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Proposal for a

COUNCIL DECISION

on the conclusion of a Protocol to the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part, to take account of the accession of the Republic of Croatia to the European Union

EXPLANATORY MEMORANDUM

On 24 September 2012 the Council authorised the Commission to open negotiations, on behalf of the European Union and its Member States and the Republic of Croatia, with Montenegro in order to conclude a Protocol to the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part, to take account of the accession of the Republic of Croatia to the European Union.

These negotiations started on 22 November 2012, following prior technical consultations with Montenegro on the issue. Further negotiating rounds took place on 25 January 2013 and 7 March 2013. The Protocol was initialled by the Commission and the Government of Montenegro on 16 May 2013. The text of the initialled protocol is attached.

The Commission proposes that the Council decides on the signature and provisional application of the Protocol on behalf of the European Union and concludes the Protocol on behalf of the European Union and its Member States. For the conclusion of the Protocol on behalf of the European Atomic Energy Community, the Commission proposes that the Council gives its approval, pursuant to the second paragraph of Article 101 of the Treaty establishing the EAEC.

The attached proposal is for a Council decision on the conclusion of the protocol. The Commission proposes that the Council:

- concludes the Protocol on behalf of the European Union and its Member States.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 217 in conjunction with Article 218(6)(a) and the second subparagraph of Article 218(8) thereof,

Having regard to the Act concerning the conditions of accession of the Republic of Croatia, and in particular Article 6(2) thereof,

Having regard to the proposal from the European Commission,¹

Having regard to the consent of the European Parliament²,

Whereas:

- (1) The Protocol to the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part, to take account of the accession of the Republic of Croatia to the European Union, has been signed on behalf of the European Union on [xx.xx.201x] in accordance with Council decision no [xxx]³.
- (2) The signature and conclusion of the Protocol is subject to a separate procedure as regards matters falling under the European Atomic Energy Community.
- (3) The Protocol should be concluded.

HAS DECIDED AS FOLLOWS:

Article 1

The Protocol to the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part, to take account of the accession of the Republic of Croatia to the European Union is hereby approved on behalf of the European Union and the Member States.

¹ OJ C [...], [...], p.[...].

² OJ C [...], [...], p.[...].

³ OJ L [...], [...], p.[...].

Article 2

The President of the Council shall designate the person empowered to proceed, on behalf of the European Union and its Member States, to the deposit of the instruments of approval provided for in Article 11 of the Protocol.

Done at Brussels,

For the Council
The President

PROTOCOL

to the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part, to take account of the accession of the Republic of Croatia to the European Union

THE KINGDOM OF BELGIUM,
THE REPUBLIC OF BULGARIA,
THE CZECH REPUBLIC,
THE KINGDOM OF DENMARK,
THE FEDERAL REPUBLIC OF GERMANY,
THE REPUBLIC OF ESTONIA,
IRELAND,
THE HELLENIC REPUBLIC,
THE KINGDOM OF SPAIN,
THE FRENCH REPUBLIC,
THE REPUBLIC OF CROATIA,
THE ITALIAN REPUBLIC,
THE REPUBLIC OF CYPRUS,
THE REPUBLIC OF LATVIA,
THE REPUBLIC OF LITHUANIA,
THE GRAND DUCHY OF LUXEMBOURG,
HUNGARY,
THE REPUBLIC OF MALTA,
THE KINGDOM OF THE NETHERLANDS,
THE REPUBLIC OF AUSTRIA,
THE REPUBLIC OF POLAND,
THE PORTUGUESE REPUBLIC,
ROMANIA,
THE REPUBLIC OF SLOVENIA,
THE SLOVAK REPUBLIC,
THE REPUBLIC OF FINLAND,
THE KINGDOM OF SWEDEN,
THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

Contracting Parties to the Treaty on European Union, the Treaty on the Functioning of the European Union and the Treaty establishing the European Atomic Energy Community, hereinafter referred to as the 'Member States', and

