



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 27.11.2006
COM(2006) 730 final

2006/0238 (ACC)

Proposal for a

COUNCIL DECISION

on the signing and the provisional application of a bilateral agreement in the form of an Exchange of Letters between the European Community and Ukraine concerning the extension and amendment of the Agreement between the European Community and Ukraine on trade in textile products

(presented by the Commission)

EXPLANATORY MEMORANDUM

1) CONTEXT OF THE PROPOSAL

- **Grounds for and objectives of the proposal**

The bilateral agreement on trade in textile products between the European Community and Ukraine will expire on 31 December 2006. Ukraine may lack time to complete the process to accede the World Trade Organisation (WTO) before that date. The proposal provides for an extension of the present textile agreement until 31 December 2007, with a tacit renewal for a period of one more year (31 December 2008). This will ensure legal certainty in trade in textile and clothing products until Ukraine joins the WTO.

- **General context**

The bilateral agreement regulating trade in textiles with Ukraine has been in place since 1993 and has been amended on several occasions. The agreement, as amended, includes tariff commitments on the side of Ukraine (tariffs are equal to EU levels), a snapback clause in case of the non-respect of those tariff levels and a clause prohibiting the introduction of non-tariff barriers.

Neither quantitative restrictions nor double-checking requirements are currently in place and the proposed amendment ensures the continuation of the present open regime of trade in textile and clothing products with Ukraine.

- **Existing provisions in the area of the proposal**

OJ L 123, 17.5.1994; OJ L 94, 26.4.1995; OJ L 81, 30.3.1996; OJ L 337, 30.12.1999; OJ L 16, 18.1.2001; OJ L 75, 16.3.2002; OJ L 49, 22.2.2003; OJ L 65, 11.3.2005.

- **Consistency with the other policies and objectives of the Union**

An extension of the bilateral agreement on trade in textile products will continue to provide legal certainty for operators on both sides and thereby ensure smooth bilateral trade in textile products until WTO accession.

Should Ukraine join the WTO before 31 December 2006 the need for the proposed amendment would lapse.

2) CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

- **Consultation of interested parties**

This Decision provides for the signature and the provisional application of an international trade agreement amending (and extending) an agreement that otherwise would have expired. No formal consultation is necessary.

- **Collection and use of expertise**

There was no need for external expertise.

- **Impact assessment**

Impacts have been assessed in the course of the negotiations of the international agreement.

It was therefore not necessary to conduct an impact assessment of this measure.

3) LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

The proposal provides for an extension of the bilateral agreement on trade in textiles between the European Community and Ukraine until 31 December 2007 with a tacit renewal for a further period of one year (until 31 December 2008), on the terms and conditions currently in place.

There will be no particular negative effects or risks for developing countries.

- **Legal basis**

Article 133 of the Treaty establishing the EC.

- **Subsidiarity principle**

The proposal falls under the exclusive competence of the Community. The subsidiarity principle therefore does not apply.

- **Choice of instruments**

Proposed instruments: decision.

Other means would not be adequate for the following reason(s).

There are no other means available for the signature and the provisional application of an international agreement.

4) BUDGETARY IMPLICATION

The proposal has no implication for the Community budget.

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THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission,

Whereas:

- (1) The Commission has negotiated on behalf of the Community an agreement in the form of an Exchange of Letters between the European Community and Ukraine concerning the extension and amendment of the Agreement on trade in textile products with Ukraine.
- (2) Subject to its possible conclusion at a later date, the proposed agreement should be signed on behalf of the Community.
- (3) This bilateral agreement should be applied on a provisional basis as of 1 January 2007, pending the completion of procedures required for its conclusion, subject to the reciprocal provisional application by Ukraine,

HAS DECIDED AS FOLLOWS:

Article 1

Subject to a possible conclusion at a later date, the President of the Council is hereby authorised to designate the person(s) empowered to sign on behalf of the European Community the Agreement in the form of an Exchange of Letters between the European Community and Ukraine concerning the extension and amendment of the Agreement between the European Community and Ukraine on trade in textile products, initialled on 5 May 1993, as last amended by an Agreement in the form of an Exchange of Letters signed on 9 March 2005.

Article 2

The annexed Agreement in the form of an Exchange of Letters shall be applied on a provisional basis, pending its formal conclusion and subject to reciprocal provisional application of that Agreement by Ukraine, from 1 January 2007.

