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COUNCIL DECISION

of 23 June 2014

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

(2014/668/EU)

(OJ L 278, 20.9.2014, p. 1)

Amended by:

► **M1** Council Decision 2014/691/EU of 29 September 2014

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(2014/668/EU)

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, as well as Article 218(7) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) On 22 January 2007, the Council authorised the Commission to open negotiations with Ukraine for the conclusion of a new agreement between the Union and Ukraine to replace the Partnership and Cooperation Agreement ⁽¹⁾.
- (2) Taking account of the close historical relationship and progressively closer links between the Parties as well as their desire to strengthen and widen relations in an ambitious and innovative way, the negotiations on 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 (hereinafter referred to as ‘the Agreement’) were successfully concluded by the initialling of the Agreement in 2012.
- (3) The Agreement should be signed on behalf of the Union and the Final Act attached to this Decision should be approved. The Agreement should be applied in part, on a provisional basis in accordance with Article 486 thereof, pending the completion of the procedures for its conclusion.
- (4) The provisional application of parts of the Agreement does not prejudice the allocation of competences between the Union and its Member States in accordance with the Treaties.
- (5) This Decision does not concern the provisions of Article 17 of the Agreement, which contains specific obligations relating to the treatment of third-country nationals legally employed as workers in the territory of the other Party, and which provisions fall within the scope of Title V of Part Three of the Treaty on the Functioning of the European Union (TFEU). The aim and content

⁽¹⁾ Partnership and Cooperation Agreement establishing a partnership between the European Communities and their Member States, of the one part, and Ukraine, of the other part (OJ L 49, 19.2.1998, p. 3).

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of those provisions is distinct from and independent of the aim and content of the other provisions of the Agreement to establish an association between the Parties. A separate decision relating to Article 17 of the Agreement will be adopted in parallel with this Decision.

- (6) Pursuant to Article 218(7) TFEU, it is appropriate for the Council to authorise the Commission to approve modifications to the Agreement to be adopted by the Association Committee in its Trade configuration pursuant to Article 465(4) of the Agreement, as proposed by the Subcommittee on Geographical Indications pursuant to Article 211 of the Agreement.
- (7) It is appropriate to set out the relevant procedures for the protection of geographical indications which are protected pursuant to the Agreement.
- (8) The Agreement should not be construed as conferring rights or imposing obligations which can be directly invoked before Union or Member State courts and tribunals.
- (9) Following the signature of the Preamble, Article 1, and Titles I, II and VII of the Agreement at the Summit between the Union and its Member States, of the one part, and Ukraine of the other part, held in Brussels on 21 March 2014, the remaining parts of the Agreement should be signed,

HAS ADOPTED THIS DECISION:

Article 1

The signing, on behalf of the Union, 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 (hereinafter referred to as 'the Agreement') as regards Titles III (with the exception of Article 17), IV, V and VI thereof, as well as the related Annexes and Protocols, is hereby authorised, subject to the conclusion of the said Agreement and in accordance with the Final Act⁽¹⁾.

Article 2

1. The Declaration attached to the Agreement shall be approved on behalf of the Union.
2. The Final Act attached to this Decision shall be approved on behalf of the Union.

⁽¹⁾ The text of the Agreement has been published together with Council Decision 2014/295/EU of 17 March 2014 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 the Preamble, Article 1, and Titles I, II, and VII thereof (OJ L 161, 29.5.2014, p. 1).

▼B*Article 3*

The President of the Council is hereby authorised to designate the person(s) empowered to sign the Agreement and the Final Act on behalf of the Union.

Article 4

Pending its entry into force, and in accordance with Article 486 of the Agreement and subject to the notifications provided for therein, the following parts of the Agreement shall be applied on a provisional basis between the Union and Ukraine ⁽¹⁾, but only to the extent that they cover matters falling within the Union's competence:

- Title III: Articles 14 and 19,
- Title IV (with the exception of Article 158, to the extent that that Article concerns criminal enforcement of intellectual property rights; and with the exception of Articles 285 and 286, to the extent that those Articles apply to administrative proceedings, review and appeal at Member State level).

The provisional application of Article 279 shall not affect the sovereign rights of the Member States over their hydrocarbon resources in accordance with international law, including their rights and obligations as Parties to the 1982 United Nations Convention on the Law of the Sea.

Provisional application of Article 280(3) by the Union shall not affect the existing delineation of competences between the Union and its Member States in respect of the granting of authorisations for the prospection, exploration and production of hydrocarbon,

- Title V: Chapter 1 (with the exception of Article 338(k) and Articles 339 and 342), Chapter 6 (with the exception of Articles 361, Article 362(1)(c), Article 364, and points (a) and (c) of Article 365), Chapter 7 (with the exception of Article 368(3) and points (a) and (d) of Article 369 ⁽²⁾), Chapters 12 and 17 (with the exception of Article 404(h)), Chapter 18 (with the exception of Article 410(b) and Article 411), Chapters 20, 26 and 28, as well as Articles 353 and 428,
- Title VI,
- Title VII (with the exception of Article 479(1)), to the extent that the provisions of that Title are limited to the purpose of ensuring the provisional application of the Agreement in accordance with this Article,
- Annexes I to XXVI, Annex XXVII (with the exception of nuclear issues), Annexes XXVIII to XXXVI (with the exception of point 3 in Annex XXXII),

⁽¹⁾ The date from which the Agreement will be provisionally applied will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.

⁽²⁾ The reference in point (c) of Article 369 to the 'development of funding strategies focusing on maintenance, capacity constraints and missing link infrastructure' does not create any funding obligations on Member States.

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— Annexes XXXVIII to XLI, Annexes XLIII and XLIV, as well as Protocols I to III.

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As regards the relevant provisions of Titles III, V, VI and VII, and the related Annexes and Protocols, the notification concerning the provisional application pursuant to Article 486 of the Agreement shall be made without delay.

As regards the relevant provisions of Title IV, and the related Annexes and Protocols, the notification pursuant to Article 486 of the Agreement shall be made so that provisional application takes effect on 1 January 2016.

▼B*Article 5*

For the purposes of Article 211 of the Agreement, modifications to the Agreement through decisions of the Subcommittee on Geographical Indications shall be approved by the Commission on behalf of the Union. Where interested parties cannot reach agreement following objections relating to a geographical indication, the Commission shall adopt a position on the basis of the procedure laid down in Article 57(2) of Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs ⁽¹⁾.

Article 6

1. A name protected under Subsection 3 ‘Geographical Indications’ of Section 2 of Chapter 9 of Title IV of the Agreement may be used by any operator marketing agricultural products, foodstuffs, wines, aromatised wines or spirits conforming to the corresponding specification.

2. In accordance with Article 207 of the Agreement, the Member States and the institutions of the Union shall enforce the protection provided for in Articles 204 to 206 of Title IV of the Agreement, including at the request of an interested party.

Article 7

The Agreement shall not be construed as conferring rights or imposing obligations which can be directly invoked before Union or Member State courts or tribunals.

Article 8

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

⁽¹⁾ OJ L 343, 14.12.2012, p. 1.