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Proposal for a

COUNCIL DECISION

on the Union position to be adopted in the Association Council established by the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part, in relation to the adoption of the rules of procedure of the Association Council and of the Association Committee, to the establishment of two specialised subcommittees, and to the delegation of certain powers by the Association Council to the Association Committee in Trade configuration

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL/BACKGROUND

The attached proposal constitutes the legal instrument for authorising the Union position to be adopted in the Association Council established by the Association Agreement ("the Agreement") between the European Union and the Republic of Moldova, in relation to the adoption of the rules of procedure of the Association Council and of the Association Committee, the establishment of two specialised subcommittees, and the delegation of certain powers by the Association Council to the Association Committee in Trade configuration.

Negotiations of the comprehensive and ambitious Association Agreement between the EU and the Republic of Moldova were launched in January 2010. In February 2012, the EU and the Republic of Moldova also launched negotiations on the Deep and Comprehensive Free Trade Area (DCFTA) part, as a core element of the Association Agreement. On 29 November 2013 the European Union and the Republic of Moldova initialled the text of the Agreement.

The Association Agreement is the most advanced agreement of this type ever negotiated by the EU, in particular with regard to trade and economic integration, going far beyond a simple market opening. The aim is to accelerate the deepening of political and economic relations between the Republic of Moldova and the EU, as well as to advance the Republic of Moldova's gradual economic integration with the EU Internal Market in selected areas, notably through establishing a DCFTA.

On 16 June 2014, the Council adopted its decision ¹ on the signing, on behalf of the European Union and the European Atomic Energy Community and their Member States, and provisional application of certain provisions of the Association Agreement, including its Deep and Comprehensive Free Trade Area (DCFTA) part between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part. Subsequently, the Agreement was signed in Brussels on Friday, 27 June 2014 in the margins of the European Council.

The Republic of Moldova ratified the Agreement on 2 July 2014 and completed, in parallel with the European Union, the requisite notification procedures within the same month. Consequently, in accordance with Article 464 of the Agreement certain provisions thereof (specified in Article 4 of the Council Decision on the signing and provisional application of the Agreement with the Republic of Moldova of 16 June 2014) are applied on a provisional basis starting from 1 September 2014, pending ratification by the EU Member States.

The provisional application is foreseen in view of keeping mutual economic interests and shared values in equilibrium, and the common will of the EU and the Republic of Moldova to start implementing and enforcing the eligible parts of the Agreement in order to advance an early reform impact on sector specific issues before the conclusion of the Agreement.

2. RESULTS OF THE NEGOTIATIONS

Title VII of the Agreement with the Republic of Moldova provides for the institutional framework that is necessary for the proper function and the implementation of the Agreements. The Agreement establishes an Association Council (Article 434(1)) at ministerial level to supervise and monitor the application and implementation of the Agreement.

¹ OJ L260 of 30.08.2014

To prepare the meetings and deliberations of the Association Council, implement the decisions of the Association Council where appropriate and, in general, ensure continuity of the association relationship and the proper function of the Agreement an Association Committee is also established (as per Article 437(1) of the Agreement).

The Association Council as well as the Association Committee may decide to set up any other specialised sub-committee or body that can assist it in carrying out its duties, and shall determine the composition and duties of such committees or bodies and how they shall function. Furthermore, the Association Council has the power to amend or update the Annexes to the Agreement (Article 436(3) of the Agreement). It may delegate any of its powers to the Association Committee, including the power to take binding decisions (Article 438(2) of the Agreement)

The Association Committee shall meet in a specific configuration to address all issues, deriving from Title V (Trade and Trade-related matters). The DCFTA part of the Agreement foresees specific subcommittees on sanitary & phytosanitary measures, on customs, on geographical indicators, and on trade & sustainable development to assist the Association Committee in Trade configuration with its duties.

Fora for civil society and parliamentary cooperation are also foreseen.

With a view to ensuring smooth and timely implementation of the DCFTA part of the Agreement, in particular with regard to the updates or amendment of several trade-related Annexes to the Agreement, it is suggested to delegate such powers by the Association Council to the Association Committee in Trade configuration. Such delegation will ensure the necessary link between, and create conditions for a timely follow-up to, the technical discussions within that Committee on the implementation of trade-related commitments, including those pertaining to approximation to the EU *acquis* by the Republic of Moldova.

With a view to completing the institutional framework and allowing for expert level discussions in the key areas falling within the scope of provisional application of the Agreements, it is suggested to establish two subcommittees, designated as follows:

- (1) Subcommittee on Justice, Freedom & Security (JFS);
- (2) Subcommittee on Economic and other Sector cooperation.

The purpose of the subcommittees is to focus on those topics where concrete results are expected, rather than to necessarily cover the same agenda of topics year after year.

Additional subcommittees may be established at a later stage, following agreement of the Parties.

