

Letter of 31 October 2016 by the Prime Minister and the Minister of Foreign Affairs to the President of the House of Representatives on the European Union Association Agreement with Ukraine

In accordance with the motion by MP Alexander Pechtold, et al. (no. 34550-13) on the Association Agreement with Ukraine, the government is writing to inform the House about its response to the outcome of the referendum.

In the immediate wake of the referendum, the government took the position that the Netherlands could not simply move ahead with ratification. Ratification would be possible only if a legally binding solution could be found that did justice to the 'no' vote. Finding such a solution is and remains the government's goal. This process is taking time – more time than many in the Netherlands would like. The government realises that this is asking a great deal of all parties concerned, including the States General, which had hoped to have clarity on this issue by now. The government well understands that many people find this process to be laborious. This has led to widespread dissatisfaction, which must be dispelled as soon as possible.

At the European Council of 20 and 21 October, the prime minister and the members of the Council again discussed the follow-up to the outcome of the consultative referendum on the act of approval for the Association Agreement between the European Union and the European Atomic Energy Community, on one side, and Ukraine, on the other. He outlined the government's efforts to craft a legally binding solution that not only does justice to the outcome of the referendum but is also acceptable to both the Dutch parliament and the 27 other member states of the European Union that have already ratified the Association Agreement. On that occasion he again made the point that, given the result of the referendum, the Netherlands was not in a position to proceed with ratification. In doing so he made clear that the government was aware that the Association Agreement was an international treaty, meaning that a negative decision by the Netherlands on ratification could have implications for the European Union, its member states and Ukraine. He also confirmed that the government fully realised that such a decision could have geopolitical repercussions.

The government believes 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. Such a decision would have to address the main concerns raised during the debate on the referendum. Obviously, it is difficult to analyse every aspect of the public debate, but the following points were dominant during both the debate and the period that followed. 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 would 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 government is fully aware of the possible and expected negative consequences that non-ratification could have. Our national 'no' vote must be seen in the context of a larger international reality, with particular implications for the stability of Europe's eastern border and our relationship with Russia. Whereas the EU has used this Association Agreement and others like it to promote stability and prosperity in the region, Russia has consistently sought to thwart it. Russia annexed Crimea. Non-ratification by the Netherlands would play into Moscow's hands and project to Russia an image of a divided EU that is incapable of exerting any meaningful influence in a neighbouring region or giving shape to its relationships with the countries of that region. Maintaining unity is the best response to Russia's foreign policy, which has led to instability on Europe's borders. Our opinions will carry more weight if Europe can form a united front, including in relation to Russia's role in Syria.

In addition, there are the consequences for Ukraine to consider. The aim of the Association Agreement is to support Ukraine on its path to becoming a stable democracy. If the agreement does not enter into force, the risk of instability in the region will only grow, increasing the likelihood of Russian influence in Ukraine.

Finally, non-ratification could have negative consequences for the EU's ability to be an effective player in the global arena that promotes prosperity and stability, particularly along its own borders.

Given the international context, the government believes it is in our national interest to do our utmost to find a solution that does justice to both the outcome of the referendum and the importance of the Association Agreement.

The concerns outlined above have also been discussed at the many meetings the prime minister and foreign minister have had with our European partners and with Ukraine since the referendum. In those conversations European partners expressed their support for

moving in the direction of a legally binding solution along the lines sketched out above. Although no formal undertakings have been given, the government expects that such an outcome can be achieved. And in the government's view such a solution would indeed do justice to the outcome of the referendum.

Against the backdrop of the geopolitical and regional considerations mentioned above, the government has decided, in the national interest, to engage in further negotiations to find a legally binding solution in the period leading up to the European Council of 15 and 16 December. If the negotiations result in such a solution, the government will submit a bill on the entry into force of the act of approval.