

[Redacted]

From: [Redacted]
Subject: EU/Ukraine Association Agreement
Attachments: SUMMARY.docx

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Dear colleagues,

On behalf of [Redacted], please find attached a brief summary of the proposed form and content of the decision that should be submitted to the Heads of State or Government for adoption on 15 December to allow the ratification by the Netherlands of the EU/Ukraine Association Agreement and its conclusion on behalf of the Union.

This brief summary is only intended to facilitate the preparation of the administrative and political steps that will be required nationally before and after the actual draft is made available. Some of you have indicated that such a presentation, in essence identical to the information that has been transmitted already during the recent bilaterals, could be helpful. It is in this hope that we have prepared it.

Best regards,

[Redacted]

[Redacted]

Head of Unit



Council of the European Union
General Secretariat
Legal Service

Coordination Unit

[Redacted]
Rue de la Loi/Wetstraat 175 - 1048 Bruxelles/Brussel - Belgique/België
Direct tel: [Redacted] | Mobile: [Redacted]
[Redacted] | www.consilium.europa.eu

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PROPOSAL FOR A LEGALLY BINDING DECISION
ADOPTING A COMMON UNDERSTANDING
ON THE EU-UKRAINE ASSOCIATION AGREEMENT

Background

Following the referendum in April 2016 in the Netherlands, the Conclusions of the European Council of June 2016 stated:

"The Dutch Prime Minister presented the outcome of the referendum in the Netherlands on the Association Agreement with the Ukraine as well as the concerns expressed in the debate preceding the referendum. The European Council invites the Council to seek a solution addressing these concerns as soon as possible".

The Dutch Prime Minister informed the European Council on 20-21 October 2016 of the state of the issue. He signalled his awareness of the implications that a negative decision by the Netherlands as regards ratification would have for the European Union, its Member States and Ukraine, as parties to the Agreement.

On 31 October Prime Minister Rutte wrote to the President of the Dutch House of Representatives referring to the need for *"a legally binding solution...that did justice to the "no" vote"* and stating that the *"most suitable form for a legally binding solution would be a decision by the heads of state and government, assembled in the European Council"*.

Form of the Proposed Decision

It is proposed that a decision be adopted by the Heads of State and Government of the Member States of the European Union meeting within the European Council on 15 December 2016.

This would be a legally binding decision of the Heads of State and Government setting out their *common understanding* of certain aspects of the Association Agreement with Ukraine. It would not amend, modify or supplement the obligations set out in that Agreement nor would it purport to be a free-standing international agreement. It would not be subject to either signature or ratification by Member States. It would only take effect once the agreement enters into force following ratification by the Netherlands and conclusion by the Union.

Content of the Proposed Decision

The proposed decision would seek to address the five elements set out in the letter of 31 October from Prime Minister Rutte:

"The decision must state that the Association Agreement is not a first step to membership of the EU and does not confer any rights to such membership. The decision must also make clear that the agreement implies no collective security guarantee for Ukraine and imposes no obligation on the member states with regard to military cooperation. Furthermore the decision must explicitly state that Ukrainian workers are not being given access to the EU labour market and that member states will not be compelled to provide financial support to Ukraine. The decision also have to contain a provision to the effect that strengthening the rule of law, and particularly fighting corruption, is a central element of the agreement".

The decision would not deal with any other matter.