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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 22.12.2008
COM(2008) 883 final

Proposal for a

COUNCIL DECISION

establishing the Community position within the General Council of the World Trade Organization on the accession of Montenegro to the World Trade Organization

(presented by the Commission)

EXPLANATORY MEMORANDUM

BACKGROUND

1. Members of the World Trade Organization (WTO) and Montenegro have reached the concluding stage of agreement on the terms for Montenegro's accession to the organization. This comes after 4 years of negotiations, which began when Montenegro submitted its application to join the WTO in December 2004. A Council Decision is necessary approving the terms of Montenegro's accession, before the EU can formally support Montenegro's entry into the WTO. A summary of the terms of accession is set out below.
2. Bilateral trade commitments on goods and services between the EU and Montenegro are embodied in a preferential trade agreement which is part of the Stabilisation and Association Agreement (SAA) signed on 15 October 2007. The trade part (Interim Agreement) has been applicable since 1 January 2008. Montenegro is also a potential candidate for accession to the EU.

OUTCOME FOR INDUSTRIAL AND AGRICULTURAL GOODS

3. Montenegro's tariff schedule mirrors the EU tariff structure in HS 2007 classification on an 8 digit level, but it is expressed across the board in 10-digits. All tariff lines will be bound. All tariffs are expressed in an ad-valorem manner. Applied Duty rates are at a total simple average of 4.19%. The total simple average of the Initial Bound Rates (IBR) is 5.04%. The total simple average of Final Bound Rates (FBR) obtained is 4.92%. All sectors show average bound rates below 10%. The sectors with peaks include paper as well as leather and fur (22%) and fish (30%). All other tariff lines are offered at levels lower or equal to 15%. For 131 tariff lines the FBR is different from the IBR. The implementation periods are, respectively, 4 and 5 years. Montenegro will fully participate in all sectoral agreements – except for a few very sensitive lines (paper, steel).
4. On agricultural goods, applied duties are at 12.08% and the average of the IBR is 20.97%, which will be reduced to 17.65%. For agriculture, 760 tariff lines have implementation periods of, respectively, 4 and 5 years. The highest rates are butter, at 60%.

OUTCOME FOR SERVICES

5. Montenegro is undertaking commitments allowing for market access and competition between domestic and foreign services suppliers in practically all sectors and sub-sectors, which will bring benefits both to the Montenegrin economy and to the EU. Foreign services suppliers will face no quantitative or discriminatory restrictions in key services sectors such as:
 - professional services
 - the vast majority of business services
 - postal & courier services (in line with the EC schedule)

- telecommunications services
 - construction services
 - distribution services
 - education services
 - environmental services
 - the vast majority of financial services (with a transition period for some subsectors)
 - tourism services, and
 - part of transport services.
6. The few sectors for which Montenegro is not undertaking commitments include social services and transport services (internal waterways transport, space transport, part of air and rail transport and pipeline transport). Montenegro is also not taking any commitments on audiovisual services. Montenegro retains limitations on cross-border supply for medical and dental services, veterinary services and services provided by midwives, nurses and paramedical personnel; also for building cleaning services, photographic services, packaging services. For insurance services, Montenegro retains limitations on cross-border supply similar to those of the rest of WTO members and will allow direct branching only as of 2012.

PROTOCOL COMMITMENTS

7. In the final, multilateral stage of the accession process, WTO Members collectively sought to ensure the basic compatibility of Montenegro's trade laws and institutions with WTO rules and agreements, setting these out in the Protocol of Accession and Working Party Report. The following issues are of particular interest to the EU:

Trading Rights

8. In Montenegro, registered foreign persons have the right to engage in importation and exportation under the same conditions as domestic persons. From the date of WTO accession Montenegro will ensure that its laws and regulations relating to the right to import and export goods and their implementation will be in full conformity with WTO obligations.

Import Licensing System

9. Montenegro has brought its import licensing procedures into compliance with WTO rules, including the Agreement on Import Licensing Procedures. Montenegro gave a commitment that it would administer and apply its tariff rate quotas and tariff exemptions in conformity with the WTO Agreement and the agreement on Import Licensing.

Trade Related Investment Measures

10. From the date of WTO accession, Montenegro will apply its investment regime in a non-discriminatory manner to imports from all WTO Members and to domestically produced goods, in compliance with the WTO Agreement, including the Agreement on Trade Related Investment Measures (TRIMS). Montenegro has inter alia adopted a new Law on Tobacco that abolished the requirement for each manufacturer to purchase a specific quantity of domestically processed tobacco.

Intellectual Property Rights

11. As regards geographical indications, Montenegro provides for co-existence of geographical indications with prior trademarks under certain circumstances in accordance with Article 17 of the TRIPS Agreement. Montenegro also provides the same protection of rights to geographical indications to nationals of WTO members as was provided to Montenegrin nationals. Regarding data protection, Montenegro provides protection for pharmaceuticals and for agrochemicals. On enforcement of intellectual property rights, Montenegro has implemented comprehensive rules that also include special border measures in line with TRIPS requirement.

Sanitary and phytosanitary measures (SPS)

12. Montenegro does not have a single enquiry point at present, but adopted a Regulation on Notification Procedures of SPS measures in January 2008 to comply with the SPS Agreement. The enquiry point will be responsible for providing information, inter alia, on Montenegro's WTO membership and participation in international sanitary and phytosanitary organizations, including the Codex Alimentarius, the International Office of Epizootics, the International Plant Protection Convention as well as any SPS measure adopted or proposed within its territory.

RECOMMENDATION

13. In submitting the terms of accession of Montenegro to the WTO for approval by the Council, the Commission commends these terms as representing a balanced yet ambitious package of market opening commitments, which will bring substantial benefits to Montenegro and its WTO trading partners alike.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 (1) and 133 (5) in conjunction with the second subparagraph of Article 300(2) thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) On 10 December 2004, the Government of Montenegro applied for accession to the Agreement establishing the World Trade Organization (WTO), pursuant to Article XII of that Agreement.
- (2) A Working Party on Montenegro's accession was established on 15 February 2005 in order to reach agreement on the terms of accession acceptable to Montenegro and all WTO Members.
- (3) The Commission, on behalf of the European Communities and Montenegro concluded their bilateral negotiations on trade in goods and services in April 2008.
- (4) Accession to the WTO is expected to make a positive and lasting contribution to the process of economic reform and sustainable development in Montenegro.
- (5) The Protocol of Accession should therefore be approved.
- (6) Article XII of the Agreement establishing the WTO provides that the terms of accession are to be agreed between the acceding Member and the WTO, and that the Ministerial Conference of the WTO approves the terms of accession on the WTO side. Article IV.2 of the Agreement establishing the WTO provides that in the intervals between meetings of the Ministerial Conference its functions shall be conducted by the General Council.
- (7) Accordingly, it is necessary to establish the position to be taken by the Community within the General Council,

HAS DECIDED AS FOLLOWS:

Sole Article

1. The position to be taken by the Community, within the General Council of the WTO, on the accession of Montenegro to the WTO is to approve the accession.
2. This position shall be expressed by the Commission on behalf of the Community.

Done at Brussels, [...]

For the Council
The President
[...]