THE EUROPEAN UNION and THE EUROPEAN ATOMIC ENERGY
COMMUNITY,

hereinafter referred to as 'the European Union',

of the one part, and

MONTENEGRO,

of the other part,

Having regard to the accession of the Republic of Croatia (hereinafter referred to as
'Croatia') to the European Union on 1 July 2013,

Whereas:

- (1) The Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part, (hereinafter referred to as 'the SAA') was signed in Luxemburg on 15 October 2007 and entered into force on 1 May 2010.
- (2) The Treaty concerning the accession of Croatia to the European Union (hereinafter referred to as 'the Treaty of Accession') was signed in Brussels on 9 December 2011.
- (3) Croatia acceded to the European Union on 1 July 2013.
- (4) Pursuant to Article 6(2) of the Act of Accession of Croatia, the accession of Croatia to the SAA shall be agreed by the conclusion of a protocol to the SAA.
- (5) Consultations pursuant to Article 39(3) of the SAA have taken place so as to ensure that account is taken of the mutual interests of the European Union and Montenegro stated in this Agreement,

HAVE AGREED AS FOLLOWS:

SECTION I

CONTRACTING PARTIES

Article 1

Croatia shall be Party to the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part, signed in Luxemburg on 15 October 2007 and shall respectively adopt and take note, in the same manner as the other Member States of the European Union, of the texts of the Agreement, as well as of the Joint Declarations, and the Unilateral Declarations annexed to the Final Act signed on the same date.

ADJUSTMENTS TO THE TEXT OF THE SAA INCLUDING ITS ANNEXES AND PROTOCOLS

SECTION II

AGRICULTURAL PRODUCTS

Article 2

Montenegrin concessions on agricultural products

1. In Article 27, a new paragraph 3 is inserted:

'3. From the entry into force of this Protocol, Montenegro shall apply the custom duties applicable on imports of certain agricultural products originating in the European Union within the quantities indicated, listed in Annex III(d).'
2. Annex I to this Protocol shall be added as Annex III(d) of the SAA and shall form an integral part of the SAA.

Article 3

Fisheries products

1. In Article 30, a new paragraph 3 is inserted:

'3. From the entry into force of this Protocol, Montenegro shall eliminate all customs duties and measures having equivalent effect on fish and fishery products originating in the Community other than those listed in Annex Va. Products listed in Annex V shall be subject to the provisions laid down therein.'
2. Annex II to this Protocol shall be added as Annex Va of the SAA and shall form an integral part of the SAA.

Article 4

Montenegrin concessions on Processed Agricultural Products

Annex III to this Protocol shall be added as Annex IIa to Protocol 1 to the SAA and shall form an integral part of the SAA.

SECTION III

RULES OF ORIGIN

Article 5

Annex IV to Protocol 3 to the SAA shall be replaced by the text set out in Annex IV to this Protocol.

TRANSITIONAL PROVISIONS

SECTION IV

Article 6

WTO

Montenegro undertakes that it shall not make any claim, request or referral nor modify or withdraw any concession pursuant to GATT 1994 Articles XXIV.6 and XXVIII in relation to this enlargement of the European Union.

Article 7

Proof of origin and administrative cooperation

1. Proofs of origin properly issued by either Montenegro or Croatia in the framework of preferential agreements or autonomous arrangements applied between them shall be accepted in the respective countries, provided that:
 - (a) the acquisition of such origin confers preferential tariff treatment on the basis of the preferential tariff measures contained in the SAA;
 - (b) the proof of origin and the transport documents were issued no later than the day before the date of accession;
 - (c) the proof of origin is submitted to the customs authorities within the period of four months from the date of accession.

Where goods were declared for importation in either Montenegro or Croatia, prior to the date of accession, under preferential agreements or autonomous arrangements applied between Montenegro and Croatia at that time, proof of origin issued retrospectively under those agreements or arrangements may also be accepted provided that it is submitted to the customs authorities within a period of four months from the date of accession.

