



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 2.10.2006  
COM(2006) 561 final

2006/0181 (ACC)

Proposal for a

**COUNCIL DECISION**

**on a Community position within the EU-South Africa Cooperation Council on the amendment of the relevant Annexes to the Trade, Development and Cooperation Agreement (TDCA) between the European Community and its Member States, on the one part, and the Republic of South Africa, on the other part, to phase out and eliminate the duties on some automotive products into the TDCA**

(presented by the Commission)

## EXPLANATORY MEMORANDUM

### 1) CONTEXT OF THE PROPOSAL

- **Grounds for and objectives of the proposal**

Article 106 (1) of the EU-SA Trade, Development and Cooperation Agreement (TDCA) empowers the Cooperation Council to amend the TDCA in order to accelerate the reduction of customs duties more rapidly than is provided for in Article 11, or otherwise improve the conditions of access under the Article. In this context, the objective of the proposed Council Decision is to phase out and eliminate the duties on some automotive products

- **General context**

This draft Decision follows an agreement on automotive which was reached by both parties, at political level on 6 April 2006. This balanced agreement follows a long period of intensive negotiations which started at the conclusion of the TDCA in 1999. The settlement of this difficult issue is not only a very positive signal for the economic operators involved, which eagerly expected a transparent and predictable solution since a long time, but also for the future of EU-SA trade relations which are currently being re-shaped into a more ambitious partnership.

- **Existing provisions in the area of the proposal**

Council Regulation (EC) No 980/2005.

- **Consistency with the other policies and objectives of the Union**

This draft Decision is part of the broader Review exercise which both sides have agreed to undertake according to Article 103 of the TDCA.

### 2) CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

- **Consultation of interested parties**

The parties were consulted, orally, on the outcome on the agreement reached on 6 April 2006. Representatives from EU automotive industry have regularly been informed on the outcome of the talks during the whole negotiating period.

- **Collection and use of expertise**

There was no need for external expertise.

- **Impact assessment**

not applicable

### 3) LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

This Decision takes into account the consolidation of the tariff preferences on automotive granted to SA by the Community scheme of generalised tariff preferences (GSP) as well as the elimination of the duty on some automotive products. It is proposed that this amendment to the TDCA should enter into force as from 1<sup>st</sup> October 2006.

- **Legal basis**

Article 133 of the Treaty establishing the EC.

- **Subsidiarity principle**

The proposal falls under the exclusive competence of the Community. The subsidiarity principle therefore does not apply.

- **Proportionality principle**

The proposal complies with the proportionality principle for the following reason(s).

This proposal will consolidate into the TDCA the current GSP duty, already enjoyed by SA (before graduation) and thus will not represent a major change in the tariff treatment and in the administrative requirement (proofs of origin). The proposed form of action (Council Decision within the EU-SA Cooperation Council) is as simple as possible in the context EU-SA legal framework (TDCA).

- **Choice of instruments**

Proposed instruments: Council Decision.

Other means would not be adequate for the following reason(s).

It is the only way to amend TDCA trade provisions.

### 4) BUDGETARY IMPLICATION

Due to its financial impact on EC own resources (customs revenue) the proposal has an implication for the Community budget. This impact is summarised in the annexed financial statement.

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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) In order to ensure clarity, long term economic predictability and legal certainty for economic operators, it is considered appropriate to consolidate into the Trade, Development and Cooperation Agreement between the European Community and its Member States, on the one part, and the Republic of South Africa, on the other part (TDCA)<sup>1</sup>, the remaining tariff preferences granted to South Africa by the Community scheme of generalised tariff preferences (GSP) on automotive products, as well as the elimination of the duty on some automotive products, and not yet provided for by the Community tariff concessions listed in the relevant Annexes to the TDCA.
- (2) South Africa, as a current beneficiary country under the Community scheme of generalised tariff preferences, will benefit by means of the enclosed Decision of the Joint Cooperation Council, from a commercial agreement giving preferential treatment including all the preferences related to automotive products provided for by the tariff scheme contained in Council Regulation (EC) No 980/2005 of 27 June 2005 applying a scheme of generalised tariff preferences<sup>2</sup>,

HAS DECIDED AS FOLLOWS:

*Sole Article*

The position to be adopted by the Community within the Joint Cooperation Council on the amendment of the relevant Annexes to the Trade, Development and Cooperation Agreement

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<sup>1</sup> OJ L 311, 4.12.1999, p. 2.

<sup>2</sup> OJ L 169, 30.6.2005, p. 1.

between the European Community and its Member States, on the one part, and the Republic of South Africa, on the other part, to take into account the consolidation of the tariff preferences on automotive products granted to South Africa by the Community scheme of generalised tariff preferences (GSP), shall be based on the draft Decision of the Cooperation Council annexed to this Decision.

