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EUROPEAN COMMISSION

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2011/0077 (NLE)

Proposal for a

**COUNCIL DECISION**

**establishing the European Union position within the General Council of the World Trade Organization on the accession of the Republic of Vanuatu to the World Trade Organization**

## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE PROPOSAL**

#### **Overview of the Terms of Vanuatu's Accession to the WTO**

##### **I. INTRODUCTION**

Members of the World Trade Organization (WTO) and the Republic of Vanuatu have reached the concluding stage of an agreement on the terms for Vanuatu's accession to the organization. This comes after many years of negotiations, which began when Vanuatu submitted its application to join the WTO in 1995. Vanuatu concluded its accession negotiations in 2001 and the European Community formally accepted the accession package at the time. However, subsequently, Vanuatu requested more time to consider the accession package. In 2008, Vanuatu announced that it was ready to resume work on its accession process. Since 2009, technical work has therefore been carried out to update the accession package agreed in 2001. Vanuatu's request for accession has been examined in accordance with the guidelines set out in the WTO General Council Decision of 10 December 2002 on the accession of least-developed countries (LDC) and there must now be a Council Decision approving the terms of Vanuatu's accession, before the EU can formally support Vanuatu's entry.

A summary of the terms of the accession is set out below.

##### **II. SUMMARY OF TERMS OF VANUATU'S WTO ACCESSION BY SECTOR**

The average final bound rate (FBR) of Vanuatu is approximately 40%. The final bound average of 40% is also the average in most of the industrial and agriculture sectors, with relatively few exceptions.

Out of 5060 tariff lines in Vanuatu's schedule, only 98 will not reach its FBR at the moment of accession, and will consequently have an implementation period. Among those 98 lines, 52 lines will be reduced to final bound rates on 1 January 2011, 45 lines (including wines and spirits) will be reduced to final bound rates on 1 January 2013 and 1 line (beer) will be reduced to final bound rates on 1 January 2015.

These average levels for tariffs are quite reasonable considering the LDC status of Vanuatu, the small size and vulnerability of its economy, and its insular character. Past EU practice in relation to LDCs has been to accept as reasonable these tariff levels for comparable-sized economies. Vanuatu is participating in the negotiations of a comprehensive EPA as part of the Pacific-group of ACP countries.

##### ***Industrial Goods***

- The average FBR for non-agricultural products is 39.6%.
- Most of industrial sectors are bound at average tariffs of 40%, with a few peaks of 65% in some tariff lines in Chemicals, Textiles, Paper and Machinery.
- The highest levels of average tariffs are found in Furniture and Toys (final bound tariffs above 60%).

- Only pharmaceutical (duty free) and Medical Equipment products are bound at average levels below 10%.

### ***Agricultural goods***

- On agricultural goods FBR average is 42.8%.
- The agriculture peaks are 75% in mineral waters and beer. Fresh vegetables and fish at 65%. Tobacco final bound rates are also peaks at 55%.

### ***Services***

Vanuatu's schedule of specific commitments in services is very satisfactory considering its LDC status. Vanuatu will undertake market access and national treatment commitments in a broad range of services sectors, including professional services, communication services (courier and telecommunication services), construction, distribution, educational, environmental, financial, tourism and air transport services.

### ***Protocol commitments***

In the final, multilateral stage of the accession process, WTO Members collectively sought to ensure the basic compatibility of Vanuatu's trade laws and institutions with WTO rules and agreements, setting these out in the Protocol of accession and Working Party Report. The following issues are of particular interest to the EU:

#### Trading rights

Vanuatu has committed, by the date of accession, to issue upon request to any domestic or foreign entity automatically and promptly, business licences enabling foreign and domestic holders to engage in the importation and exportation of goods without engaging in manufacturing or distribution. In addition, a single licence category is to be created to allow licence holders for distribution to engage in importation and exportation as well. Business licence fees that violate any commitment to non-discrimination and national treatment are to be removed. The relevant legislation has recently been amended and implemented.

#### Internal taxes on imports

Vanuatu committed to apply its domestic taxes in full compliance with the relevant provisions of the WTO in a non-discriminatory manner to imports from all WTO Members and to domestically-produced goods.

The schedule of excise duties has recently been amended to remove discrimination between like or similar alcoholic beverages.

#### Intellectual Property Rights

Vanuatu passed legislation in 2000, 2003 and 2008 on different categories of intellectual property rights to ensure compliance with the TRIPS Agreement, and has taken a commitment to enact the remaining necessary legislation. It requested a transitional period until 1 December 2012 to fully implement the obligations of the TRIPS Agreement, and presented a timetable for each step until then. Vanuatu confirmed that during the transitional period,

national treatment and most-favoured-nation treatment under current legislation in place would apply.

### **III. RECOMMENDATION**

In submitting the terms of Accession of the Republic of Vanuatu to the WTO for approval by the Council, the Commission considers these terms as representing a balanced but ambitious package of market opening commitments, which will bring substantial benefits to Vanuatu and its WTO trading partners alike.

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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 Articles 91, 100(2) and 207(4), first subparagraph, in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) On 7 July 1995 the Government of the Republic of Vanuatu applied for accession to the Agreement establishing the World Trade Organization (WTO), pursuant to Article XII of that Agreement.
- (2) A Working Party on Vanuatu's accession was established on 11 July 1995 in order to reach agreement on terms of accession acceptable to the Republic of Vanuatu and all WTO Members.
- (3) The Commission, on behalf of the European Union, negotiated a comprehensive series of market opening commitments on the part of the Republic of Vanuatu which are of particular importance to the European Union.
- (4) These commitments are now embodied in the Protocol of Accession of the Republic of Vanuatu to the WTO.
- (5) Accession to the WTO is expected to make a positive and lasting contribution to the process of economic reform and sustainable development in the Republic of Vanuatu.
- (6) The Protocol of Accession should therefore be approved.
- (7) Article XII of the Agreement establishing the WTO provides that the terms of accession are to be agreed between the acceding Member and the WTO, and that the Ministerial Conference of the WTO approves the terms of accession on the WTO side. Article IV.2 of the Agreement establishing the WTO provides that in the intervals between meetings of the Ministerial Conference, its functions shall be conducted by the General Council.
- (8) Accordingly, it is necessary to establish the position to be taken by the European Union within the General Council,

HAS ADOPTED THIS DECISION:

*Sole Article*

1. The position to be taken by the European Union within the General Council of the WTO on the accession of the Republic of Vanuatu to the WTO, is to approve the accession.
2. This decision shall enter into force upon its adoption. It shall be published in the Official Journal.

Done at [...],

*For the Council  
The President*