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2025/0248 (NLE)

Proposal for a

COUNCIL DECISION

on the position to be taken on behalf of the European Union in the Association Committee in Trade Configuration established by 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 reduction and elimination of customs duties

EXPLANATORY MEMORANDUM

1. SUBJECT MATTER OF THE PROPOSAL

This proposal concerns the decision establishing the position to be taken on the European Union's behalf in the Association Committee in Trade Configuration under 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 ('the Agreement')[1], in connection with the envisaged adoption of a decision on reduction and elimination of customs duties pursuant to Article 29(4) of the Agreement.

2. CONTEXT OF THE PROPOSAL

2.1. 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

The Agreement aims to promote political dialogue and increase Ukraine's association with EU policies and its participation in EU programmes and agencies. It also contains a Deep and Comprehensive Free Trade Area (DCFTA) to establish conditions for enhanced economic and trade relations leading towards Ukraine's gradual integration into the EU internal market. The Agreement entered into force on 1 September 2017 and the DCFTA was provisionally applied from 1 January 2016.

2.2. The Association Committee in Trade Configuration

Under Article 465(4) of the Agreement, all issues relating to Title IV of the Agreement (on trade and trade-related matters) will be addressed in the Association Committee in Trade Configuration. Under Article 29(4) of the Agreement, that Committee can take a decision 'on the acceleration or elimination of a customs duty on a good [which] shall supersede any duty rate or staging category determined pursuant to Schedules [of the European Union or Ukraine] for that good' following consultations by the Parties on 'accelerating and broadening the scope of the elimination of customs duties on trade between themselves'. The Association Committee in Trade Configuration adopts its decisions by agreement between the Parties.

2.3. The envisaged act of the Association Committee in Trade Configuration

The Association Committee in Trade Configuration is to adopt a decision on reduction and elimination of customs duties pursuant to Article 29(4) of the Agreement ('the envisaged act').

The purpose of the envisaged act is to accelerate and broaden the scope of the elimination of customs duties in trade between the EU and Ukraine.

The envisaged act will become binding on the Parties in accordance with Article 465(3) of the Agreement, which provides that: 'These decisions shall be binding upon the Parties, which shall take appropriate measures to implement them.'

3. POSITION TO BE TAKEN ON THE UNION'S BEHALF

The position to be taken on the European Union's behalf in the Association Committee in Trade Configuration will be based on the draft Decision of the Association Committee in

[1] OJ L 161, 29.5.2014, p. 3.

Trade Configuration attached to this proposal. It is a result of consultations conducted between the Parties in accordance with Article 29(4) of the Agreement. The consultations were launched in 2021 at Ukraine's request. They were subsequently put on hold following following Russia's illegal and unprovoked full-scale invasion of Ukraine and the European Union's adoption of unilateral trade liberalisation measures through its Autonomous Trade Measures (ATMs) on 4 June 2022[2], which were renewed in 2023[3] and 2024[4]. The Parties resumed consultations in June 2025.

The consultations have resulted in an agreement with the following parameters.

– **Enhanced trade flows.** The revised agreement strikes a balance between supporting Ukraine's trade with the EU and considering the sensitivities of certain EU agricultural sectors and stakeholders. The negotiated market access varies according to the products. For the most sensitive items, such as sugar, poultry, eggs, wheat, maize, and honey, there are limited increases compared to the DCFTA in relation to trade under the ATMs. For other products, enhancements have been made to benefit both sides based on our complementary markets. Finally, for certain non-sensitive products, full liberalisation has been agreed.

– **Alignment with EU agri-food productions standards.** New market access is conditional on Ukraine's commitment to gradually align with certain EU agri-food production standards, such as animal welfare, use of pesticides and veterinary medicines, within the timeframes listed in the Annex to this Decision. Ukraine is expected to report every year on its progress in that regard. This approach is consistent with the perspective of Ukraine's EU accession process and the adoption of the EU *acquis*.

– **A robust safeguard clause.** Each Party will have the possibility to activate a safeguard mechanism enabling the adoption of appropriate measures in situations where imports from the other Party may cause or threaten to cause economic, societal or environmental difficulties in its territory. In the EU's case, a possible disturbance can be assessed at the level of one or more Member States.

The European Union has strongly condemned Russia's war of aggression against Ukraine and has undertaken unprecedented steps to support Ukraine in this exceptional context. This support ranges from financial assistance, through macro-financial assistance for emergency measures and reconstruction, the delivery of military equipment and the adoption of extensive sanctions against Russia and Belarus, to the intensification of cooperation under the

[2] Regulation (EU) 2022/870 of the European Parliament and of the Council of 30 May 2022 on temporary trade-liberalisation measures supplementing trade concessions applicable to Ukrainian products under 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 (OJ L 152, 3.6.2022, p. 103).