The Association Agreement foresees a wide range of sector cooperation, focusing on support to core reforms, economic recovery and growth, governance and sector cooperation in 28 areas, such as; justice, energy, transport, statistics, environment protection and promotion, industrial and small and medium enterprise cooperation, agriculture and rural development, social policies, civil society cooperation, consumer policy, public administration reform, education, training and youth as well as cultural cooperation.

In all of these areas, enhanced cooperation starts from the basis of current frameworks, both bilateral and multilateral, with the aim of more systematic dialogue and exchange of information and good practice. Key to the sectoral cooperation chapters is a comprehensive menu of gradual approximation, where relevant, with the EU *acquis* set out in annexes to the Agreement. Specific schedules for approximation and implementation by the Republic of Moldova of selected parts of the EU *acquis* will provide a focus for on-going cooperation, and will form the core of the Republic of Moldova's domestic reform and modernisation agenda.

Any "regular dialogues" as frequently referred to in the Agreement may cover all of the aforementioned policy areas. The second subcommittee may thus meet in different configurations as the need arises. This proposal draws on experience with the Partnership & Cooperation Agreements with the three countries and aims to streamline the functioning of the subcommittee structure under the Association Agreement.

Both the EU and the Republic of Moldova have committed to a rapid and effective implementation of the Agreement. The aim of this proposal is therefore to ensure that the institutional framework of the Agreement becomes operational as soon as possible. In order to facilitate this it will be crucial to proceed rapidly with the adoption process of the Rules of Procedure for the Association Council, the Association Committee and the subcommittees so that these can soon start functioning. It is intended to call the first meeting of the Association Council with the Republic of Moldova on 20 October 2014, coinciding with the Foreign Affairs Council in Luxembourg. This timing is of prime importance to the Republic of Moldova in view of the general elections to be held on 30 November.

3. LEGAL ELEMENTS OF THE PROPOSAL

For the Union, the legal basis for authorising the Union position to be adopted in the Association Council established by the Association Agreement between the EU and the Republic of Moldova is the Treaty on the functioning of the European Union, and in particular its Article 218(9) TFEU.

In light of the above-mentioned results of negotiations, on the basis of Article 218(9) TFEU the European Commission proposes that the Council adopts the Decision authorising the Union position to be adopted in the first EU-Republic of Moldova Association Council with regard to:

- the rules of procedure for the Association Council and the Association Committee,
- the establishment of two specialised subcommittees,
- and
- the delegation of certain powers by the Association Council to the Association Committee in Trade configuration.

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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 its Article 218 (9),

Having regard to the proposal from the Commission,

Whereas:

- (1) Article 464 of the Association Agreement ("the Agreement") between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part provide for provisional application of the Agreement in part.
- (2) Article 4 of the Council Decision of 23 June 2014 on the signing and provisional application of the Agreement specifies certain provisions of the Agreement to be applied provisionally.
- (3) Article 435(2) of the Agreement provides that the Association Council shall establish its own rules of procedure.
- (4) Article 435(3) of the Agreement provides that the Association Council shall be chaired in turn by a representative of the Union and a representative of the Republic of Moldova.
- (5) Article 437(1) of the Agreement provides that the Association Council shall be assisted in the performance of its duties by an Association Committee while Article 438(1) provides that the Association Council shall determine in its rules of procedure the duties and functioning of the Association Committee.
- (6) Article 439(2) provides that the Association Council may decide to set up any other specialised sub-committee or body in specific areas necessary for the implementation of the Agreement that can assist it in carrying out its duties.
- (7) The Association Council is responsible for supervising and monitoring the application and implementation of the Agreement. The Association Council may delegate to the Association Committee any of its powers, including the power to take binding decisions. It is appropriate that the Association Council delegates to the Association Committee in Trade configuration, as referred to in Article 438(4) of the Agreement, the power to update or amend the Annexes to this Agreement which relate to Chapters

1, 3, 5, 6 and 8 of Title IV (Trade and Trade-related Matters), pursuant to Articles 436(3) and 438(2) of the Agreement to the extent that there are no specific provisions in those Chapters relating to the update or the amendment of the Annexes in this Agreement.

HAS ADOPTED THIS DECISION:

Article 1

1. The position to be adopted by the Union in the Association Council established by Article 434 of the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part, shall be hereby established in relation to:
 - the adoption of the rules of procedure of the Association Council and of the Association Committee,
 - the establishment of specialised subcommittees and the adoption of their terms of reference,and
 - the delegation of certain powers by the Association Council to the Association Committee in Trade configuration under the terms of the draft Association Council decisions annexed to this Decision.
2. Minor changes to the draft decisions may be agreed to by the representatives of the Union in the Association Council without further decision of the Council.

Article 2

The Association Council shall be shared on the Union side by the High Representative of the Union for Foreign Affairs and Security Policy.

Done at Brussels,

For the Council
The President