



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 11.06.1998  
COM(1998) 378 final

98/0211 (ACC)

Proposal for a

COUNCIL DECISION

**concerning the approval of a Memorandum of Understanding  
between the European Community and the Dominican Republic  
on import protection for milk powder in the Dominican Republic**

(presented by the Commission)



## EXPLANATORY MEMORANDUM

1. At the end of 1994 the Dominican Republic (DR) submitted a request for rectification of its Marrakech list for 8 tariff concessions, of which only one (milk powder) was of an economic interest to the Community. The DR, as a developing country, has claimed that it had not understood the "tariffication process" used during the Uruguay Round negotiations for converting non-tariff barriers into ordinary customs duties.

The Community has been the first supplier of milk powder to the DR for the last many years.

2. In the Marrakech list the DR had bound all agricultural products at a ceiling of 40%. The proposal for rectification included creation of a tariff rate quota with an in-quota-rate of 20% as "compensation" for the introduction of a proposed duty rate of 102%.

3. Over the last three years several meetings have taken place between the Commission services and the DR, which is a Member of the Lomé Convention, with a view to arriving at a mutually satisfactory solution on this issue.

4. The result of the discussions between the Commission and the DR is that the DR has offered a tariff quota of 32.000 tonnes of which 70% would be reserved for the Community. The Community will manage its share of the tariff quota according to a mechanism of export licences as established by Community regulations. The in-quota-duty-rate is 20%, whereas the out-of-quota-duty-rate in the first year will be 84%, which will be reduced to 56% over 7 years.

5. It is the Commission's general view that an agreement on the lines indicated above is preferable to leaving the DR with the alternative of opening GATT Article XXVIII negotiations, from which the Community has little to gain.

6. The purpose of this proposal is to ask the Council to approve the result as laid down in the Memorandum of Understanding attached to the proposed Decision (annex A).

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**THE COUNCIL OF THE EUROPEAN UNION,**

Having regard to the Treaty establishing the European Community, and in particular Article 113 in conjunction with Article 228 (2) first sentence thereof,

Having regard to the proposal from the Commission,

Whereas the Dominican Republic have requested a rectification of its Marrakech list for 8 tariff concessions, of which only one (milk powder) is of an economic interest to the Community,

Whereas the Dominican Republic have offered a tariff quota of 32.000 tonnes of which 70% would be reserved for the Community,

Whereas the Community will manage its share of the tariff quota according to a mechanism of export licenses as established by Community regulations

**HAS ADOPTED THIS DECISION**

*Article 1*

The Memorandum of Understanding between the European Community and the Dominican Republic on import protection for milk powder in the Dominican Republic is hereby approved on behalf of the Community.

The text of the Memorandum of Understanding is attached to this Decision

*Article 2*

The President of the Council is hereby authorised to designate the person empowered to sign the Memorandum of Understanding in order to bind the Community.

*Article 3*

The Commission shall, in accordance with the procedure laid down in Article 30 of Council Regulation (EEC) No. 804/68 of 27 June 1968 on the common organisation of the market in milk and milk products<sup>1</sup>, adopt detailed rules for the implementation of paragraph 3 of the Memorandum of Understanding as referred to in Article 1.

*Article 4*

This decision shall be published in the Official Journal of the European Communities.

Done at Brussels, .....

For the Council

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<sup>1</sup> OJ N° L 148, 28.6.1968, p. 13. Regulation as last amended by Regulation (EC) N° 1587/96 (OJ No L 206, 16.8.1996, p. 21)

ANNEX A

## MEMORANDUM OF UNDERSTANDING

### Schedule XXIII

#### Part I - Tariff for the Most Favoured Nation

##### Section 1-B: Tariff Quota

1. The Government of the Dominican Republic will rectify following this Memorandum of Understanding its Agricultural Schedule (Schedule XXIII annex to the Protocol of Marrakech) in order to include the following Tariff Quota:

Description of Product:	Powder milk, whole or skimmed
Tariff heading (HS) Number:	0402.10 0402.21 0402.29
Applicable tariff:	20%
Base rate:	84%
Bound rate:	56%
Size of Tariff Quota:	32,000 M/T
Period of Application:	1998-2004

2. The Tariff Quota established by this Agreement will be distributed among suppliers according to Article XIII of the General Agreement on Tariffs and Trade (GATT 94) in the following way:

European Community	22,400 M.T.	70%
New Zealand	4,800 M.T.	15%
Other suppliers	4,800 M.T.	15%
TOTAL	32,000 M.T.	100%

3. The European Community will manage its share of the Tariff Quota according to a mechanism of export licenses as established by the European Community regulations.
4. Any WTO Member can participate in the Tariff Quota as "other supplier".
5. The European Commission will inform the Dominican Republic of any existing or foreseen difficulty in supplying the European Community's share of the tariff quota. If the European Community cannot supply its share of the tariff quota allocated through this agreement, the Dominican Republic will have the right, after

notification two months in advance to the European Community, to reallocate the unused quantity of the tariff quota among other suppliers if the supply problem is not resolved in that period. It is understood that this provision will not be used in order to impair the European Community's possibilities of continuing to supply the products it was supplying during the years prior to this agreement.

6. The Dominican Republic does not intend that the introduction of this Agreement should have the effect of artificially constraining supply and therefore increasing prices on its domestic market. It will, therefore, keep its market situation under review and will, as appropriate, make increases in the tariff quota consistent with this objective.
7. As well, through this Agreement it is established that the Rectification of the Schedule XXIII, as previously described in the first paragraph of this Memorandum, is valid from year 1998 (the fourth year) of the commitments established by the Uruguay Round.
8. The Dominican Republic will implement its Agricultural Schedule (Schedule XXIII annex to the Protocol of Marrakech) including the rectification as per this Memorandum. The tariff quota will operate on a 1 July-30 June basis. Transitional arrangements will apply in respect of 1998/99 if the new arrangement enters into force after 1st July.

For the Dominican Republic

For the European Community





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