Done at Brussels,

*For the Council*  
*The President*

**DRAFT DECISION N° .../2006**

**OF THE EU-SOUTH AFRICA COOPERATION COUNCIL**

**on**

**on the amendment of Annex II, List 4 to the Trade, Development and Cooperation Agreement (TDCA) between the European Community and its Member States, on the one part, and the Republic of South Africa, on the other part, to phase out and eliminate the duties on some automotive products into the TDCA**

THE COOPERATION COUNCIL,

Having regard to the Trade, Development and Cooperation Agreement between the European Community and its Member States, on the one part, and the Republic of South Africa, on the other part (TDCA), signed in Pretoria on 11 October 1999 and in particular Article 106(1) thereof,

Whereas:

- (1) In order to ensure clarity, long term economic predictability and legal certainty for economic operators, the parties have agreed to consolidate into the TDCA the remaining tariff preferences granted to South Africa on automotive products, by the Community scheme of generalised tariff preferences (GSP) and not yet provided for by the Community tariff concessions listed in Annex II List 4 to the TDCA.
- (2) Article 106(1) of the TDCA empowers the Cooperation Council to amend the TDCA in order to accelerate the reduction of customs duties more rapidly than is provided for in Articles 11, or otherwise improve the conditions of access under this Article.
- (3) This Decision supersedes the terms laid down in Article 11 for the products concerned.
- (4) It is desirable to ensure smooth transition from the GSP to the preferential bilateral trade regime established by the TDCA by allowing GSP proofs of origin (certificate of origin Form A or invoice declaration) to be submitted for a certain period of time,

HAS DECIDED AS FOLLOWS:

*Article 1*

Annex II List 4 to the TDCA are hereby amended in accordance with the provisions set out in the Annex to this Decision.

## *Article 2*

This Decision shall supersede the terms laid down in Article 11 of the TDCA with respect to imports into the Community of the products concerned.

## *Article 3*

Proofs of origin issued in South Africa in the framework of the Community scheme of generalised tariff preferences (GSP) shall be accepted in the European Community as valid proofs of origin under the preferential bilateral trade regime established by the TDCA, provided that:

- (i) the proof of origin is submitted within ten months of the date of entry into force of this Decision;
- (ii) the proof of origin and the transport documents were issued no later than the day before the date of entry into force of this Decision;
- (iii) the proof of origin is presented at import into the European Community for the benefit of tariff preferences previously granted under the GSP which are consolidated by this Decision.

## *Article 4*

This Decision shall enter into force on 1<sup>st</sup> October 2006.

Done at

*For the Cooperation Council  
The President*

**ANNEX**

COMMUNITY'S TARIFF ELIMINATION SCHEDULE

(referred to in Article 11 of the TDCA)

*(See Annex to Draft Council Decision)*



<b>CN CODES 2006</b>	<b>01/10-31/12/2006</b>	<b>2007</b>	<b>2008</b>
8703 10 11	3.5	1.5	0
8703 10 18	3.5	1.5	0
8703 21 10	3.5	1.5	0
8703 21 90	3.5	1.5	0
8703 22 10	3.5	1.5	0
8703 22 90	3.5	1.5	0
8703 23 11	3.5	1.5	0
8703 23 19	3.5	1.5	0
8703 23 90	3.5	1.5	0
8703 24 10	3.5	1.5	0
8703 24 90	3.5	1.5	0
8703 31 10	3.5	1.5	0
8703 31 90	3.5	1.5	0
8703 32 11	3.5	1.5	0
8703 32 19	3.5	1.5	0
8703 32 90	3.5	1.5	0
8703 33 11	3.5	1.5	0
8703 33 19	3.5	1.5	0
8703 33 90	3.5	1.5	0
8703 90 10	3.5	1.5	0
8703 90 90	3.5	1.5	0
<b>01/10/2006</b>			
8706 00 11	0		
8706 00 19	0		

8706 00 91	0
8706 00 99	0
8707 10 10	0
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8707 90 10	0
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8708 94 10	0
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8708 99 11	0
8708 99 19	0
8708 99 30	0
8708 99 50	0
8708 99 92	0
8708 99 98	0

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

**1. NAME OF THE PROPOSAL:**

**2. BUDGET LINES:**

Chapter and Article:

Amount budgeted for the year concerned:

**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 <sup>3</sup>	12 month period, starting dd/mm/yyyy	[Year n]
Article ...	<i>Impact on own resources</i>	- 30.5	- 7.6
Article ...	<i>Impact on own resources</i>		

Situation following action					
	[n+1]	[n+2]	[n+3]	[n+4]	[n+5]
Article ...	8	6			
Article ...					

<sup>3</sup> 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**