[3] Regulation (EU) 2023/1077 of the European Parliament and of the Council of 31 May 2023 on temporary trade-liberalisation measures supplementing trade concessions applicable to Ukrainian products under 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 (OJ L 144, 5.6.2023, p. 1).

[4] Regulation (EU) 2024/1392 of the European Parliament and of the Council of 14 May 2024 on temporary trade-liberalisation measures supplementing trade concessions applicable to Ukrainian products under 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 (OJ L, 2024/1392, 29.5.2024).

Agreement outlined in the Priority Action Plan[5]. Ukraine was granted EU candidate status in June 2022 and accession negotiations were opened in December 2023. The envisaged act therefore complies with and follows from the Union's obligation under Article 21(3) of the Treaty on European Union to ensure consistency between the different areas of its external action, as well as Article 207(1) of the Treaty on the Functioning of the European Union (TFEU) which provides that the common commercial policy is to be conducted in the context of the principles and objectives of the Union's external actions.

To inform the public and gather stakeholder opinions, the European Commission issued a call for evidence[6] between 3 September 2024 and 1 October 2024. The Commission received 111 responses, of which 49 were received from individual members of the public and 62 from associations and companies. Most submissions from stakeholders in the EU agri-food sector called for low to moderate increases in market access for imports from Ukraine highlighting the disruptions they had experienced when imports could enter freely under the ATMs, while some called for highly ambitious market access on both sides highlighting the EU export potential and the need to source inputs from Ukraine. Stakeholders in the Ukrainian agri-food sector called for a high level of market access highlighting the importance of the agri-food sector for Ukraine's economy and export income. Many stakeholders called for Ukraine's gradual alignment with EU production standards as well as a strong safeguard. Most individuals who replied were against any further trade liberalisation with Ukraine before they align with more EU standards, and some called for duties to be increased, or trade fully stopped. A few called for increased trade liberalisation highlighting Ukraine's European path.

4. LEGAL BASIS

4.1. Procedural legal basis

4.1.1. Principles

Article 218(9) TFEU provides for decisions establishing '*the positions to be adopted on the Union's behalf in a body set up by an agreement, when that body is called upon to adopt acts having legal effects, with the exception of acts supplementing or amending the institutional framework of the agreement*.'

The concept of '*acts having legal effects*' includes acts that have legal effects by virtue of the rules of international law governing the body in question. It also includes instruments that do not have a binding effect under international law, but that are '*capable of decisively influencing the content of the legislation adopted by the EU legislature*'[7].

4.1.2. Application to the present case

The Association Committee in Trade Configuration is a body set up by an agreement, namely 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.

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5 https://circabc.europa.eu/ui/group/09242a36-a438-40fd-a7af-fe32e36cbd0e/library/10d63ead-6bd4-4173-9986-d74c664e45e5/details?download=true

6 EU-Ukraine trade – further reciprocal tariff liberalisation under Art. 29 of the EU-Ukraine Association Agreement

7 Judgment of the Court of Justice of 7 October 2014, Germany v Council, C-399/12, ECLI:EU:C:2014:2258, paragraphs 61 to 64.

The act which the Association Committee in Trade Configuration is called upon to adopt constitutes an act having legal effects. The envisaged act will be binding under international law in accordance with Article 465(3) of the Agreement.

The envisaged act does not supplement or amend the institutional framework of the Agreement.

Therefore, the procedural legal basis for the proposed decision is Article 218(9) TFEU.

4.2. Substantive legal basis

4.2.1. Principles

The substantive legal basis for a decision under Article 218(9) TFEU depends primarily on the objective and content of the envisaged act in respect of which a position is taken on the Union's behalf. If the envisaged act pursues two aims or has two components and if one of those aims or components is identifiable as the main one, whereas the other is merely incidental, the decision under Article 218(9) TFEU must be founded on a single substantive legal basis, namely that required by the main or predominant aim or component.

4.2.2. Application to the present case

The main objective and content of the envisaged act relate to the common commercial policy. Therefore, the substantive legal basis of the proposed decision is the first subparagraph of Article 207(4) TFEU.

4.3. Conclusion

The legal basis of the proposed decision should be the first subparagraph of Article 207(4) TFEU, in conjunction with Article 218(9) TFEU.

