



Council of the
European Union

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**Interinstitutional File:
2023/0233 (NLE)**

**COEST 549
POLCOM 231**

LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DECISION on the position to be taken on behalf of the European Union within the Association Committee in Trade configuration and within 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 Ukraine, of the other part as regards the positive assessment of the implementation of phases 1 and 2 as set out in Annex XXI-A to the Association Agreement, and the market access linked thereto

COUNCIL DECISION (EU) 2023/...

of ...

**on the position to be taken on behalf of the European Union
within the Association Committee in Trade configuration
and within 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 Ukraine, of the other part
as regards the positive assessment of the implementation of phases 1 and 2
as set out in Annex XXI-A to the Association Agreement,
and the market access linked thereto**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207(4), first subparagraph, in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) 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 part¹ (the ‘Agreement’) was concluded by the Union by means of Council Decision (EU) 2017/1247² and entered into force on 1 September 2017.
- (2) Pursuant to Article 153(2) of the Agreement, legislative approximation to the Union public procurement *acquis* is to be carried out in consecutive phases as set out in the schedule in Annex XXI-A to the Agreement. The implementation of each phase is to be evaluated by the Association Committee established by Article 464(1) of the Agreement, meeting in its Trade configuration pursuant to Article 465(4) of the Agreement (the ‘Association Committee in Trade configuration’) and, following a positive assessment by the Association Committee in Trade configuration, be linked to the reciprocal granting of market access as set out in Annex XXI-A to the Agreement.

¹ OJ L 161, 29.5.2014, p. 3.

² Council Decision (EU) 2017/1247 of 11 July 2017 on the conclusion, on behalf of the European 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, 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 (OJ L 181, 12.7.2017, p. 1).

- (3) Pursuant to Article 153(3) of the Agreement, the Association Committee in Trade configuration is only to proceed to the evaluation of a subsequent phase once the measures to implement the previous phase have been carried out and approved according to the modalities set out in Article 153(2) of the Agreement.
- (4) Pursuant to Article 475(5) of the Agreement, the Association Council established by Article 461 of the Agreement is to agree on the reciprocal, further market opening following a positive assessment by the Association Committee in Trade configuration as regards the implementation of each phase as set out in Annex XXI-A to the Agreement.
- (5) The Association Committee in Trade configuration is to adopt two decisions in accordance with Article 11(2) of the Rules of Procedure of the Association Committee and of Subcommittees, adopted by means of Decision No 1/2014 of the EU-Ukraine Association Council¹, providing a positive assessment of the approximation of Ukrainian law to Union law in the implementation of, respectively, phase 1 and phase 2 as set out in Annex XXI-A to the Agreement.

¹ Decision No 1/2014 of the EU-Ukraine Association Council of 15 December 2014 adopting its Rules of Procedure and those of the Association Committee and of Subcommittees (OJ L 157, 23.6.2015, p. 99).

- (6) After the adoption of the decisions of the Association Committee in Trade Configuration, the Association Council is to adopt two decisions in accordance with Article 11(2) of the Rules of Procedure of the Association Council, adopted by means of Decision No 1/2014 of the EU-Ukraine Association Council, on granting further, reciprocal market access linked to the implementation of, respectively, phase 1 and phase 2 as set out in Annex XXI-A to the Agreement.
- (7) As a result of the four decisions to be adopted, the Union and Ukraine should grant reciprocal market access for the procurement of supplies by central government authorities and by state, regional and local authorities and bodies governed by public law.
- (8) It is appropriate to establish the position to be taken on the Union's behalf within the Association Committee in Trade configuration as well as within the Association Council as regards the positive assessment of the implementation of phases 1 and 2 as set out in Annex XXI-A to the Agreement and the market access linked thereto, as the envisaged decisions will be binding on the Union,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf within the Association Committee in Trade configuration as regards the positive assessment of the implementation of phase 1 and phase 2 as set out in Annex XXI-A to the Agreement shall be based on the respective draft Decisions of the Association Committee in Trade configuration set out in Addenda I and II to this Decision.

Article 2

The position to be taken on the Union's behalf within the Association Council as regards the granting of reciprocal, further market access linked to the implementation of phase 1 and phase 2 as set out in Annex XXI-A to the Agreement shall be based on the respective draft Decisions of the Association Council set out in Addenda III and IV to this Decision.

Article 3

After their adoption, the Decisions of the Association Committee in Trade configuration referred to in Article 1 and the Decisions of the Association Council referred to in Article 2 shall be published in the *Official Journal of the European Union*.

Article 4

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

Done at ...,

For the Council

The President