2. Montenegro and Croatia are authorised to retain the authorisations with which the status of “approved exporters” has been granted in the framework of preferential agreements or autonomous arrangements applied between them, provided that:
 - (a) such a provision is also provided for in the agreement concluded prior to the date of Croatia's accession between Montenegro and the European Union; and
 - (b) the approved exporters apply the rules of origin in force under that agreement.

These authorisations shall be replaced, no later than one year after the date of accession of Croatia, by new authorisations issued under the conditions of the SAA.

3. Requests for subsequent verification of proof of origin issued under the preferential agreements or autonomous arrangements referred to in paragraphs 1 and 2 shall be accepted by the competent customs authorities of either Montenegro or Croatia for a period of three years after the issue of the proof of origin concerned and may be made by those authorities for a period of three years after acceptance of the proof of origin submitted to those authorities in support of an import declaration.

Article 8

Goods in transit

1. The provisions of the SAA may be applied to goods exported from either Montenegro to Croatia or from Croatia to Montenegro, which comply with the provisions of Protocol 3 to the SAA and that on the date of accession of Croatia are either *en route* or in temporary storage, in a customs warehouse or in a free zone in Montenegro or in Croatia.

2. Preferential treatment may be granted in such cases, subject to the submission to the customs authorities of the importing country, within four months from the date of accession of Croatia, of a proof of origin issued retrospectively by the customs authorities of the exporting country.

Article 9

Quotas in 2013

For the year 2013, the volumes of the new tariff quotas and the increases of the volumes of existing tariff quotas shall be calculated as a pro rata of the basic volumes, taking into account the part of the period elapsed before 1 July 2013.

GENERAL AND FINAL PROVISIONS

SECTION V

Article 10

This Protocol and the Annexes thereto shall form an integral part of the SAA.

Article 11

1. This Protocol shall be approved by the European Union and its Member States and by Montenegro in accordance with their own procedures.
2. The Parties shall notify each other of the completion of the corresponding procedures referred to in paragraph 1. The instruments of approval shall be deposited with the General Secretariat of the Council of the European Union.

Article 12

1. This Protocol shall enter into force on the first day of the first month following the date of the deposit of the last instrument of approval.
2. If not all the instruments of approval of this Protocol have been deposited before 1 July 2013, this Protocol shall apply provisionally with effect from 1 July 2013.

Article 13

This Protocol is drawn up in duplicate in the Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Irish, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovene, Spanish, Swedish languages and in the official language used in Montenegro, each of these texts being equally authentic.

Article 15

The text of the SAA, including the Annexes and Protocols which form an integral part thereof, and the Final Act together with the declarations annexed thereto shall be drawn up in the Croatian language, and these texts shall be authentic in the same way as the original texts. The Stabilisation and Association Council shall approve these texts.

ANNEX I

'Annex III(d)

Montenegrin tariff concessions for agricultural primary products originating in the European Union

(referred to in Article 27(3))

(Custom duties (ad valorem and/or specific duties) as indicated will be applied for the products listed in this annex within the quantities indicated for each product from the date of entry into force of this Protocol)

CN code 2013	Description	Annual quantity (in tons)	Rate of in-quota duty (% of MFN)
0207 11 90 0207 12 90 0207 13 10 0207 13 30 0207 13 60 0207 13 99 0207 14 10 0207 14 30 0207 14 50 0207 14 60 0207 14 99	Poultry	500	20%
0406 10 20 0406 10 80 0406 30 31 0406 40 50 0406 90 78 0406 90 88 0406 90 99	Cheese	65	30%
1602 20 90 1602 32 11 1602 32 19 1602 32 30 1602 32 90 1602 41 10	Preparations of meat	130	30%

1602 49 15			
1602 49 30			
1602 50 31			
1602 50 95			

ANNEX II

'Annex Va

Montenegrin Concessions for European Union Fishery Products referred to in Article 30(3) of this agreement.

