

II

(Non-legislative acts)

INTERNATIONAL AGREEMENTS

COUNCIL DECISION (EU) 2016/123

of 26 October 2015

on the signing, on behalf of the European Union, and provisional application of the Enhanced Partnership and Cooperation Agreement between the European Union and its Member States, of the one part, and the Republic of Kazakhstan, of the other part

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 37 and Article 31(1) thereof,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91, Article 100(2) and Articles 207 and 209, in conjunction with Article 218(5) and the second subparagraph of Article 218(8) thereof,

Having regard to the joint proposal from the High Representative of the Union for Foreign Affairs and Security Policy and the European Commission,

Whereas:

- (1) On 13 April 2011, the Council authorised the Commission to open negotiations with the Republic of Kazakhstan on an Enhanced Partnership and Cooperation Agreement ('the Agreement').
- (2) Negotiations on the Agreement were successful and the Agreement was initialled on 20 January 2015.
- (3) Article 281 of the Agreement provides for the provisional application in whole or in part of the Agreement before its entry into force.
- (4) The Agreement should be signed on behalf of the Union and applied in part on a provisional basis, pending the completion of the procedures for its conclusion.
- (5) The signing of the Agreement on behalf of the Union and the provisional application of parts of the Agreement between the Union and the Republic of Kazakhstan is without prejudice to the allocation of competences between the Union and its Member States in accordance with the Treaties,

HAS ADOPTED THIS DECISION:

Article 1

1. The signing on behalf of the Union of the Enhanced Partnership and Cooperation Agreement between the European Union and its Member States, of the one part, and the Republic of Kazakhstan, of the other part, is hereby authorised, subject to the conclusion of the said Agreement.
2. The text of the Agreement is attached to this Decision.

Article 2

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

Article 3

1. Pending its entry into force, in accordance with Article 281 of the Agreement and subject to the notifications provided for therein, the following parts of the Agreement shall be applied provisionally between the Union and the Republic of Kazakhstan, but only to the extent that they cover matters falling within the Union's competence, including matters falling within the Union's competence to define and implement a common foreign and security policy:

- (a) Title I;
- (b) Title II: Articles 4, 5, 9 and 10;
- (c) Title III (with the exception of Articles 56 and 58, Article 62 to the extent that it concerns criminal enforcement of intellectual property rights, and Article 147).

The provisional application of Article 141 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.

- (d) Title IV: Chapters 5, 6 and 7 (with the exception of point (c) of Article 210 and points (b), (f), (g), (h) and (i) of Article 212), and Chapters 12 and 15;
- (e) Title V: Article 235 and Article 238 (with the exception of paragraphs 2 and 3);
- (f) Title VI: Chapters 5 and 9;
- (g) Title VII;
- (h) Title VIII (to the extent that the provisions of that Title are limited to the purpose of ensuring the provisional application of the Agreement);
- (i) Title IX (with the exception of Article 281(7), 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);
- (j) Annexes I to VII as well as Protocol on Mutual Administrative Assistance in Customs Matters.

2. The date from which the Agreement is to be provisionally applied shall be published in the *Official Journal of the European Union* by the General Secretariat of the Council.

Article 4

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

Done at Luxembourg, 26 October 2015.

For the Council
The President
F. MOGHERINI