Article 3

The Commission may, in accordance with the procedure referred to in Article 17 of Council Regulation (EEC) No 3030/93, of 12 October 1993, on common rules for imports of certain textile products from third countries¹, adopt the measures foreseen in point 6 of the Exchange of Letters signed on 19 December 2000², consisting of reinstating the quota-regime applicable during the year 2000 in case of non-application by Ukraine of the tariff rates described in paragraph 2.2 of the Exchange of Letters referred to in Article 1 of this Decision.

Article 4

This Decision shall be published in the *Official Journal of the European Union*.

It shall enter into force on the day following its publication in the *Official Journal*.

Done at Brussels,

For the Council
The President

¹ OJ L 275, 8.11.1993, p. 1. Regulation last amended by Commission Regulation (EC) No 35/2006 of 12 January 2006 (OJ L 7, 12.1.2006, p. 8).

² OJ L 16, 18.1.2001, p. 3.

ANNEX

AGREEMENT in the form of an Exchange of Letters between the European Community and Ukraine, represented by the Government of Ukraine, concerning the extension and amendment of the Agreement between the European Community and Ukraine on trade in textile products

A. Letter from the Council of the European Union

Sir,

1. I have the honour to refer to the Agreement between the European Community and Ukraine on trade in textile products initialled on 5 May 1993, as last amended by the Agreement in the form of an Exchange of Letters signed on 9 March 2005 (hereafter referred to as the 'Agreement').
2. According to Article 20(1), the Agreement shall only apply until 31 December 2006. The European Community proposes to extend the duration of the Agreement, subject to the following amendments and conditions:
 - 2.1. The text of Article 20(1) shall be replaced by the following:

'This Agreement shall enter into force on the first day of the month following the date on which the Parties notify each other of the completion of the procedures necessary for that purpose. It shall be applicable until 31 December 2007. Thereafter, the application of all the provisions of this Agreement shall be extended automatically for a period of one more year up to 31 December 2008, unless either Party notifies the other at least six months before 31 December 2007 that it does not agree with this extension.'
 - 2.2. The tariff rates applied by Ukraine to exports of EC origin of products of HS chapters 50-63 will not exceed the final rates agreed in Appendix 7 of the Exchange of Letters between the European Community and Ukraine signed on 19 December 2000.
3. Should Ukraine become a Member of the World Trade Organisation (WTO) before the date of the expiry of the Agreement, the agreements and rules of the WTO shall be applied from the date of Ukraine's accession to the WTO.
4. I should be obliged if you could kindly confirm the acceptance of your Government of the foregoing. Should this be the case, this agreement in the form of an Exchange of Letters shall enter into force on the first day of the month following the day on which the Parties have notified each other that the legal procedures necessary to this end have been completed. In the meantime, it shall be applied provisionally from 1 January 2007 on the condition of reciprocity.

Please accept, Sir, the assurance of my highest consideration.

For the Council of the European Union

B. Letter from the Government of Ukraine

Sir,

I have the honour to acknowledge receipt of your letter of which reads as follows:

“ Sir,

1. I have the honour to refer to the Agreement between the European Community and Ukraine on trade in textile products initialled on 5 May 1993, as last amended by the Agreement in the form of an Exchange of Letters signed on 9 March 2005 (hereafter referred to as the 'Agreement').
2. According to Article 20(1), the Agreement shall only apply until 31 December 2006. The European Community proposes to extend the duration of the Agreement, subject to the following amendments and conditions:
 - 2.1. The text of Article 20(1) shall be replaced by the following:

'This Agreement shall enter into force on the first day of the month following the date on which the Parties notify each other of the completion of the procedures necessary for that purpose. It shall be applicable until 31 December 2007. Thereafter, the application of all the provisions of this Agreement shall be extended automatically for a period of one more year up to 31 December 2008, unless either Party notifies the other at least six months before 31 December 2007 that it does not agree with this extension.'
 - 2.2. The tariff rates applied by Ukraine to exports of EC origin of products of HS chapters 50-63 will not exceed the final rates agreed in Appendix 7 of the Exchange of Letters between the European Community and Ukraine signed on 19 December 2000.
3. Should Ukraine become a Member of the World Trade Organisation (WTO) before the date of the expiry of the Agreement, the agreements and rules of the WTO shall be applied from the date of Ukraine's accession to the WTO.
4. I should be obliged if you could kindly confirm the acceptance of your Government of the foregoing. Should this be the case, this agreement in the form of an Exchange of Letters shall enter into force on the first day of the month following the day on which the Parties have notified each other that the legal procedures necessary to this end have been completed. In the meantime, it shall be applied provisionally from 1 January 2007 on the condition of reciprocity.”

I have the honour to confirm that the Government of Ukraine is in agreement with the content of your letter.

Please accept, Sir, the assurance of my highest consideration.

For the Government of Ukraine