



Brussels, 31.5.2017
COM(2017) 269 final

2017/0109 (NLE)

Proposal for a

COUNCIL DECISION

on the position to be adopted on behalf of the European Union within the EU – Republic of Moldova Association Council relating to the amendment to Annex XXVI to the EU-Republic of Moldova Association Agreement of 27 June 2014

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- **Reasons for and objectives of the proposal**

The Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part, was signed on 27 June 2014. Annex XXVI to that Agreement specifies that the Republic of Moldova shall carry out the approximation of its Customs Code with Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (hereinafter referred to as 'the Community Customs Code').

At the time of the signature of the Association Agreement, the Community Customs code was in application in the European Union.

The Union Customs Code was adopted on 9 October 2013 as Regulation (EU) No 952/2013; on 1 May 2016 the substantive provisions of the latter came into application in the European Union, repealing the Community Customs Code.

The goal of Annex XXVI has been to assure that the Customs Code of the Republic of Moldova is in line with prevailing rules in the European Union. The differences in certain areas between the provisions of the Community Customs Code and its successor, the Union Customs Code, imply that that goal can only be achieved if the Republic of Moldova approximates its Customs Code with the latter.

At the 6 October 2016 meeting of the EU-Republic of Moldova Customs Subcommittee, it was agreed that the reference to the customs regulation in application in the European Union should therefore be updated. It was further agreed that the modification does not affect the deadline for the approximation as specified in Annex XXVI of the Association Agreement.

- **Consistency with existing policy provisions in the policy area**

The principal aim of the proposed amendment is to establish legal certainty with respect to the direction of the approximation the Republic of Moldova is obliged to carry out pursuant to the Association Agreement. Thereby, consistency with existing policy provisions in the area of customs cooperation between the EU and the Republic of Moldova will be established.

- **Consistency with other Union policies**

Not applicable.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

Article 436(3) of the EU – Republic of Moldova Association Agreement specifies that the Association Council has the power to adopt the amendments to Annexes to the Association Agreement.

Article 207 and Article 218(9) TFEU.

- **Subsidiarity (for non-exclusive competence)**

The proposal falls under the exclusive competence of the European Union. The subsidiarity principle therefore does not apply.

- **Proportionality**

The proposal does not go beyond what is necessary or appropriate to achieve the expected outcomes.

3. BUDGETARY IMPLICATIONS

This proposal has no implications for the European Union budget.

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THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Regulation (EU) No 952/2013 establishing the Union Customs Code,

Having regard to the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part, of 27 June 2014, and in particular Article 436(3) thereof,

Having regard to the conclusions of the meeting of the European Union – Republic of Moldova Customs Subcommittee of 6 October 2016,

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 the Republic of Moldova, of the other part, was signed on 27 June 2014.
- (2) Article 201 of the Association Agreement provides for the obligation of the gradual approximation to the Union's customs law and certain international law as set out in Annex XXVI to the Agreement.
- (3) Annex XXVI to the Agreement specifies that the approximation shall be carried out with the provisions of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code.
- (4) Regulation (EEC) No 2913/92 has been repealed and since 1 May 2016 the substantive provisions of Regulation (EU) No 952/2013 establishing the Union Customs Code are in application in the European Union.
- (5) It was concluded at the 6 October 2016 meeting of the European Union - Republic of Moldova Customs Sub-Committee that Annex XXVI of the Agreement should be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

1. The position to be adopted on behalf of the European Union within the EU – Republic of Moldova Association Council regarding amendments to Annex XXVI of the Association Agreement shall be based on the draft Decision attached to this Decision.

2. The representatives of the Union in the EU – Republic of Moldova Association Council may agree to minor technical corrections to the draft Decision referred to in paragraph 1 without further decision of the Council.

Article 2

This Decision shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

Done at Brussels,

For the Council
The President