5. PUBLICATION OF THE ENVISAGED ACT

As the act of the Association Committee in Trade Configuration will amend the Agreement, it is appropriate to publish it in the *Official Journal of the European Union* after its adoption.

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

Having regard to the proposal from the European Commission,

Whereas:

(1) 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 ('the Agreement') was concluded by the Union by Council Decision (EU) 2017/1247[8] and entered into force on 1 September 2017.

(2) Under Article 29(4) and Article 465(3) of the Agreement, the Association Committee in Trade Configuration may adopt a decision on the acceleration or elimination of a customs duty on a good which will supersede any duty rate or staging category determined pursuant to the Schedules of the European Union or Ukraine for that good.

(3) At the request of Ukraine, consultations under Article 29(4) of the Agreement were initiated in 2021. The consultations were subsequently put on hold following the illegal and unprovoked full-scale invasion of Ukraine by the Russia and the adoption by the European Union of unilateral trade liberalisation measures through its Autonomous Trade Measures of 4 June 2022[9], which were renewed in 2023[10] and 2024[11]. The Parties resumed consultations in 2025. These consultations have resulted

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8 OJ L 181, 12.7.2017, p. 1-3.

9 Regulation (EU) 2022/870 of the European Parliament and of the Council of 30 May 2022 on temporary trade-liberalisation measures supplementing trade concessions applicable to Ukrainian products under 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 (OJ L 152, 3.6.2022, p. 103).

10 Regulation (EU) 2023/1077 of the European Parliament and of the Council of 31 May 2023 on temporary trade-liberalisation measures supplementing trade concessions applicable to Ukrainian products under 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 (OJ L 144, 5.6.2023, p. 1).

11 Regulation (EU) 2024/1392 of the European Parliament and of the Council of 14 May 2024 on temporary trade-liberalisation measures supplementing trade concessions applicable to Ukrainian products under the Association Agreement between the European Union and the

in a provisional agreement to be adopted by the Association Committee in Trade Configurations which would broaden the scope of elimination of customs duties and support Ukraine's alignment to EU *acquis* which is an important part of Ukraine's accession negotiations with the EU.

(4) The Association Committee in Trade Configuration is to adopt a decision on the reduction and elimination of customs duties pursuant to Article 29(4) of the Agreement during the course of 2025.

(5) It is appropriate to establish the position to be taken on the Union's behalf in the Association Committee in Trade Configuration, as the decision of that Committee will be binding on the Union,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf in the Association Committee in Trade Configuration under the Agreement shall be based on the draft decision of the Association Committee in Trade Configuration attached to this Decision.

Article 2

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

Done at Brussels,

For the Council
The President

European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part (OJ L, 2024/1392, 29.5.2024).

LEGISLATIVE FINANCIAL STATEMENT 'REVENUE'- FOR PROPOSALS HAVING BUDGETARY IMPACT ON THE REVENUE SIDE OF THE BUDGET

1. NAME OF THE PROPOSAL

Proposal for a Council Decision on the position to be taken on behalf of the European Union in the Association Committee in Trade Configuration established by 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 reduction and elimination of customs duties

2. BUDGET LINES

Revenue line (Chapter/Article/Item): Chapter 12, Article 120

Amount budgeted for 2026: EUR 21 368 300 000

3. FINANCIAL IMPACT

☐ Proposal has no financial implications

X Proposal has no financial impact on expenditure but has a financial impact on revenue

☐ Proposal has a financial impact on assigned revenue

The effect is as follows:

(EUR million to one decimal place)

Revenue line	Impact on revenue [12] [13]	1 October 2025 to 31 December 2025	2026	2027
Chapter 12, Article 120	*Impact on own resources*	8.3	14.3	14.3

4. ANTI-FRAUD MEASURES

In order to prevent fraud, the entitlement to the reductions in customs duties established by the proposed decision are conditional upon Ukraine having complied with all the relevant conditions for obtaining benefits under the Association Agreement, including the rules of origin of products concerned and the procedures related thereto, as well as Ukraine's involvement in close administrative cooperation with the Union, as provided for by the Agreement.

[12] The amounts per year need to be an estimation based on the formula or method set out in Section 5. For the starting year, the yearly amount is normally paid without a reduction or prorata.

[13] For traditional own resources (customs duties, sugar levies), the amounts indicated must be net amounts, i.e. gross amounts after deduction of 20 % for collection costs.

5. OTHER REMARKS

The expected impact on revenue consists of the sum of the Most Favoured Nation customs duties that would be levied on the volume covered by the additional concession under the review of the Agreement.