



COMMISSION OF THE EUROPEAN COMMUNITIES

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2003/0013 (ACC)

Proposal for a

**COUNCIL REGULATION**

**implementing for the Community the tariff provisions laid down in the Association Agreement between the European Community and its Member States, of the one part, and the Republic of Chile, of the other part**

(presented by the Commission)

## **EXPLANATORY MEMORANDUM**

Subject to satisfactory completion of the approval procedures and the signature, the provisional application of certain provisions of an Association Agreement between the European Community and Chile is expected to enter into force early in 2003.

The attached proposal for a Council Regulation sets up implementing provisions necessary for the Community, in particular, to calculate the preferential rates of duty which will apply to goods of Chilean origin under the Association agreement, and to open and manage the tariff quotas provided by that agreement. The proposal also delegates to the Commission the power to adopt measures for the application of that agreement and provides for the necessary supporting procedures. Finally the proposal provides for preferential imports under the agreement to be subject to surveillance, with a view to contributing to the fight against fraud.

In order to ensure smooth implementation, the Council should adopt the measures in question in time to allow publication in the Official Journal as soon as possible before the entry into force of the Agreement.

Proposal for a

## COUNCIL REGULATION

**implementing for the Community the tariff provisions laid down in the Association Agreement between the European Community and its Member States, of the one part, and the Republic of Chile, of the other part**

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,

Whereas:

- (1) The Association Agreement between the European Community and its Member States, of the one part, and the Republic of Chile, of the other part, hereinafter referred to as „the Agreement“, lays down the tariff preferences applicable to products originating in Chile in accordance with Annex III to the said Agreement.
- (2) Council Decision No 2002/979/EC of 18 November 2002 on the signature and provisional application of certain provisions of the Agreement provides that the tariff preferences laid down in the Agreement shall be applicable on a provisional basis pending its entry into force.
- (3) The same methods of calculation should apply to *ad valorem* rates of duty as well as to specific duties except in the cases specified in article 71 (2) and (3) of the Agreement.
- (4) The Agreement stipulates that certain products originating in Chile may be imported into the Community within the limits of tariff quotas, at a reduced or a zero rate of customs duty. It is necessary to specify the products eligible for those tariff measures, their volumes and duties and the methods for calculating the reductions.
- (5) It is appropriate to provide that the tariff quotas should be managed, in general, on a first-come first-served basis in accordance with Articles 308a, 308b and 308c of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code.<sup>1</sup> The tariff quota for certain products should be managed under a system which is based on import and export licences and which should be carried out by the Commission.

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<sup>1</sup> OJ L 253, 11.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 502/1999 (OJ 65, 12.3.1999, p. 1).

- (6) The Combined Nomenclature codes mentioned in this Regulation are those of the Combined Nomenclature for 2003, as provided in Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff<sup>2</sup> as it was amended by Commission Regulation (EC) No 1832/2002. Amendments to the Combined Nomenclature and TARIC codes adopted after 2002 should not result in changes of substance in agreements or other acts concluded between the Community and Chile. It is appropriate, therefore, to provide that the amendments and technical adaptations to the Annex of the Regulations made necessary by amendments to the Combined Nomenclature may be adopted by the Commission, assisted by the Customs Code Committee, in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers of the Commission.<sup>3</sup> It is also appropriate to provide that the same procedure should be followed for the adoption of amendments and technical adaptations to the Annex of the Regulations required by the amendments of the Agreement, or decisions taken thereunder, or other agreements between the parties.
- (7) In the interest of combating fraud, it is necessary to provide that preferential imports into the Community may be subject to surveillance.

HAS ADOPTED THIS REGULATION:

*Article 1*

1. For the purposes of implementing the tariff preferences laid down in the Agreement:
  - (a) The term “MFN duty” means the duties specified in Part Two of Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff. However, it shall not mean a duty set up between the framework of a tariff quota under Article 26 of the Treaty or under Annex 7 to Regulation (EEC) No 2658/87.
  - (b) Subject to paragraph 2, the final rate of preferential duty shall be rounded down to the first decimal place.
2. Where the result of calculating the rate of preferential duty is one of the following, the preferential rate shall be considered as a full exemption:
  - (a) 1 % or less in the case of ad valorem duties, or
  - (b) EUR 2 or less per individual euro amount in the case of specific duties.

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<sup>2</sup> OJ L 256, 7.9.1987, p. 1. Regulation as last amended by Commission Regulation (EC) No 1832/2002 (OJ L 290, 28.10.2002, p. 1).

<sup>3</sup> OJ L 184, 17.7.1999, p. 23.

3. Where the customs duties comprise an *ad valorem* duty with a minimum and maximum duty, the preferential reduction also applies to that minimum and maximum duty. For products listed in Annex I of the Agreement under categories "EP" and "SP", the preferential reduction applies only to the ad valorem duty and in accordance with Annex I of the Agreement. If they comprise more than one specific duty, the preferential reduction applies to all these duties and in accordance with Annex I of the Agreement.

