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PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	17 June 2022
To:	Secretariat-General of the Council of the European Union
No. Cion doc.:	COM(2022) 307 final
Subject:	Proposal for a COUNCIL DECISION on the signing, on behalf of the European Union, and provisional application of the Agreement on the carriage of freight by road between the European Union and Ukraine

Delegations will find attached document COM(2022) 307 final.

Encl.: COM(2022) 307 final



EUROPEAN
COMMISSION

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Proposal for a

COUNCIL DECISION

on the signing, on behalf of the European Union, and provisional application of the Agreement on the carriage of freight by road between the European Union and Ukraine

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

Following the war of aggression carried-out by Russia against Ukraine, transportation of freight from Ukraine has become very difficult. Important transport routes for the carrying of goods via the Black Sea are blocked or have been destroyed by Russian military forces, and the Ukrainian airspace is closed for civilian transport. The rail network is currently prioritised for the transport of passengers and refugees and it remains very vulnerable to the Russian bombardments.

The road freight transport between the European Union and Ukraine is currently governed by two main sets of mechanisms, namely bilateral transport agreements between Member States and Ukraine and permits granted in the framework of the European Conference of Ministers of Transport (ECMT) multilateral quota system within the International Transport Forum. Both these mechanisms impose quotas on hauliers from both sides, regarding transit and bilateral trade.

Road transport is seen as one of the main alternatives to allow Ukraine to export its products, including grains. This would support the Ukrainian economy but would also be crucial to other economies as the export of Ukrainian products such as grain, fuel, foodstuffs and other goods is becoming more and more needed in view of the increasing concerns of food security in the world. At the same time the increased use of the number of transport operations by road compared to normal times would very likely go beyond the quotas set out in the bilateral agreements of Member States and Ukraine and given via the ECMT within the International Transport Forum.

This Agreement on road transport between the European Union and Ukraine would therefore replace existing bilateral transport agreements between Member States and Ukraine and facilitate the use of alternative transport by road for operators, as bilateral operations and transit would be liberalised between the two Parties.

In addition, following the start of Russia's war of aggression against Ukraine, many Ukrainian drivers are no longer able to follow the administrative procedures related to driver documents such as international driving permit applications or issuances of new documents in the event of lost or stolen documents. This Agreement will enable the two Parties to address these issues under exceptional circumstances. It is thus important to provide for measures that exempt drivers from the requirement to present an international driving permit, recognise decisions taken by Ukraine to extend the administrative validity of driver documents and facilitate the exchange of information between the competent authorities of the two Parties with the aim of combatting fraud and forgery of driver documents.

Therefore, it is appropriate to sign an Agreement liberalising the transport of freight by road between the European Union and Ukraine in relation to bilateral operations and transit and containing specific clauses related to driving licenses. This Agreement should be limited in time but with a possibility for renewal.

- **Consistency with existing policy provisions in the policy area**

The Agreement was also foreseen in the EU-Ukraine Solidarity Lanes¹ action plan which aims to facilitate Ukraine's agricultural export and bilateral trade with the EU. This action plan expresses the commitment of the European Union to support Ukraine's economy and economic recovery and contribute to stabilising world food markets and improving global food security.

- **Consistency with other Union policies**

This Agreement is consistent with the current EU external relations policy with Ukraine. The Government of Ukraine has requested such an Agreement as an urgent measure.

The Agreement on the carriage of goods by road with Ukraine would also be in line with the Association Agreement signed on 27 June 2014 between the European Union and Ukraine², as it envisages in its Article 136 possible future special road agreements with a view to assuring a coordinated development and progressive liberalisation of transport between the Parties.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

Article 91 in conjunction with Article 218(5) of the Treaty on the Functioning of the European Union (TFEU).

- **Subsidiarity (for non-exclusive competence)**

Not applicable.

- **Proportionality**

The Agreement is the most efficient instrument to enhance EU-Ukraine road transport relations, since it removes the existing limitations imposed by the quotas and permits systems.