Imports into Montenegro of the following products originating in the Community shall be subject to the quotas set out below:

CN code 2013	Description	Annual quantity (in tons)	Rate of in-quota duty
1604 13 11 1604 13 19 1604 13 90	Prepared and preserved sardines	200	0% (duty-free)
1604 14 11 1604 14 16 1604 14 18	Prepared and preserved tunas and skipjack; fillets of tuna known as 'loins'	75	0% (duty-free)
1604 15 11 1604 15 19	Prepared and preserved mackerel	30	0% (duty-free)

ANNEX III

(Products referred to in article 25 of the SAA)

'Annex IIa to Protocol 1

Tariff quotas applicable to goods originating in the European Union on import into Montenegro

CN code 2013	Description	Annual quantity (in litres)	Rate of in-quota duty
2201	Waters, including natural or artificial mineral waters and aerated waters, not containing added sugar or other sweetening matter nor flavoured;		
2201 10	Mineral water and aerated water	240 000	0%
Ex 2201 90	Other		
2201 90 00 10	Regular natural water in packing	430 000	
2202	Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured, and other non-alcoholic beverages, not including fruit or vegetable juices of heading 2009	810 000	0%

ANNEX IV

Annex IV

TEXT OF THE INVOICE DECLARATION

The invoice declaration, the text of which is given below, must be made out in accordance with the footnotes. However, the footnotes do not have to be reproduced.

Bulgarian version

Износителят на продуктите, обхванати от този документ (митническо разрешение № ... (1⁴)) декларира, че освен където ясно е отбелязано друго, тези продукти са с преференциален произход (2).

Spanish versión

El exportador de los productos incluidos en el presente documento (autorización aduanera n° ... (1)) declara que, salvo indicación en sentido contrario, estos productos gozan de un origen preferencial ... (2).

Czech verziön

Vývozce výrobků uvedených v tomto dokumentu (číslo povolení ... (1)) prohlašuje, že kromě zřetelně označených mají tyto výrobky preferenční původ v ... (2).

Danish version

Eksportøren af varer, der er omfattet af nærværende dokument, (toldmyndighedernes tilladelse nr. ... (1)), erklærer, at varerne, medmindre andet tydeligt er angivet, har præferenceoprindelse i ... (2).

German version

Der Ausführer (Ermächtigter Ausführer; Bewilligungs-Nr. ... (1)) der Waren, auf die sich dieses Handelspapier bezieht, erklärt, dass diese Waren, soweit nicht anderes angegeben, präferenzbegünstigte ... (2) Ursprungswaren sind.

Estonian version

Käesoleva dokumendiga hõlmatud toodete eksportija (tolli kinnitus nr. ... (1)) deklareerib, et need tooted on ... (2) sooduspäritoluga, välja arvatud juhul, kui on selgelt näidetud teisiti.

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- (1) When the invoice declaration is made out by an approved exporter, the authorization number of the approved exporter must be entered in this space. When the invoice declaration is not made out by an approved exporter, the words in brackets shall be omitted or the space left blank.
- (2) Origin of products to be indicated. When the invoice declaration relates, in whole or in part, to products originating in Ceuta and Mellila, the exporter must clearly indicate them in the document on which the declaration is made out by means of the symbol 'CM'.
- (3) These indications may be omitted if the information is contained on the document itself.
- (4) In cases where the exporter is not required to sign, the exemption of signature also implies the exemption of the name of the signatory.'

Greek version

Ο εξαγωγέας των προϊόντων που καλύπτονται από το παρόν έγγραφο (άδεια τελωνείου υπ' αριθ. ... (1)) δηλώνει ότι, εκτός εάν δηλώνεται σαφώς άλλως, τα προϊόντα αυτά είναι προτιμησησιακής καταγωγής ... (2).

English version

The exporter of the products covered by this document (customs authorization No ... (1)) declares that, except where otherwise clearly indicated, these products are of ... (2) preferential origin.

French version

L'exportateur des produits couverts par le présent document (autorisation douanière n° ... (1)) déclare que, sauf indication claire du contraire, ces produits ont l'origine préférentielle ... (2).