#### *Article 2*

1. The Commission shall open annual tariff quotas for the products originating in Chile set out in the Annex. The customs duties on these products shall be reduced to the levels provided for and within the limits of the tariff quotas specified in that Annex.
2. The reductions of duty referred to in the Annex are expressed as a percentage of the customs duties effectively applied to goods originating in Chile outside the tariff quotas provided for in the Annex when declared for release for free circulation.
3. The tariff quotas referred to in the Annex to this Regulation shall be opened each year for a twelve-month period from 1 January. However in the year 2003 and except for the quota referred to in Article 4 (2), the volume of these quotas shall be reduced by the number of twelfths corresponding to the calendar months before this Regulation enters into force.
4. Where a tariff quota falls within a tariff elimination category set out in Annex I of the Agreement, this tariff quota will end when the preferential duty is completely eliminated in accordance with its timetable.

#### *Article 3*

1. The annual volume of the tariff quotas at order Nos 09.1921, 09.1922, 09.1923 and 09.4181 in the Annex to this Regulation shall be increased successively by 10 per cent each year of the original quantity from 1 January 2004.
2. The annual volume of the tariff quotas at order Nos 09.1924, 09.1925, 09.1926, 09.1927, 09.1928, 09.1929 and 09.1930 in the Annex to this Regulation shall be increased successively by 5 per cent each year of the original quantity from 1 January 2004.

#### *Article 4*

1. Except for the tariff quota at order number 09.4181, the tariff quotas provided for in the Annex shall be managed in accordance with Articles 308a, 308b and 308c of Regulation (EEC) No 2454/93.
2. The Commission shall lay down the management rules for the tariff quota at order number 09.4181.

#### *Article 5*

The amendments and technical adaptations of the Annex to this Regulation made necessary by amendments to the Combined Nomenclature and TARIC codes or arising from the amendment of the Agreement, or from decisions of the joint bodies established under the Agreement, or from the conclusion of other agreements, protocols or exchanges of letters between the Community and Chile, shall be adopted by the Commission in accordance with the management procedure set out in Article 4(2).

#### *Article 6*

1. The Commission shall be assisted by the Customs Code Committee, hereinafter referred to as 'the Committee'.
2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply. The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at three months.
3. The Committee shall adopt its rules of procedure.

#### *Article 7*

1. Products put into free circulation with the benefit of the preferential rates provided for in the Agreement may be subject to surveillance. The Commission in consultation with the Member States shall decide the products to which this surveillance applies.
2. Article 308d of Regulation (EEC) No 2454/93 shall apply.
3. The Member States and the Commission shall cooperate closely to ensure that this surveillance measure is complied with.

#### *Article 8*

This Regulation shall enter into force on the [...] day following that of its publication in the *Official Journal of the European Communities*.

It shall apply from the date of the provisional application of certain provisions of the Agreement.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the Council*  
*The President*

## ANNEX

concerning the products referred to in Article 2

Notwithstanding the rules for the interpretation of the combined nomenclature, the wording for the description of the products is to be considered as having no more than an indicative value, the preferential scheme being determined, within the context of this Annex, by the coverage of the CN codes as they exist at the time of adoption of this Regulation. Where ex CN codes are indicated, the preferential scheme is to be determined by application of the CN code and corresponding description taken together.

| Order No | CN Code    | Description   | Annual tariff Quota Volume (net weight) | Tariff quota duty (% reduction) |
|----------|------------|---|---|---------------------------------|
| 09.4181  | 0201 20    | Meat of bovine animals, fresh, chilled or frozen  | 1000 tonnes <sup>4</sup>                | 100                             |
|          | 0201 30 00 |   |   |                                 |
|          | 0202 20    |   |   |                                 |
|          | 0202 30    |   |   |                                 |
| 09.1921  | 0203 11 10 | Meat of swine, fresh, chilled or frozen; sausages and similar products, of meat, meat offal, or blood; food preparations based on these products; other prepared or preserved meat, meat offal or blood; (of swine) | 3500 tonnes <sup>4</sup>                | 100                             |
|          | 0203 12 11 |   |   |                                 |
|          | 0203 12 19 |   |   |                                 |
|          | 0203 19 11 |   |   |                                 |
|          | 0203 19 13 |   |   |                                 |
|          | 0203 19 15 |   |   |                                 |
|          | 0203 19 55 |   |   |                                 |
|          | 0203 19 59 |   |   |                                 |
|          | 0203 21 10 |   |   |                                 |
|          | 0203 22 11 |   |   |                                 |
|          | 0203 22 19 |   |   |                                 |
|          | 0203 29 11 |   |   |                                 |
|          | 0203 29 13 |   |   |                                 |
|          | 0203 29 15 |   |   |                                 |
|          | 0203 29 55 |   |   |                                 |
|          | 0203 29 59 |   |   |                                 |
|          | 1601 00    |   |   |                                 |
| 1602 41  |            |   |   |                                 |

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<sup>4</sup> The annual volume of the tariff quota shall be increased successively each year by 10 per cent of the original quantity.