This Agreement will not impose any additional administrative or financial burden neither on Member States' authorities nor on the industry compared to the current situation. It will, on the opposite, reduce the administrative burden for both the industry and the Member States. In particular, it will remove the need for transport permits for EU hauliers for the indicated categories of transport rights (transit and bilateral rights), which will reduce the burden for the EU transport industry as well as for Member States authorities in relation to the administrative formalities linked to issuing and printing such permits.

- **Choice of the instrument**

International Agreement.

¹ COM(2022) 217 final

² Association Agreement between the European Union and its Member States, of the one part, and Ukraine, of the other part, OJ L 161, 29.5.2014, p. 3.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

Not applicable.

- **Stakeholder consultations**

Not applicable.

- **Collection and use of expertise**

Not applicable.

- **Impact assessment**

Not applicable.

- **Regulatory fitness and simplification**

Not applicable.

- **Fundamental rights**

Not applicable.

4. BUDGETARY IMPLICATIONS

The proposal has no implication for the budget of the Union.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

In Articles 6 and 7, this Agreement includes a review mechanism provided with a view of assessing the need and duration of its renewal. For this purpose, Article 6(2) and Article 7(2) lays down that the Joint Committee shall be convened at the latest three months before the expiry of the Agreement.

- **Explanatory documents (for directives)**

Not applicable.

- **Detailed explanation of the specific provisions of the proposal**

Article 1 authorises the signature of the Agreement on behalf of the European Union, subject to its conclusion.

Article 2 requires the Council Secretariat General to establish the instrument of full powers to sign the Agreement, subject to its conclusion, for the person or persons indicated by the Commission.

Article 3 provides for provisional application in accordance with Article 13 of the Agreement.

Article 4 provides for the entry into force of the proposed Decision.

Proposal for a

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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 91, in conjunction with Article 218 (5), thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) On 2 June 2022, the Council authorised the opening of negotiations with Ukraine on an Agreement on the carriage of freight by road between the European Union and Ukraine (hereinafter, the “Agreement”).
- (2) The negotiations were successfully concluded on 14 June 2022.
- (3) In view of the important disruptions in the transport sector in Ukraine caused by the war of aggression undertaken by Russia, it is necessary to find alternative routes by road for Ukraine to export its stocks of grain, fuel, foodstuffs and other relevant goods.
- (4) Given that permits granted in the framework of the European Conference of Ministers of Transport (ECMT) multilateral quota system within the International Transport Forum and existing bilateral agreements with Ukraine do not allow for the necessary flexibility for Ukrainian road haulage operators to increase and plan ahead their operations through and with the European Union, it is crucial to liberalise the transport of freight by road for bilateral operations as well as for transit.
- (5) Russia’s war of aggression against Ukraine has compromised the possibility for many Ukrainian drivers to follow the administrative procedures related to driver documents such as international driving permit applications or issuances of new documents in the event of lost or stolen documents. It is thus important to address these exceptional circumstances by providing for specific measures that exempt drivers from the requirement to present an international driving permit, recognise decisions taken by Ukraine to extend the administrative validity of driver documents and facilitate the exchange of information between the competent authorities of the two Parties with the aim of combatting fraud and forgery of driver documents.
- (6) Therefore, this time-limited Agreement with a possibility for renewal should be urgently signed on behalf of the European Union, subject to its conclusion at a later date.
- (7) In order to start deploying the beneficial effects of this Agreement on transport of freight and allow the export of Ukrainian products in particular grains, as soon as possible, the Agreement should be applied provisionally in accordance with its Article 13.

HAS ADOPTED THIS DECISION:

Article 1

The signing of the Agreement on the carriage of freight by road between the European Union and Ukraine, is hereby approved on behalf of the European Union, subject to the conclusion of the said Agreement.

The text of the Agreement is attached as Annex 1 to this Decision.

Article 2

The Council Secretariat General shall establish the instrument of full powers to sign the Agreement, subject to its conclusion, for the person(s) indicated by the Commission.

Article 3

The Agreement shall be applied provisionally, in accordance with Article 13 of the Agreement, as from the day of its signature, pending its entry into force.

Article 4

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

Done at Brussels,

*For the Council
The President*