed as workers in the territory of the other Party)
and Titles IV, V, VI and VII thereof, as well as the related Annexes and Protocols**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL/BACKGROUND

In the Joint Ministerial Statement on the implementation of the EU-Ukraine Association Agreement/Deep and Comprehensive Free Trade Area of 12 September 2014 following the tri-lateral consultations between the European Union, the Russian Federation and Ukraine, the EU side agreed to propose, as part of a comprehensive peace process in Ukraine, to delay until 31 December 2015 the provisional application of the DCFTA (Title IV) while continuing autonomous trade measures of the EU to the benefit of Ukraine during this period. For its part, Russia confirmed that the CIS-FTA preferential regime with Ukraine will continue to apply. Consultations will continue and shall be part of an overall peace process in Ukraine, respecting Ukraine's territorial integrity as well as its right to decide its own destiny.

Consequently, in order to support the political and economic stability of Ukraine, the Commission proposes that, in addition to Title I, Article 4,5 and 6 of Title II and Title VII (with the exception of Article 479(1)) of the Agreement, as provided for in the Council Decision 2014/295/EU of 17 March 2014, for Titles III, V, VI and VII, and the related Annexes and Protocols, the notification provided in Article 486 of the Agreement be made without delay, while for Title IV, and the related Annexes and Protocols, a notification will be made so that the provisional application takes effect on 1 January 2016. A similar approach should be followed in the case of practical applications of provisions in Title VII specifically related to Title IV.

2. LEGAL ELEMENTS OF THE PROPOSAL

On the part of the Union, the legal basis of the amending Decision is Article 217, in conjunction with Article 218(5) and the second subparagraph of Article 218(8) TFEU.

The proposal aims at amending the Council Decision on the signing, on behalf of the European Union, and provisional application of the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part, as regards Title III (with the exception of the provisions relating to the treatment of third-country nationals legally employed as workers in the territory of the other Party) and Titles IV, V, VI and VII thereof, as well as the related Annexes and Protocols (the "Council Decision of 20 June 2014") in order to allow for the provisional application of Titles III, IV, V, VI and VII, and the related Annexes and Protocols of the Association Agreement to take effect in stages.

It is thus proposed that, in addition to Title I, Article 4,5 and 6 of Title II and Title VII (with the exception of Article 479(1)) of the Agreement, as provided for in the Council Decision 2014/295/EU of 17 March 2014, in order to implement Article 4 of the Council Decision of 20 June 2014, for Titles III, V, VI and VII, and the relating Annexes and Protocols the notification provided in Article 486 of the Agreement be made without delay, while for Title IV, and the related Annexes and Protocols, a notification will be made so that the provisional application takes effect on 1 January 2016.

The gradual provisional application of Titles III, IV, V, VI and VII, and the related Annexes and Protocols of the Association Agreement does not prejudice the allocation of competences between the Union and its Member States in accordance with the Treaties.

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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 217, in conjunction with Article 218(5) and the second subparagraph of Article 218(8) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) On 20 June 2014 the Council adopted the Decision on the signing, on behalf of the European Union, and provisional application of the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part, as regards Title III (with the exception of the provisions relating to the treatment of third-country nationals legally employed as workers in the territory of the other Party) and Titles IV, V, VI and VII thereof, as well as the related Annexes and Protocols¹.
- (2) According to the agreed outcome at the trilateral ministerial meeting on 12 September 2014 between the EU, Ukraine and Russia on the implementation of the EU-Ukraine Association Agreement/Deep and Comprehensive Free Trade Area, the Commission proposes to Member States to delay until 31 December 2015 the provisional application of the trade-related provisions of the Association Agreement (Title IV), and at the same time to continue application of the EU's autonomous trade measures for the benefit of Ukraine. For its part, Russia confirmed that the CIS-FTA preferential regime with Ukraine will continue to apply. Consultations will continue and shall be part of an overall peace process in Ukraine, respecting Ukraine's territorial integrity as well as its right to decide its own destiny.
- (3) The provisional application of Titles III, IV, V, VI and VII, and the related Annexes and Protocols of the Association Agreement will take effect in different stages. Therefore, for Titles III, V, VI and VII, and the related Annexes and Protocols a notification pursuant to Article 486 of the Agreement will be made without delay,

¹ Council Document 11126/14 of 20 June 2014;

while for Title IV, and the related Annexes and Protocols, a notification will be made so that the provisional application takes effect on 1 January 2016.

- (4) The provisional application of the relevant provisions of Titles III, IV, V, VI and VII, and the related Annexes and Protocols, of the Association Agreement will take effect in different stages. Therefore, for Titles III, V, VI and VII, and the related Annexes and Protocols, the notification provided in Article 486 of the Agreement will be made without delay, in conjunction with the notification of provisions provided for in Article 4 *Council Decision 2014/295/EU of 17 March 2014*, while for Title IV, and the related Annexes and Protocols, the notification will be made so that the provisional application takes effect on 1 January 2016.
- (5) The Council Decision on the signing, on behalf of the European Union, and provisional application of the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part, as regards Title III (with the exception of the provisions relating to the treatment of third-country nationals legally employed as workers in the territory of the other Party) and Titles IV, V, VI and VII thereof, as well as the related Annexes and Protocols should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Council Decision on the signing, on behalf of the European Union, and provisional application of the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part, as regards Title III (with the exception of the provisions relating to the treatment of third-country nationals legally employed as workers in the territory of the other Party) and Titles IV, V, VI and VII thereof, as well as the related Annexes and Protocols is hereby amended as follows:

In Article 4, the following paragraphs shall be added:

'As regards Titles III, V, VI and VII, and the related Annexes and Protocols, this Article shall be implemented by making a notification pursuant to Article 486 of the Agreement without delay.

As regards Title IV, and the related Annexes and Protocols, this Article shall be implemented by making a notification pursuant to Article 486 of the Agreement so that provisional application takes effect on 1 January 2016'.

Article 2

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

Done at Brussels,

*For the Council
The President*