|         |  |  |                          |     |
|---------|--|--|--------------------------|-----|
|         | 1602 42<br>1602 49   |  |                          |     |
| 09.1922 | 0204   | Meat of sheep or goats, fresh, chilled or frozen   | 2000 tonnes <sup>4</sup> | 100 |
| 09.1923 | 0207 11<br>0207 12<br>0207 13<br>0207 14<br>0207 24<br>0207 25<br>0207 26<br>0207 27<br>0207 32 11<br>0207 32 15<br>0207 32 19<br>0207 33 11<br>0207 33 19<br>0207 35 15<br>0207 35 21<br>0207 35 53<br>0207 35 63<br>0207 35 71<br>0207 36 15<br>0207 36 21<br>0207 36 53<br>0207 36 63<br>0207 36 71<br>1602 31<br>1602 32 | Meat and edible offal of the poultry, fresh, chilled and frozen; other prepared or preserved meat (of turkeys and of fowls of the species Gallus domesticus) | 7250 tonnes <sup>4</sup> | 100 |
| 09.1924 | 0406   | Cheese and curd  | 1500 tonnes <sup>5</sup> | 100 |
| 09.1925 | 0703 20 00   | Garlic   | 500 tonnes <sup>5</sup>  | 100 |

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<sup>5</sup> The annual volume of the tariff quota shall be increased successively each year by 5 per cent of the original quantity.

|         |   |   |                           |                 |
|---------|---|---|---------------------------|-----------------|
| 09.1926 | 1104  | Cereal grains otherwise worked, except rice of heading 1006; germ of cereals, whole, rolled, flaked or ground | 1000 tonnes <sup>5</sup>  | 100             |
| 09.1927 | 2003 10 20<br>2003 10 30  | Mushrooms of the genus Agaricus, prepared or preserved  | 500 tonnes <sup>5</sup>   | 100             |
| 09.1928 | 2008 60 19  | Cherries  | 1000 tonnes <sup>5</sup>  | 100             |
| 09.1929 | ex 0806 10 10   | Table grapes, from 1 January to 14 July   | 37000 tonnes <sup>5</sup> | 100             |
| 09.1930 | ex 0806 10 10   | Table grapes, from 1 November to 31 December  | 3000 tonnes <sup>5</sup>  | 100             |
| 09.1931 | 1704 10<br>1704 90 30<br>1704 90 51<br>1704 90 55<br>1704 90 61<br>1704 90 65<br>1704 90 71<br>1704 90 75<br>1704 90 81<br>1704 90 99 | Sugar confectionery (including white chocolate), not containing cocoa   | 400 tonnes                | 100             |
| 09.1932 | 1806 20<br>1806 31 00<br>1806 32<br>1806 90   | Chocolate and other food preparations containing cocoa  | 400 tonnes                | 100             |
| 09.1933 | 1905 31<br>1905 32<br>1905 90 40<br>1905 90 45  | Sweet biscuits; waffles and wafers  | 500 tonnes                | 100             |
| 09.1934 | 0302 69 66<br>0302 69 67<br>0302 69 68<br>0302 69 69  | Hake (Merluccius spp., Urophycis spp.), fresh or chilled  | 5000 tonnes               | 10 <sup>6</sup> |
| 09.1935 | 0305 30 30<br>0305 41 00  | Fish fillets, dried, salted or in brine; smoked fish  | 40 tonnes                 | 10 <sup>6</sup> |

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<sup>6</sup> This reduction shall be increased in 9 equal stages each year starting on 1 January 2004.

|         |  |                            |            |                                 |
|---------|--|----------------------------|------------|---------------------------------|
| 09.1936 | 1604 14 11<br>1604 14 18<br>1604 19 39<br>1604 20 70 | Prepared or preserved fish | 150 tonnes | one third<br>of the<br>MFN duty |
|---------|--|----------------------------|------------|---------------------------------|

## **FINANCIAL STATEMENT**

### **1. TITLE OF OPERATION**

Proposal for a Council Regulation implementing for the Community the tariff provisions of Council Decision No 2002/979/EC of the Association Council under the Association Agreement between the European Community and Chile.

### **2. BUDGET HEADING(S) INVOLVED**

Chapter 12, Article 120.

Chapter 10, Article 100.

### **3. LEGAL BASIS**

Article 133 of the Treaty.

### **4. DESCRIPTION OF OPERATION**

#### **4.1 General objective**

To provide for the necessary measures and procedures for implementing the tariff provisions of the Association Agreement between the European Community and Chile.

### **5. FINANCIAL IMPACT**

This regulation does not entail any financial losses or gains other than those foreseen in the financial statement made on the occasion of the Council Decision No 2002/979/EC on the signature and provisional application of certain provisions of the Agreement between the European Community and Chile.

### **6. FRAUD PREVENTION MEASURES**

Provisions on the management of tariff quotas include the necessary measures for preventing and protecting against fraud and irregularities. An additional provision allows surveillance on a selective basis.