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PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	4 April 2022
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2022) 149 final
Subject:	Proposal for a COUNCIL DECISION on the conclusion, on behalf of the European Union, of the Agreement between the European Union and New Zealand 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(2022) 149 final.

Encl.: COM(2022) 149 final



EUROPEAN
COMMISSION

Brussels, 4.4.2022
COM(2022) 149 final

2022/0098 (NLE)
SENSITIVE*

Proposal for a

COUNCIL DECISION

on the conclusion, on behalf of the European Union, of the Agreement between the European Union and New Zealand 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

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

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.

The agreed methodology of the apportionment is described in detail in Regulation (EU) 2019/216 of the European Parliament and of the Council. 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.

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.

New Zealand has negotiating rights for 21 TRQs and consultation rights for 3 TRQs.

For the majority of the TRQs where New Zealand is concerned, the original EU proposed apportioned volumes were accepted by New Zealand.

Changes have been agreed for the following TRQs.

The EU27 share of a New Zealand's country-specific TRQ on high quality bovine meat will be revised to 1 102 tonnes, taking into account a more recent reference period from 2015 to 2017.

The EU27 share of a New Zealand's country-specific TRQ on sheep meat will be revised to 125 769 tonnes, taking into account a more recent reference period from 2016 to 2018.

The EU27 share of an erga omnes TRQ on skimmed milk powder will be reduced to 62 917 tonnes, to avoid non-commercially viable volumes on UK side.

For an erga omnes TRQ on frozen beef meat, the ad-valorem part of the in-quota duty will be lowered from 20 to 15%.

For a New Zealand's country-specific TRQ on cheddar cheese the product description will be extended to the whole line 0406 90 21.

For a New Zealand's country-specific butter TRQ, the product specifications will be aligned

to the standard definition for butter and the eligibility will be extended to all types of butter falling under the line 0405 10.

The above adjustments are made fully respecting the overall principle of the EU-UK “joint approach” of maintaining the existing overall EU28 TRQ volumes split into two separate customs territories in the future.

The relevant Regulation (EU) 2019/216 of the European Parliament and Council, Commission Implementing Regulation (EU) 2020/761 and Commission Implementing Regulation (EU) 2020/1988 will be amended to reflect these changes.

The Council (Trade Policy Committee) has been regularly consulted on the content and advancement of the negotiations. Negotiations with New Zealand resulted in an Agreement that was initialled on 20 December 2021 in Brussels ("the Agreement").

Consequently, the European Commission proposes to the Council to authorise the conclusion of the 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**

Not applicable.

- **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

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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 Parliament¹,

Whereas:

- (1) In accordance with Council Decision [XXX] (EU) XXXX/XXX², the Agreement between the European Union and New Zealand pursuant to Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 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 'Agreement'). was signed on behalf of the Union on [...], subject to its conclusion at a later date.
- (2) The objective of the Agreement is to provide for the apportionment of the tariff rate quotas included in the EU Schedule CLXXV of the General Agreement on Tariffs and Trade (GATT) 1994 as a consequence of the United Kingdom's withdrawal from the Union, pursuant to Article XXVIII of GATT 1994.
- (3) The Agreement should be approved on behalf of the European Union,

HAS ADOPTED THIS DECISION:

Article 1

The Agreement between the European Union and New Zealand pursuant to Article XXVIII of the GATT 1994 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 is hereby approved on behalf of the Union.

The text of the Agreement is attached to this Decision.

Article 2

¹ OJ C , , p. .
² XXX

The Commission shall designate the person empowered to proceed, on behalf of the Union, to give the notification, as provided for in Article 5(1) of the Agreement, in order to express the consent of the European Union to be bound by the Agreement.

Article 3

This Decision shall enter into force on the day following that of its adoption.

Done at Brussels,

*For the Council
The President*