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Delegations will find attached document COM(2019) 297 final/2 .

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EUROPEAN
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2019/0142 (NLE)

Proposal for a

COUNCIL DECISION

on the conclusion of an agreement with the United States of America on the Allocation to the United States of a Share in the Tariff Rate Quota provided for by Regulation (EC) No 617/2009 of 13 July 2009 opening an autonomous tariff quota for imports of high-quality beef

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

Pursuant to Regulation (EC) No 617/2009, the European Union opened an annual tariff rate quota¹ for High Quality Beef in compliance with the Memorandum of Understanding between the European Commission and the United States and its revised version, the Revised Memorandum of Understanding with the United States of America Regarding the Importation of Beef from Animals Not Treated with Certain Growth-Promoting Hormones and Increased Duties applied by the United States to Certain Products of the European Union of 21 October 2013 (the "TRQ "). The revised Memorandum of Understanding was communicated by the Union and the United States to the WTO Dispute Settlement Body on 14 April 2014.

In December 2016, the United States took steps to reinstate increased duties on certain EU products in connection with the WTO dispute EC – Measures concerning Meat and Meat Products (Hormones) (DS26) ("EC-Hormones"). The procedure for the reinstatement of duties was opened upon the request of the US beef industry who raised concerns about the implementation of the TRQ.

With a view to avoid the reinstatement of increased duties on certain EU products, the European Union and the United States conducted consultations regarding the operation of the revised Memorandum of Understanding pursuant to Article IV.1(b) thereof, whereby the United States requested the allocation of a share of the tariff rate quota opened pursuant to the revised Memorandum of Understanding.

It is in the interest of the Union to allocate a share of the tariff rate quota to the United States so that both Parties may eventually reach a mutually agreed solution to the WTO dispute in case DS26 to be notified the WTO Dispute Settlement Body.

On 19 October 2018, the Council authorised the Commission to open negotiations on behalf of the Union with the United States of America, concerning the operation of the TRQ, with a view to allocate a share in the TRQ to the United States, with a view to a definitive resolution of the WTO dispute in case DS26. These negotiations were successfully concluded.

In addition, the Council authorised the Commission to seek the agreement of other substantial supplying countries as regards the country-allocation of the TRQ, in line with the applicable WTO rules, to the extent necessary. Indeed, in order to comply with Article XIII:2 of the GATT, when a tariff quota is allocated among supplying countries, the party allocating the tariff quota should seek agreement with respect to the allocation of shares in the tariff quota with all substantial suppliers. In order to make sure that the country allocation of the present tariff rate quota complies with the EU WTO obligations, the EU therefore has to seek the agreement of the other substantial suppliers under the TRQ (Australia, Uruguay and Argentina). Accordingly, the Commission sought the agreement of the substantial supplying countries and obtained their written consent with the allocation of a share in the TRQ to the United States in the form of letters of acceptance received on 10, 20 and 31 May 2019.

¹ Council Regulation (EC) No 617/2009 of 13 July 2009 opening an autonomous tariff quota for imports of high-quality beef (OJ L 182, 15.7.2009, p. 1)

- **Consistency with existing policy provisions in the policy area**

Not applicable.

- **Consistency with other Union policies**

Not applicable.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

Article 207(3) and the first subparagraph of Article 207(4), in conjunction with point (a)(v) of the second subparagraph of Article 218(6) TFEU,

- **Subsidiarity (for non-exclusive competence)**

Not applicable, as the Union competence in the area of common commercial policy is exclusive (Article 3(1)(e) TFEU).

- **Proportionality**

Not applicable.

- **Choice of the instrument**

An international agreement is the appropriate instrument for the allocation of a share of the TRQ to the United States.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

Not applicable.

- **Stakeholder consultations**

Not applicable.

- **Collection and use of expertise**

Not applicable.

- **Impact assessment**

Not applicable.

- **Regulatory fitness and simplification**

Not applicable.

- **Fundamental rights**

Not applicable.

4. BUDGETARY IMPLICATIONS

None.

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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 Article 207(3) and the first subparagraph of Article 207(4), in conjunction with point (a)(v) of the second subparagraph of Article 218(6) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament,

Whereas:

- (1) In accordance with Council Decision 2019/XXX/EU the agreement with the United States of America on the Allocation to the United States of a Share in the Tariff Rate Quota for High Quality Beef referred to in the Revised Memorandum of Understanding between the United States of America and the European Union Regarding the Importation of Beef from Animals not Treated with Certain Growth-Promoting Hormones and Increased Duties Applied by the United States to Certain Products of the European Union (2014) was signed on XXXXX, subject to its conclusion at a later date.
- (2) The agreement should be approved on behalf of the Union,

HAS ADOPTED THIS DECISION:

Article 1

The agreement with the United States of America on the Allocation to the United States of a Share in the Tariff Rate Quota for High Quality Beef referred to in the Revised Memorandum of Understanding between the United States of America and the European Union Regarding the Importation of Beef from Animals not Treated with Certain Growth-Promoting Hormones and Increased Duties Applied by the United States to Certain Products of the European Union (2014) is hereby concluded on behalf of the Union.

The text of the agreement is attached to this Decision.

Article 2

This Decision shall enter into force on the first day following that of its publication in the *Official Journal of the European Union*.

Done at Brussels,

For the Council
The President