Croatian version

Izvoznik proizvoda obuhvaćenih ovom ispravom (carinsko ovlaštenje br. ... (1)) izjavljuje da su, osim ako je drukčije izričito navedeno, ovi proizvodi ... (2) preferencijalnog podrijetla.

Italian version

L'esportatore delle merci contemplate nel presente documento (autorizzazione doganale n. ... (1)) dichiara che, salvo indicazione contraria, le merci sono di origine preferenziale ... (2).

Latvian version

To produktu eksportētājs, kuri ietverti šajā dokumentā (muitas atļauja Nr. ... (1)), deklarē, ka, izņemot tur, kur ir citādi skaidri noteikts, šiem produktiem ir preferenciāla izcelsme ... (2).

Lithuanian version

Šiame dokumente išvardytų prekių eksportuotojas (muitinės liudijimo Nr. ... (1)) deklaruoja, kad, jeigu kitaip nenurodyta, tai yra ... (2) preferencinės kilmės prekės.

Hungarian version

A jelen okmányban szereplő áruk exportőre (vámfelhatalmazási szám: ... (1)) kijelentem, hogy eltérő egyértelmű jelzés hiányában az áruk preferenciális ... (2) származásúak.

Maltese version

L-esportatur tal-prodotti koperti b'dan id-dokument (awtorizzazzjoni tad-dwana nru. ... (1)) jiddikjara li, ħlief fejn indikat b'mod ċar li mhux hekk, dawn il-prodotti huma ta' oriġini preferenzjali ... (2).

Dutch version

De exporteur van de goederen waarop dit document van toepassing is (douanevergunning nr. ... (1)), verklaart dat, behoudens uitdrukkelijke andersluidende vermelding, deze goederen van preferentiële ... oorsprong zijn (2).

Polish version

Eksporter produktów objętych tym dokumentem (upoważnienie władz celnych nr ... (1)) deklaruje, że z wyjątkiem gdzie jest to wyraźnie określone, produkty te mają ... (2) preferencyjne pochodzenie.

Portuguese version

O abaixo-assinado, exportador dos produtos abrangidos pelo presente documento (autorização aduaneira n.º ... (1)), declara que, salvo indicação expressa em contrário, estes produtos são de origem preferencial ... (2).

Romanian version

Exportatorul produselor ce fac obiectul acestui document (autorizația vamală nr. ... (1)) declară că, exceptând cazul în care în mod expres este indicat altfel, aceste produse sunt de origine preferențială ... (2).

Slovak version

Vývozca výrobkov uvedených v tomto dokumente (číslo povolenia ... (1)) vyhlasuje, že okrem zreteľne označených, majú tieto výrobky preferenčný pôvod v ... (2).

Slovenian version

Izvoznik blaga, zajetega s tem dokumentom (pooblastilo carinskih organov štr. ... (1)) izjavlja, da, razen če ni drugače jasno navedeno, ima to blago preferencialno ... (2) poreklo.

Finnish version

Tässä asiakirjassa mainittujen tuotteiden viejä (tullin lupa n:o ... (1)) ilmoittaa, että nämä tuotteet ovat, ellei toisin ole selvästi merkitty, etuuskohteluun oikeutettuja ... alkuperätuotteita (2).

Swedish version

Exportören av de varor som omfattas av detta dokument (tullmyndighetens tillstånd nr. ... (1)) försäkrar att dessa varor, om inte annat tydligt markerats, har förmånsberättigande ... ursprung (2).

Version of Montenegro

Izvoznik proizvoda obuhvaćenih ovim dokumentom (carinsko odoborenje br.. (1)) izjavljuje da, osim u slučaju kada je drugačije naznačeno, ovi proizvodi su ... (2) preferencijalnog porijekla.

(3)

(Place and date)

(4)

(Signature of the exporter. In addition, the name of the person signing the declaration has to be indicated in clear script.)