



Council of the
European Union

Brussels, 20 January 2021
(OR. en)

5441/21

LIMITE

WTO 7
AGRI 18
UD 14
UK 16

**Interinstitutional File:
2021/0003(NLE)**

PROPOSAL

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| From: | Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director |
| date of receipt: | 19 January 2021 |
| To: | Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union |
| No. Cion doc.: | COM(2021) 7 final |
| Subject: | Proposal for a COUNCIL DECISION on the conclusion, on behalf of the European Union, of the Agreement between the Union and the Kingdom of Thailand 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 |

Delegations will find attached document COM(2021) 7 final.

Encl.: COM(2021) 7 final



EUROPEAN
COMMISSION

Brussels, 19.1.2021
COM(2021) 7 final

2021/0003 (NLE)

SENSITIVE*

Proposal for a

COUNCIL DECISION

on the conclusion, on behalf of the European Union, of the Agreement between the Union and the Kingdom of Thailand 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

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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 “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 authorised 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 the Kingdom of Thailand resulted in an Agreement that was initialled on 7 January 2021 in Geneva ("the Agreement").

Consequently, the European Commission proposes to the Council to authorise 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(4) 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**

For the vast majority of the 31 TRQs where the Kingdom of Thailand is concerned, the original EU proposed apportioned volumes were accepted by the Kingdom of Thailand. For five poultry/duck TRQs the volumes were adjusted on the basis of official Comext data in the same reference period 2013-15 which was considered more representative of the trade for these products than the original specific license-based data. For cooked poultry this results in a substantial reduction of the EU27 TRQ volume to 53 866 tonnes (compared to the EU28 volume of 160 033 tonnes) and for one processed chicken TRQ to 2 435 tonnes (compared to the EU28 volume of 14 000 tonnes). For the salted poultry TRQ the readjustment will lead to a new EU27 TRQ of 81 968 tonnes (EU28 volume of 92 610 tonnes.) For the other two smaller processed poultry and duck TRQs the agreement results in the adjustment of the EU27 TRQ volume to 1 940 tonnes (EU28 volume of 2 100 tonnes) and retaining of the 10 tonnes respectively.

For one prepared/preserved fish TRQ the overall trade for this product recorded in Comext was used as a basis for adjustment due to the low utilization of this quota by the Kingdom of Thailand, resulting in the new EU27 volume of 423 tonnes (current EU28 volume of 1 410 tonnes). With these changes to the original proposal, the EU is able to finalize negotiations with the Kingdom of Thailand for all the TRQs concerned.

The above adjustments are made fully respecting the overall principle of the EU-UK “joint approach” of maintaining the existing overall EU 28 TRQ volumes split into two separate customs territories in the future.

The relevant Council/European Parliament Regulation (EU) 2019/216 and the subsequent Commission implementing Regulation (EU) 2019/386 will be amended to reflect these amended TRQ volumes.

- **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

on the conclusion, on behalf of the European Union, of the Agreement between the Union and the Kingdom of Thailand 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

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 opinion of the European Parliament¹,

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 between the European Union and the Kingdom of Thailand ('the Agreement') was initialled on 7 January 2021.
- (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 between the European Union and the Kingdom of Thailand 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.

¹ OJ C , , p. .

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*