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COMMISSION OF THE EUROPEAN COMMUNITIES

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Proposal for a

COUNCIL DECISION

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

(presented by the Commission)

EXPLANATORY MEMORANDUM

Overview of the Terms of Ukraine's Accession to the WTO

I. INTRODUCTION

Members of the World Trade Organisation (WTO) and the Republic of Ukraine have reached the concluding stage of agreement on the terms for Ukraine's accession to the organisation. This comes after 14 years of negotiations, which began when Ukraine submitted its application to join the WTO in 1993. There must now be a Council Decision approving the terms of Ukraine's accession, before the EU can formally support Ukraine's entry.

A summary of the terms of the accession is set out below.

II. SUMMARY OF TERMS OF UKRAINE'S WTO ACCESSION BY SECTOR

Industrial Goods

The average of Ukraine's initial bound rates (IBR) is at 4.91%, which will be reduced to 4.81% (FBR). Implementation periods between 1 and 5 years have been introduced only for 226 lines. This leads to an average staging of 0.05 years. Only 71 tariff lines will be at or above 15% duty rates. 5 lines will remain at peak level of 25%. All tariffs will be bound.

As regards sectoral initiatives, tariffs on ITA, paper, medical equipment, furniture and toys will be eliminated. In the other sector initiatives tariffs go below 1 % (agricultural 0.71% and construction equipment 0.35, steel (MSA) 0.22 and pharmaceuticals 0.05%). Chemicals' harmonisation will be at 5.32%.

On machinery and appliances, the most interesting sectors for the EU, the tariffs will be at 5.33%. The tariffs on vehicles and parts will be at 7.97%.

Agricultural goods

On agricultural goods, the average of the initial bound rates (IBR) is 11.05%, which will be reduced to 10.61%. In agriculture only 20 tariff lines have an implementation period (2 years). The highest rates are sunflower seed oil with 30% and sugar with 50%.

Services

Ukraine undertakes commitments allowing for competition between domestic and foreign services suppliers in practically all sectors and sub-sectors, which will bring benefits both to the Ukrainian economy and to the EU, who is the world's leading exporter in this field.

Foreign services suppliers will face no quantitative or discriminatory restrictions at all in key services sectors such as:

- professional services,
- the vast majority of business services
- postal & courier services in the areas not reserved to the national monopoly
- telecommunications services
- construction services
- distribution services
- environmental services

- tourism services
- the vast majority of financial services, and
- the vast majority of transport services, including pipeline transport

The few sectors for which Ukraine does not undertake commitments include investigation and security services, audiovisual services, space transport and pushing and towing services for maritime and rail transport. For passenger and freight rail transport the commitments are limited to the consumption abroad of those services. For insurance services, Ukraine retains limitations on cross-border supply similar to those of the rest of the WTO membership and will allow direct branching only five years after its accession to the WTO and retains some limitations.

Protocol commitments

In the final, multilateral stage of the accession process, WTO Members collectively sought to ensure the basic compatibility of Ukraine'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:

Pricing policies

Ukraine has taken on a commitment not to apply mandatory minimum price requirements to any imported product. Upon accession, all rail transportation fees would be applied on a non-discriminatory basis to goods transported between domestic locations, imported, exported, or in transit.

Alcohol licensing fees

Ukraine has changed its legislation to bring the licensing fees for importation and exportation of alcohol beverages and tobacco to the level of UAH 780 (104 EUR), which is commensurate to the cost of services rendered and thereby compatible with Article VIII GATT 1994. Ukraine has taken on a commitment to maintain this level from the date of accession.

Application of internal taxes to imports

Ukraine had changed its legislation to eliminate the discriminatory excise tax treatment of imported alcohol beverages. VAT exemptions granted to automobile, shipbuilding and aircraft constructions industries had also been eliminated. Ukraine had also taken on a commitment to maintain this situation and to apply its internal taxes in compliance with the WTO rules upon accession.

Import licensing system

Ukraine had changed its legislation to bring its import licensing procedures in compliance with the WTO rules, including the Agreement on Import Licensing Procedures. Most provisions of the WTO instruments in this area have already been transposed into the national law, and the few remaining provisions will be adopted by accession.

Customs valuation

Ukraine has taken on a commitment to apply the WTO provisions concerning customs valuation upon accession. Ukraine would not use any form of reference or minimum prices or fixed valuation schedules for the valuation of imports, and all methods of valuation used would be in conformity with those provided for in the WTO Agreement on the Implementation of Article VII GATT 1994.

Export duties

Ukraine has taken on a commitment to gradually reduce its export duties imposed on scrap metal, hides and skins, live cattle and oil seeds significantly within the periods of 5 to 8 years. The reduction schedules and the reduced levels of duties will be bound upon accession.

Subsidies

Ukraine had changed its legislation to eliminate all WTO-incompatible subsidies provided to automobile, shipbuilding and aircraft constructions industries. Ukraine has also taken on a commitment not to introduce any such subsidies in the future. Ukraine will provide a subsidy notification to the WTO by the date of accession.

Transit

Ukraine will apply all its laws, regulations and other measures governing transit of goods (including energy), and charges for transportation of goods in transit in conformity with the provisions of Article V of the GATT 1994 and other relevant provisions of the WTO Agreement upon accession.

Intellectual Property Rights

As regards geographical indications, Ukraine provides co-existence of geographical indications with prior trademarks under certain circumstances in accordance with Article 17 of the TRIPS Agreement. Ukraine also provides the same protection of rights to geographical indications to nationals of WTO members as was provided to Ukrainian nationals. Regarding data protection, Ukraine provides five years protection for pharmaceuticals and ten years for agrochemicals. On enforcement of intellectual property rights, Ukraine has taken on comprehensive commitments which reflect the provisions of the relevant EC Directive.

III. RECOMMENDATION

In submitting the terms of Accession of the Republic of Ukraine to the WTO for approval by the Council, the Commission commends these terms as representing a balanced but ambitious package of market opening commitments, which will bring substantial benefits to Ukraine and her 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 Articles 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 20 November 1993 the Government of the Republic of Ukraine applied for accession to the Agreement establishing the World Trade Organization (WTO), pursuant to Article XII of that Agreement.
- (2) A Working Party on Ukraine's accession was established on 17 December 1993 in order to reach agreement on terms of accession acceptable to the Republic of Ukraine and all WTO Members.
- (3) The Commission, on behalf of the Community, negotiated a comprehensive series of market opening commitments on the part of the Republic of Ukraine which are of particular importance to the Community, as set out in a memorandum agreed between the negotiators of the Republic of Ukraine and the Commission on 17 March 2003.
- (4) These commitments are now embodied in the Protocol of Accession of the Republic of Ukraine to the WTO.
- (5) Accession to the WTO is expected to make a positive and lasting contribution to the process of economic reform and sustainable development in the Republic of Ukraine.
- (6) The Protocol of Accession should therefore be approved.
- (7) 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.
- (8) 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 the Republic of Ukraine 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
[...]