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PROPOSAL

From: Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director

date of receipt: 9 September 2020

To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

No. Cion doc.: COM(2020) 486 final

Subject: Proposal for a COUNCIL DECISION on the conclusion on behalf of the European Union, of the Agreement in the form of an Exchange of Letters between the Union and Cuba relating to the modification of concessions on all the tariff-rate quotas included in the EU Schedule CLXXV as a consequence of the United Kingdom's withdrawal from the European Union

DOCUMENT PARTIALLY ACCESSIBLE TO THE PUBLIC (26.05.2023)

Delegations will find attached document COM(2020) 486 final.

Encl.: COM(2020) 486 final

Brussels, 9.9.2020
COM(2020) 486 final

2020/0233 (NLE)
SENSITIVE* : LIMITED

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Proposal for a

COUNCIL DECISION

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EXPLANATORY MEMORANDUM

In October 2018 the EU formally launched the negotiations process (under Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994) with a number of WTO Members in Geneva. The underlying principle of the negotiations is a “joint approach” developed between the EU and the UK back in 2017 on how to “apportion” the quantitative commitments contained in the EU28 WTO schedule for the 143 EU agricultural, fish and industrial WTO tariff-rate quotas (TRQs). The basis of this approach is that the existing volume of each TRQ would be fully maintained in the future, but split across two separate customs territories: the EU27 and the UK.

The principle of the applied methodology is based on the trade flows into the EU27 and the UK during a representative reference period (of 3 years from 2013 to 2015) for all WTO TRQs.

On 15 June 2018 the Council authorized the Commission to launch negotiations under Article XXVIII GATT with the relevant WTO Members with a view to apportioning the Union's WTO concessions on TRQs.

The agreed methodology of the apportionment is described in detail in the Council and EP Regulation (EU) 2019/216. More specifically, Article 2b) of this Regulation empowers the Commission to amend the apportionment shares taking into account pertinent information that it may receive either in the context of negotiations under Article XXVIII of GATT 1994 or from other sources with an interest in a specific tariff rate quota.

The Council (Trade Policy Committee) has been regularly consulted on the content and advancement of the negotiations. Negotiations with Cuba resulted in an Agreement in the form of an Exchange of Letters that was initialled on 3 July 2020 in Geneva ("the Agreement").

Consequently, the European Commission proposes to the Council to authorize the conclusion of the Agreement.

1. CONTEXT OF THE PROPOSAL

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

Not applicable. The measure is taken in implementation of an agreement following negotiations in the framework of the Article XXVIII of the GATT 1994, a Union right under the WTO Agreement.

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

Not applicable. The measure is taken in implementation of an agreement following negotiations in the framework of the Article XXVIII of the GATT 1994, a Union right under the WTO Agreement.

- **Consistency with other Union policies**

Not applicable. The measure is taken in implementation of an agreement following negotiations in the framework of the Article XXVIII of the GATT 1994, a Union right under the WTO Agreement.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

Article 207 of the Treaty on the Functioning of the European Union (TFEU), in conjunction with Article 218(6) of the TFEU for conclusion of international agreements.

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

Not applicable. The measure is taken in implementation of an agreement following negotiations in the framework of the Article XXVIII of the GATT 1994, a Union right under the WTO Agreement.

- **Proportionality**

Not applicable. The measure is taken in implementation of an agreement following negotiations in the framework of the Article XXVIII of the GATT 1994, a Union right under the WTO Agreement.

- **Choice of the instrument**

A Decision of the Council authorising the conclusion of the Agreement is required under Article 218(6) TFEU.

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

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

Not applicable. The measure is taken in implementation of an agreement following negotiations in the framework of the Article XXVIII of the GATT 1994, a Union right under the WTO Agreement.

- **Stakeholder consultations**

Not applicable. The measure is taken in implementation of an agreement following negotiations in the framework of the Article XXVIII of the GATT 1994, a Union right under the WTO Agreement.

- **Collection and use of expertise**

Not applicable. The measure is taken in implementation of an agreement following negotiations in the framework of the Article XXVIII of the GATT 1994, a Union right under the WTO Agreement.

- **Impact assessment**

Not applicable. The measure is taken in implementation of an agreement following negotiations in the framework of the Article XXVIII of the GATT 1994, a Union right under the WTO Agreement.

- **Regulatory fitness and simplification**

Not applicable. The measure is taken in implementation of an agreement following negotiations in the framework of the Article XXVIII of the GATT 1994, a Union right under the WTO Agreement.

- **Fundamental rights**

Not applicable. The measure is taken in implementation of an agreement following negotiations in the framework of the Article XXVIII of the GATT 1994, a Union right under the WTO Agreement.

4. BUDGETARY IMPLICATIONS

Not applicable. The measure is taken in implementation of an agreement following negotiations in the framework of the Article XXVIII of the GATT 1994, a Union right under the WTO Agreement.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

DELETED

- **Explanatory documents (for directives)**

Not applicable. The measure is taken in implementation of an agreement following negotiations in the framework of the Article XXVIII of the GATT 1994, a Union right under the WTO Agreement.

- **Detailed explanation of the specific provisions of the proposal**

Not applicable. The measure is taken in implementation of an agreement following negotiations in the framework of the Article XXVIII of the GATT 1994, a Union right under the WTO Agreement.

Proposal for a

COUNCIL DECISION

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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 the first subparagraph of Article 207(4), in conjunction with Article 218(6) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament,

Whereas:

- (1) On 15 June 2018, the Council authorised the Commission to open negotiations pursuant to Article XXVIII of the General Agreement on Tariffs and Trade ('GATT 1994') on the apportionment of the tariff-rate quotas included in the EU Schedule CLXXV as a consequence of the United Kingdom's withdrawal from the European Union.
- (2) The negotiations have been concluded and an Agreement in the form of an Exchange of Letters between the European Union and Cuba ('the Agreement') was initialled on 3 July 2020.
- (3) The agreement was signed on behalf of the Union on [...], subject to its conclusion at a later date, in accordance with Council Decision [...].
- (4) The Agreement should be approved on behalf of the European Union.

HAS ADOPTED THIS DECISION:

Article 1

The Agreement in the form of an Exchange of Letters between the European Union and Cuba in connection with the negotiations under Article XXVIII of the GATT 1994 on the modification of concessions on all the tariff-rate quotas included in the EU Schedule CLXXV as a consequence of the United Kingdom's withdrawal from the European Union is hereby concluded.

The text of the Agreement is attached to this Decision.

Article 2

The President of the Council shall designate the person empowered to proceed, on behalf of the Union, to give the notification provided for in the Agreement.

Article 3

This Decision shall enter into force on the date of its adoption. It shall be published in the Official Journal of the European Union.

The date of the entry into force of the Agreement shall be published in the Official Journal of the European Union by the General Secretariat of the Council.

Done at Brussels,

*For the Council
The President*