

Proposal for a Council Decision on a Community position within the EU-Mexico Joint Council concerning the tariff treatment of certain products listed in Annex 1 and 2 to Decision No 2/2000 of the EU-Mexico Joint Council

(2002/C 262 E/02)

COM(2002) 91 final — 2002/0045(ACC)

(Submitted by the Commission on 20 February 2002)

EXPLANATORY MEMORANDUM

It has recently emerged that the EU and Mexico are affording different tariff treatment to products included in the tariff elimination schedule established by Decision No 2/2000 of the EU-Mexico Joint Council. The products involved are those included in category 4 ⁽¹⁾ of the tariff elimination schedule, that is, products for which the calendar of reductions will only start on 1 July 2003, and the difference comes from diverging interpretations of the scope of the base rates listed in Annex 1 to Decision No 2/2000. Base rates are defined in Article 3(7) of Decision No 2/2000 as 'the basic customs duty to which the successive reductions are to be applied'.

For products in category 4 the Community is at present not granting any preferential treatment to products of Mexican origin according to Decision No 2/2000, i.e., it is applying MFN rates. MFN rates are in some cases higher than base rates. This is because base rates for certain products of Mexican origin were negotiated to be equal to the GSP rate in force at the end of 1998; however, GSP for some of these products was stopped for products originating in Mexico at the beginning of 1999 ⁽²⁾.

Mexico is, by contrast, applying to products in the same category the base rates, which, similarly, in certain cases, are lower than MFN rates. This is because for EU exports base rates were equal to duty rates in force at end 1998, that is, before a generalised increase of Mexican MFN rates on certain industrial and agricultural products.

When the divergence emerged, about one year after the entry into force of Decision No 2/2000, the Mexican side asked that the EC switch to their interpretation of what comprises the base rate, i.e., to make it the rate applied to products in category 4 until tariff elimination starts in 2003.

The Commission proposes that Decision No 2/2000 be amended, to establish that the customs duties applicable on category 4 products shall not exceed the base rates in Annexes I and II, for the following reasons:

- The Mexican interpretation leads to a situation where the EU appears to be benefiting from a non-reciprocated tariff concession from Mexico, and now that the situation has emerged, it needs to be addressed. This has become an important question of principle in our bilateral relationship with Mexico. It is therefore necessary to align both sides' interpretation.
- The trade involved is very low, but EU imports in 2000 (EUR 208 000) were lower than EU exports (EUR 1 400 000). This means that the Mexican interpretation (i.e. using base rates instead of MFN rates) would make the EU save in duty payments more than it would lose in duty income.
- The proposed amendment is coherent with the tariff elimination process which will begin for the products included in category 4 on 1 January 2003.
- This interpretation is therefore more favourable to both sides and should be adopted.

It is therefore proposed that the EU-Mexico Joint Council adopt the decision enclosed.

⁽¹⁾ Agricultural and fishery products.

⁽²⁾ This reference to GSP does not imply that GSP is incorporated in the EU-Mexico FTA. GSP remains a completely independent development instrument and the concessions under GSP are not to be mixed with bilateral concessions under Article XXIV of GATT 1994.

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof,

Having regard to the proposal from the Commission,

HAS DECIDED AS FOLLOWS:

Sole Article

To adopt, as a Community position within the EU-Mexico Joint Council, the annexed draft decision.

DECISION OF THE EUROPEAN UNION-MEXICO JOINT COUNCIL No .../2001

of ...

relating to the tariff treatment of certain products listed in Annex 1 and 2 to Decision No 2/2000 of the EU-Mexico Joint Council

THE JOINT COUNCIL,

Having regard to the Economic Partnership, Political Coordination and Cooperation Agreement between the European Community and its Member States, of the one part, and the United Mexican States, of the other part, signed in Brussels on 8 December 1997,

Having regard to Decision No 2/2000 of the EU-Mexico Joint Council of 23 March 2000 (hereinafter 'Decision No 2/2000') and in particular to Article 3 paragraph 5 thereof,

Whereas:

- (1) Article 3(5) of Decision No 2/2000 gives the Joint Council the capacity to accelerate the reduction of customs duties or otherwise improve conditions of access, so as to supersede the terms established in Articles 4 to 10 thereof for the product concerned.
- (2) It is appropriate to provide that in the customs duties applied by each party on imports of products falling within category 4 shall not exceed the base rates stipulated in Annexes I and II,

HAS DECIDED AS FOLLOWS:

Article 1

1. Customs duties on imports into the Community of products originating in Mexico listed in Annex I under category 4 shall not exceed the base rates for those products specified in that annex.
2. Customs duties on imports into Mexico of products originating in the Community listed in Annex II under category 4 shall not exceed the base rates for those products specified in that annex.

Article 2

This Decision shall enter into force on the fifth day following that in which it is adopted by the Joint Council.
