



EUROPEAN UNION

DELEGATION TO UKRAINE

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NOTE VERBALE

The Delegation of the European Union to Ukraine presents its compliments to the Ministry of Foreign Affairs of Ukraine and has the honour to request, on behalf of the European Union, the establishment of an arbitration panel pursuant to Article 306 of the Association Agreement of 21 March 2014 between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part (“Association Agreement”).

This request concerns the restrictions applied by Ukraine on exports of certain wood products to the European Union.

Ukraine applies since 2005 a permanent prohibition on exports of timber and sawn wood of ten wood species (acacias, checker trees, cherry trees, pear trees, walnut trees, chestnuts, common yews, black cherries, acers, and junipers).

In 2015 Ukraine introduced a temporary ban, for a period of 10 years, on exports of all unprocessed timber. In the case of wood species other than pine, the temporary ban applies from 1 November 2015. In the case of wood species of pine trees, it applies from 1 January 2017.

Currently, the above export restrictions are stipulated in the Law of Ukraine № 2860-IV, of 8 September 2005, “On Elements of the State Regulation of Business Operators’ Activities Related to the Sale and Export of Timber”, as successively amended, including in particular by the Law of Ukraine № 325-VIII of 9 April 2015 “On Amendments to the Law of Ukraine ‘On Elements of the State Regulation of Business Operators’ Activities Related to the Sale and Export of Timber’ concerning the Temporary Export Ban for Unprocessed Timber”.

The export restrictions applied by Ukraine appear to be incompatible with Article 35 of the Association Agreement, which sets out a prohibition of export restrictions and measures having an equivalent effect.

On 15 January 2019, the European Union requested consultations with Ukraine with regard to the measures at issue with a view to reaching a mutually agreed solution of the matter. The consultations were held on 7 February 2019 in Kyiv. They unfortunately did not resolve the dispute.

*Department of State Protocol
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Therefore, the European Union respectfully requests the establishment of an arbitration panel to examine this matter, with standard terms of reference as set out in Article 306(3) of the Association Agreement, and according to the procedure for the composition of the panel pursuant to Article 307 and the relevant provisions in the Rules of Procedure for Dispute Settlement in Annex XXIV to Chapter 14 of the Association Agreement.

The European Union looks forward to receiving Ukraine's reply to this request for the establishment of an arbitration panel in due course, including in particular the information on the relevant contact point for the agreement on panel composition, pursuant to Article 307(2) of the Agreement, in case this would differ from the contact points during the consultation phase.


The European Union will submit, by separate correspondence to Ukraine in the coming days, its proposals for an appropriate approach to be presented to the arbitrators as regards remuneration and expenses, pursuant to Rule 8 of the Rules of Procedure for Dispute Settlement in Annex XXIV to Chapter 14 of the Association Agreement.

Furthermore, the European Union proposes to continue to agree to use English as common working language for the proceedings before the arbitration panel, in accordance with Rule 41 of the Rules of Procedure.

The European Union kindly requests that this Note Verbale also be submitted to the Ukrainian representative in the Trade Committee under the Association Agreement.

The Delegation of the European Union to Ukraine avails itself of this opportunity to renew to the Ministry of Foreign Affairs of Ukraine the assurances of its highest consideration.

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Kyiv, 20 June 2019

