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Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**amending Regulation (EU) No 374/2014 on the reduction or elimination of customs
duties on goods originating in Ukraine**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

Regulation (EU) No 374/2014 on the reduction or elimination of customs duties on goods originating in Ukraine was to apply until Title IV of the Association Agreement enters into force or is applied provisionally. It was intended that Regulation (EU) No 374/2014 would cease to apply on 1 November 2014 at the latest.

In the Joint Ministerial Statement on the Implementation of the EU-Ukraine AA/DCFTA of 12 September 2014 following the tri-lateral consultations between the European Union, the Russian Federation and Ukraine, the EU side agreed to propose as part of a comprehensive peace process in Ukraine, to EU Member States to delay until 31 December 2015 the provisional application of the DCFTA while continuing autonomous trade measures of the EU to the benefit of Ukraine during this period. Consequently, in order to support the political and economic stability of Ukraine, the European Commission would propose the extension of the application of Regulation (EU) No 374/2014 on the reduction or elimination of customs duties on goods originating in Ukraine until 31 December 2015.

Article 2 of the Association Agreement with Ukraine provides that the respect for democratic principles, human rights and fundamental freedoms and respect for the principle of the rule of law, promotion of respect for the principles of sovereignty and territorial integrity, inviolability of borders and independence, as well as countering the proliferation of weapons of mass destruction, related materials and their means of delivery constitute essential elements of that Agreement. The autonomous preferences provided for under Regulation (EU) No 374/2014 are subject to the respect of these same principles by Ukraine. Volumes/duties granted by the EU under the ATMs regulation in 2014 shall continue to apply for 2015.

2. RESULTS OF CONSULTATIONS WITH INTERESTED PARTIES AND IMPACT ASSESSMENT

Not applicable.

3. LEGAL ELEMENTS OF THE PROPOSAL

The legal basis for the proposal is Article 207(2) of the Treaty on the Functioning of the European Union.

4. BUDGETARY IMPLICATION

The European Union will see a loss of customs revenue corresponding to EUR 487 million (gross) annually. However, those figures are estimates, having regard to the political and economic situation of Ukraine and can change.

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Ukraine is a priority partner country within the European Neighbourhood Policy (ENP) and the Eastern Partnership. The European Union has been seeking an increasingly close relationship with Ukraine in view of Ukraine's political association and economic integration with the European Union. In this respect, the European Union and Ukraine negotiated in 2007-2011 an Association Agreement, including a Deep and Comprehensive Free Trade Area (DCFTA), which was signed by both parties on 27 June 2014. Under the provisions of the DCFTA, the European Union and Ukraine are to establish a free trade area over a transitional period of a maximum of 10 years starting from the entry into force of the Association Agreement, in accordance with Article XXIV of the General Agreement on Tariffs and Trade 1994.
- (2) In light of the unprecedented security, political and economic challenges faced by Ukraine, and in order to support its economy, it was decided to anticipate the implementation of the Schedule of concessions set out in Annex I-A to the Association Agreement between the EU and Ukraine by means of the autonomous trade preferences provided for under Regulation (EU) No 374/2014. In view of the challenges Ukraine still faces, the application of Regulation (EU) No 374/2014 shall be extended until 31 December 2015. For the purpose of predictability, the customs duties and access to tariff quotas should following the extension remain the same as for 2014.
- (3) Article 2 of the Association Agreement with Ukraine provides that the respect for democratic principles, human rights and fundamental freedoms and respect for the principle of the rule of law, promotion of respect for the principles of sovereignty and territorial integrity, inviolability of borders and independence, as well as countering the proliferation of weapons of mass destruction, related materials and their means of delivery constitute essential elements of that Agreement. The autonomous preferences provided for under Regulation (EU) No 374/2014 shall also be subject to the respect of these same principles by Ukraine. In order to align Regulation (EU) No 374/2014 with Union practice and other EU trade policy instruments, it is appropriate to introduce the

possibility to temporarily suspend the preferences in case of failure to respect the fundamental principles of human rights, democracy and the rule of law by Ukraine.

- (4) In view of the urgency of the matter, it is important to apply an exception to the eight-week period referred to in Article 4 of Protocol No 1 on the role of national Parliaments in the European Union, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 374/2014 is amended as follows:

- (1) Article 1 is replaced by the following:

"Article 1

Preferential arrangements

Customs duties on goods originating in Ukraine shall be reduced or eliminated in accordance with Annex I. Where reference in that Annex is made to staging categories, the basic rate of duties for 2014 and 2015 shall be eliminated in case of staging category 0 and shall be reduced by 25 % in case of staging category 3, by 16,7 % in case of staging category 5 and by 12,5 % for staging category 7.";

- (2) In Article 2, the following point (e) is added:

"(e) the respect for democratic principles, human rights and fundamental freedoms and respect for the principle of rule of law provided for in Article 2 of the Association Agreement with Ukraine.";

- (3) In Article 7, the second paragraph is replaced by the following:

"It shall apply until 31 December 2015.

- (4) Annexes II and III are replaced by the text set out in Annexes I and II respectively to this Regulation.

Article 2

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

It shall apply as of 2 November 2014.

Done at Brussels,

For the European Parliament
The President

For the Council
The President