



Brussels, 20.10.2014
COM(2014) 636 final

2014/0296 (NLE)

Proposal for a

COUNCIL AND COMMISSION DECISION

on the position to be adopted on behalf of the Union and the European Atomic Energy Community 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 Georgia, 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 subcommittees, and to the delegation of certain powers by the Association Council to the Association Committee in Trade configuration

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EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL/BACKGROUND

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

On 10 May 2010, the Council authorised the Commission to open negotiations for a new comprehensive and ambitious Association Agreement, including its Deep and Comprehensive Free Trade Area (DCFTA) part. Negotiations of this comprehensive and ambitious Agreement between the EU and Georgia were launched in July 2010. Negotiations on the DCFTA part of the Agreement were launched in February 2012. On 29 November 2013 the European Union and Georgia 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 Georgia and the EU, as well as to advance Georgia'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 decision¹ 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 Georgia, of the other part. Subsequently, the Agreement was signed in Brussels on Friday, 27 June 2014 in the margins of the European Council.

Georgia ratified the Agreement on 18 July 2014 and completed, in parallel with the European Union, the requisite notification procedures within the same month. Consequently, in accordance with Article 431 of the Agreement certain provisions thereof (specified in Article 3 of the Council Decision on the signing and provisional application of the Agreement with Georgia 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 Georgia 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 VIII of the Agreement with Georgia provides for the institutional framework that is necessary for the proper function and the implementation of the Agreement. The Agreement

¹ OJ L 261 of 30 August 2014

establishes an Association Council (Article 407(1)) at ministerial level to supervise and monitor the application and implementation of the Agreement.

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 407(1) of the Agreement).

The Association Council as well as the Association Committee may decide to set up any other 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 406(3) of the Agreement). It may delegate any of its powers to the Association Committee, including the power to take binding decisions (Article 408(2) of the Agreement).

The Association Committee shall meet in a specific configuration to address all issues, deriving from Title IV (Trade and Trade-related matters) of the Agreement (Article 408(4) of the Agreement). The DCFTA part of the Agreement foresees specific subcommittees on sanitary & phytosanitary measures, on customs, on geographical indications, 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 Georgia.

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 Georgia of selected parts of the EU *acquis* will provide a focus for on-going cooperation, and will form the core of Georgia'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 Georgia and aims to streamline the functioning of the subcommittee structure under the Association Agreement.

Both the EU and Georgia 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 Georgia on 17 November 2014, coinciding with the Foreign Affairs Council in Brussels.

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 Georgia is the Treaty on the functioning of the European Union, and in particular its Articles 217 and 218(9). For EURATOM, the legal basis for authorising the position to be adopted in the Association Council established by the Association Agreement between the EU and Georgia is the Treaty establishing the European Atomic Energy Community, and in particular Article 101 thereof.

In light of the above-mentioned results of negotiations, on the basis of Articles 217 and 218(9) TFEU and of Article 101 of the EURATOM Treaty, the European Commission proposes that the Council adopts the Decision authorising the position of the Union and the European Atomic Energy Community to be adopted in the first EU-Georgia Association Council with regard to:

- the rules of procedure for the Association Council and the Association Committee, the establishment of two 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,

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the functioning of the European Union, and in particular its Article 217 in conjunction with Article 218 (9) thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 101 thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) Article 431(3) and (4) 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 Georgia, of the other part provide for provisional application of the Agreement in part.
- (2) Article 4 of the Council Decision of 16 June 2014 on the signing and provisional application of the Agreement specifies certain provisions of the Agreement to be applied provisionally.
- (3) Article 405(2) of the Agreement provides that the Association Council shall establish its own rules of procedure.
- (4) Article 405 (3) of the Agreement provides that the Association Council shall be chaired in turn by a representative of the Union and a representative of Georgia.
- (5) Article 407(1) of the Agreement provides that the Association Council shall be assisted in the performance of its duties by an Association Committee while Article 408(1) provides that the Association Council shall determine in its rules of procedure the duties and functioning of the Association Committee.
- (6) Article 409(1) provides that the Association Council may decide to set up any other 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 408(4) of the Agreement, the power to update or amend the Annexes to this Agreement which relate to Chapters 1, 3, 5, 6 (Annex XV-C) and 8 of Title IV (Trade and Trade-related Matters), pursuant to Articles 406(3) and 408(2) of the Agreement to the extent that there are no specific provisions in those Chapters relating to the updating or the amendment of the Annexes in this Agreement.

HAS ADOPTED THIS DECISION:

Article 1

1. The position to be adopted on behalf of the Union and the European Atomic Energy Community in the Association Council established by Article 404 of the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, 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 two subcommittees and the adoption of their rules of procedure,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 technical changes to the draft decisions may be agreed to by the representatives of the Union and the European Atomic Energy Community in the Association Council without further decision of the Council.

Article 2

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

Article 3

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

Done at Brussels,

For the Council
The President

For the Commission
The President