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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DECISION on the position to be taken on behalf of the European Union within the General Council of the World Trade Organization as regards the adoption of a decision on the review of the Understanding on Tariff Rate Quota Administration Provisions of Agricultural Products

COUNCIL DECISION (EU) 2022/...

of ...

**on the position to be taken on behalf of the European Union
within the General Council of the World Trade Organization as regards
the adoption of a decision on the review of the Understanding
on Tariff Rate Quota Administration Provisions of Agricultural Products**

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(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) On 22 December 1994, the Marrakesh Agreement Establishing the World Trade Organization ('the WTO Agreement') was concluded by the Union by means of Council Decision 94/800/EC¹ and entered into force on 1 January 1995.
- (2) Pursuant to paragraph 1 of Article IV of the WTO Agreement, the Ministerial Conference of the World Trade Organization (WTO) has the authority to take decisions on all matters under any of the Multilateral Trade Agreements.
- (3) Pursuant to paragraph 2 of Article IV of the WTO Agreement, in the intervals between meetings of the Ministerial Conference, the functions of the Ministerial Conference are to be conducted by the General Council of the WTO.
- (4) Pursuant to paragraph 1 of Article IX of the WTO Agreement, WTO bodies usually take decisions by consensus.
- (5) In December 2013, the Ninth Session of the WTO Ministerial Conference adopted a Ministerial Decision on Understanding on Tariff Rate Quota Administration Provisions of Agricultural Products, as defined in Article 2 of the Agreement on Agriculture (WT/MIN(13)/39) ('the TRQ Understanding'). The TRQ Understanding governs the management of tariff-rate quotas of agricultural products.

¹ Council Decision 94/800/EC of 22 December 1994 concerning the conclusion on behalf of the European Community, as regards matters within its competence, of the agreements reached in the Uruguay Round multilateral negotiations (1986-1994) (OJ L 336, 23.12.1994, p. 1).

- (6) Pursuant to paragraph 13 of the TRQ Understanding, a review of the operation of the TRQ Understanding is to commence no later than four years following its adoption, taking into account experience gained up to that time. The objective of the review is to promote a continuing process of improvement in the utilisation of tariff-rate quotas.
- (7) In accordance with paragraph 13 of the TRQ Understanding, the Committee on Agriculture proceeded with the review of the TRQ Understanding in 2018. In December 2019, the review findings were presented to the meeting of the General Council of the WTO in the form of a report issued by the Committee on Agriculture (document G/AG/29 of 31 October 2019).
- (8) On 9 November 2021, the Chair of the Committee on Agriculture presented his report on the negotiations and a draft decision, as contained in document G/AG/32. At the same time, the Committee on Agriculture submitted the draft decision set out in the annex to the report contained in document G/AG/32 ('the draft decision') for the consideration of the General Council and for its subsequent transmission to the 12th Ministerial Conference for final adoption, noting, however, that some WTO Members had not yet finalised the internal consultations on this matter.
- (9) Due to the postponement of the 12th WTO Ministerial Conference, the Committee on Agriculture agreed to propose a three-month extension of the deadline (namely, up to 31 March 2022) in order to finalise a decision on the review.

- (10) At the special meeting of the General Council on 15 December 2021, the WTO Members agreed on the three-month extension of the deadline, up to 31 March 2022.
- (11) It is expected that the General Council of the WTO will be invited, by 31 March 2022, or possibly by a later date in 2022, if a further extension is agreed, to consider the adoption of the draft decision, possibly with some amendments following negotiations.
- (12) It is appropriate to establish the position to be taken on the Union's behalf in the General Council of the WTO, as the decision to be adopted will be binding on the Union.
- (13) The draft decision contains recommendations for the future operation of the TRQ Underfill Mechanism which, if acceptable to all WTO Members, could conclude the review. The adoption of the draft decision would mean that the provisions of the TRQ Understanding that exempt the US and developing countries from the Underfill Mechanism would become obsolete, which is clearly in the Union's interest.
- (14) In the General Council of the WTO, the Union is to be represented by the Commission, in accordance with Article 17(1) of the Treaty on European Union,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf within the General Council of the World Trade Organization at any meeting to be held by 31 March 2022, or thereafter if a further extension is agreed, shall be to support a consensus-based outcome with a view to adopting a decision concluding the review of the operation of the Decision of the WTO Ministerial Conference of 7 December 2013 on the Understanding of Tariff Rate Quota Administration Provisions of Agricultural Products, as defined in Article 2 of the Agreement on Agriculture (WT/MIN(13)/39), and rendering paragraphs 13 to 15 of that Decision, along with Annex B to that Decision, non-operational, as set out in the draft decision set out in the annex to the report contained in document G/AG/32, which is attached to this Decision.

Article 2

Minor changes to the draft decision set out in the annex to the report contained in document G/AG/32 may be agreed to by the representatives of the Union in the General Council of the WTO without a further decision of the Council.

Article 3

This Decision shall enter into force on the date of its adoption.

Done at ...,

For the Council

The President
