Council of the European Union

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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	COUNCIL DECISION on the signing, on behalf of the Union, and provisional application of the Agreement between the European Union and Ukraine amending the Agreement between the European Union and Ukraine on the carriage of freight by road of 29 June 2022

COUNCIL DECISION (EU) 2024/…

of …

on the signing, on behalf of the Union, and provisional application of the Agreement between the European Union and Ukraine amending the Agreement between the European Union and Ukraine on the carriage of freight by road of 29 June 2022

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 29 April 2024, the Council authorised the Commission to open negotiations with Ukraine on an agreement amending the Agreement between the European Union and Ukraine on the Carriage of Freight by Road[1] of 29 June 2022 (the 'Agreement').

(2) The negotiations of the Agreement between the European Union and Ukraine amending the Agreement between the European Union and Ukraine on the Carriage of Freight by Road of 29 June 2022 (the 'amending Agreement') were successfully concluded on 31 May 2024.

(3) The Agreement has proven to be essential for Ukraine, supporting the Ukrainian society and economy by allowing Union and Ukrainian road haulage operators to carry out freight transport operations to and through the Ukrainian territory to the Union and vice-versa, thereby also supporting the Solidarity Lanes for Ukraine. Its effects also remain positive for the Union, in particular for the Union's exports to Ukraine.

[1] OJ L 179, 6.7.2022, p. 4.

(4) In view of the exceptional and unique circumstances that necessitate the signature and provisional application of the amending Agreement and in accordance with the Treaties, it is appropriate for the Union to exercise temporarily the relevant shared competence conferred upon it by the Treaties. Any effect of this Decision on the division of competences between the Union and the Member States should be strictly limited in time. The competence exercised by the Union on the basis of this Decision and of the Agreement should therefore be exercised only during the period of application of the Agreement. Accordingly, the shared competence thus exercised will cease to be exercised by the Union as soon as the Agreement ceases to apply. Without prejudice to other Union measures, and subject to compliance with those Union measures, that competence will, in accordance with Article 2(2) of the Treaty on the Functioning of the European Union (TFEU), again be exercised by the Member States thereafter. Furthermore, it is recalled that, as set out in the Protocol on the exercise of shared competence annexed to the Treaty on European Union and to the TFEU, the scope of the exercise of the competence of the Union in this Decision covers only those elements governed by this Decision and the Agreement, and does not cover the whole area. The exercise of Union competence by this Decision is without prejudice to the respective competences of the Union and of the Member States in relation to any ongoing or future negotiations for, or signature or conclusion of, international agreements with any other third country in that area.

(5) At the Joint Committee meeting held on 18 December 2023, it was concluded that the Agreement fulfils its intended purpose, and that the underlying conditions justifying the Agreement remain valid. However, at the same Joint Committee meeting, the Parties also noted several issues arising from the application and implementation of the Agreement and its possible impact at local level on the road transport sector in the Union. Limited changes to the Agreement are therefore required to facilitate its enforcement and strengthen its implementation.

(6) In order for both the Union and Ukraine to continue benefitting from the positive effects of the Agreement on facilitating road freight transport between and through Ukraine and the Union, the amendments to the Agreement should include its prolongation until 30 June 2025, with the possibility for a tacit renewal for one period of six months.

(7) The Agreement currently applies until 30 June 2024. The conditions justifying the conclusion of the Agreement continue to prevail, in particular the important disruptions faced by the transport sector in Ukraine following Russia's war of aggression against Ukraine. Therefore, the amending Agreement which, inter alia, provides for the prolongation of the Agreement, should urgently be signed on behalf of the Union, subject to its conclusion.

(8) It is also appropriate to provide for the composition of the ad hoc working group on the practical implementation of the Agreement working under the authority of the Joint Committee.

(9) In order to ensure the continuity of the beneficial effects of the Agreement on freight transport, and to avoid disruptions in the export of Ukrainian products, the amending Agreement should be applied on a provisional basis, in accordance with its Article 2(2), pending the completion of the procedures necessary for its entry into force.

(10) In accordance with the Treaties, the Commission should ensure the signing of the amending Agreement, subject to its conclusion,

HAS ADOPTED THIS DECISION:

Article 1

The signing of the Agreement between the European Union and Ukraine amending the Agreement between the European Union and Ukraine on the carriage of freight by road of 29 June 2022 (the 'amending Agreement') is hereby approved on behalf of the European Union, subject to the conclusion of the amending Agreement[2].

Article 2

1. The exercise of Union competence pursuant to this Decision and the Agreement shall be limited to the period of application of the Agreement. Without prejudice to other Union measures, and subject to compliance with those Union measures, after the end of that period of application the Union shall immediately cease to exercise that competence and the Member States shall again exercise their competence in accordance with Article 2(2) TFEU.

2. The exercise of Union competence pursuant to this Decision and the Agreement shall be without prejudice to the competence of the Member States concerning any ongoing or future negotiations for, or signature or conclusion of, international agreements related to the carriage of goods by road with any other third country, and with Ukraine with respect to the period after the Agreement has ceased to apply.

[2] The text of the amending Agreement is published in … [OJ: please insert publication details for document ST 10783/24].

3. The exercise of the competence by the Union referred to in paragraph 1 of this Article covers only the elements governed by this Decision and the Agreement.

4. This Decision and the Agreement are without prejudice to the respective competences of the Union and the Member States in the area of carriage of goods by road, with regard to elements other than those governed by this Decision and the Agreement.

Article 3

The ad hoc working group on the practical implementation of the Agreement working under the authority of the Joint Committee, to be established under Article 7a of the Agreement, shall be composed, on the Union side, by one representative for the Commission, one representative of each Member State bordering Ukraine (Hungary, Poland, Romania and Slovakia) and three representatives of other Member States. A rotating system shall apply between those three other Member States, every six months.

Article 4

The amending Agreement shall be applied provisionally, in accordance with its Article 2(2), as from the day of its signature[3], pending its entry into force.

[3] The date of signature of the Agreement will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.

Article 5

The Commission shall ensure the signing of the Agreement, subject to its conclusion.

Article 6

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

Done at …, …

For the Council
The President