COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 11.2.2008
COM(2008) 79 final

2008/0031 (ACC)

Proposal for a

COUNCIL DECISION

on the conclusion of an Agreement in the form of an Exchange of Letters between the European Community and Ukraine concerning the elimination by Ukraine of export duties on trade in goods.

(presented by the Commission)

EXPLANATORY MEMORANDUM

In the context of its process of accession to the WTO, which is presently being completed, Ukraine has committed to gradually reduce its current export duties, however, not reaching the full elimination of the duties. Nevertheless, there is an agreement between the negotiators of the EC and Ukraine that all export duties shall be eliminated immediately upon the entry into force of an EU-Ukraine bilateral Free Trade Area (FTA) agreement, to be negotiated directly after the WTO accession.

In order to formalise this agreement, on 23 April 2007 the General Affairs and External Relations Council adopted negotiating directives authorising the Commission to negotiate a binding international agreement in the context of the Partnership and Co-operation Agreement (PCA) in the form of an exchange of letters with Ukraine including a commitment to eliminate all export duties upon the entry into force of the future free trade agreement between the EC and Ukraine. The agreement does not require the EC to undertake any commitments.

Agreement has been reached on the text of the formal exchange of letters. The Commission should therefore adopt the attached proposal.

2008/0031 (ACC)

Proposal for a

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on the conclusion of an Agreement in the form of an Exchange of Letters between the European Community and Ukraine concerning the elimination by Ukraine of export duties on trade in goods.

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission,

Whereas:

(1) On 14 June 1994 the European Communities and its Member States and Ukraine signed in Luxembourg the Partnership and Co-operation Agreement (PCA), which entered into force on 1 March 1998.

(2) Considering the commitment of the Community and its Member States and of Ukraine to strengthen the economic integration which constitutes an essential basis of their partnership.

(3) Since March 2007 negotiations have been opened for a new Enhanced Agreement between the EU and Ukraine to replace the Partnership and Co-operation agreement.

(4) It is intended that the Enhanced Agreement provides for the creation of a deep and comprehensive Free Trade Area (FTA), as a core element of the Enhanced Agreement, following the accession of Ukraine to the WTO.

(5) In the context of the WTO accession negotiations of Ukraine the Commission, on behalf of the Community, negotiated comprehensive market opening commitments on the part of Ukraine which are of particular importance to the Community, as set out in a memorandum agreed between the negotiators of Ukraine and the Commission on 17 March 2003.

(6) These commitments will be embodied in the Protocol of Accession of Ukraine to the WTO.

(7) During the WTO accession process of Ukraine 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 elimination by Ukraine of all export duties on trade in goods upon the entry into force of the future EU-Ukraine FTA.

(8) The proposed agreement should be approved on behalf of the Community,

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement, in the framework of the Partnership and Co-operation Agreement and in the form of an Exchange of Letters between the European Community and Ukraine concerning the elimination by Ukraine of all export duties on trade in goods upon the entry into force of the future EU-Ukraine free-trade agreement is hereby approved on behalf of the Community.

The text of the Agreement in the form of an Exchange of letters is attached hereto.

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to sign the Agreement on behalf of the Community.[1]

Article 3

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

Done at Brussels,

For the Council
The President

[1] The date of entry into force of the Agreement will be published in the *Official Journal of the European Union*.

ANNEX

EXCHANGE OF LETTERS

between the European Community and Ukraine in relation to export duties

A. *Letter from Government of Ukraine*

Kyiv, _____

Your Excellency,

In the context of the Partnership and Co-operation Agreement between the European Communities and their Member States, and Ukraine of 14 June 1994, and pursuant to negotiations on the accession of Ukraine to the World Trade Organisation, the purpose of this letter is to confirm that duties applied by Ukraine to goods originating therein and exported to the European Community shall be eliminated upon the entry into force of an EU-Ukraine Free Trade Area agreement, to be negotiated after finalization of Ukraine's WTO accession process, in the framework of a new Enhanced Agreement.

I propose that this letter and your reply to it will establish a formal agreement between us.

This agreement will enter into force as from the date on which the European Community receives a written notification from Ukraine to the effect that it has completed the necessary internal procedures.

I confirm that this letter and your reply establish a formal agreement between us.

Please accept, Your Excellency, the assurance of my highest consideration.

On behalf of Ukraine

B. *Letter from the European Community*

Brussels, _____

Your Excellency,

I confirm the receipt of the letter from the Government of Ukraine dated 11 December 2007 for which I thank you, and which reads as follows:

'Your Excellency,

In the context of the Partnership and Co-operation Agreement between the European Communities and their Member States, and Ukraine of 14 June 1994, and pursuant to negotiations on the accession of Ukraine to the World Trade Organisation, the purpose of this letter is to confirm that duties applied by Ukraine to goods originating therein and exported to the European Community shall be eliminated upon the entry into force of an EU-Ukraine Free Trade Area agreement, to be negotiated after finalization of Ukraine's WTO accession process, in the framework of a new Enhanced Agreement.

I propose that this letter and your reply to it will establish a formal agreement between us.

This agreement will enter into force as from the date on which the European Community receives a written notification from Ukraine to the effect that it has completed the necessary internal procedures.

I confirm that this letter and your reply establish a formal agreement between us.

Please accept, Your Excellency, the assurance of my highest consideration'.

I confirm that the above-quoted letter and my reply will establish a formal agreement between us.

Please accept, Your Excellency, the assurance of my highest consideration.

On behalf of the European Community

ANNEX

LEGISLATIVE FINANCIAL STATEMENT FOR PROPOSALS HAVING A BUDGETARY IMPACT EXCLUSIVELY LIMITED TO THE REVENUE SIDE

1. NAME OF THE PROPOSAL :

Proposal for Council Decision on the conclusion of a bilateral Agreement in the form of an Exchange of Letters between the European Community and Ukraine concerning the elimination by Ukraine of export duties on trade in goods

2. BUDGET LINES :

Chapter and Article : **120**

Amount budgeted for the year concerned (2008): **16.431.900.000 euro**

3. FINANCIAL IMPACT:

☑ Proposal has no financial implications

☐ Proposal has no financial impact on expenditure but has a financial impact on revenue – the effect is as follows:

(€ million to one decimal place)

Budget line	Revenue[2]	12 month period, starting dd/mm/aaaa	[Year n]

Article … *Impact on own resources*

Article … *Impact on own resources*

Situation following action					
	[n+1]	[n+2]	[n+3]	[n+4]	[n+5]
Article…					
Article…					

[2] Regarding traditional own resources (agricultural duties, sugar levies, customs duties) the amounts indicated must be net amounts, i.e. gross amounts after deduction of 25 % of collection costs

4. ANTI-FRAUD MEASURES

5. OTHER REMARKS