Council of the European Union

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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	27 May 2020
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2020) 214 final
Subject:	Proposal for a COUNCIL DECISION on the signing, on behalf of the European Union, of the Agreement between the European Union and the government of the People's Republic of China on cooperation on, and protection of, geographical indications

Delegations will find attached document COM(2020) 214 final.

Encl.: COM(2020) 214 final

EUROPEAN
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Proposal for a

COUNCIL DECISION

on the signing, on behalf of the European Union, of the Agreement between the European Union and the government of the People's Republic of China on cooperation on, and protection of, geographical indications

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The policy to promote and widen the protection of existing geographical indications at international level is one of the priority strategies for enhancing the sustainability of international trade in agricultural products. It should make it possible to reinforce the European Union's quality policy, fight deceptive practices and prevent the wrongful use of geographical indications. It will contribute to increasing the added value of EU agricultural exports and thus make the EU economy more competitive.

China is EU's second-biggest trading partner and the EU is China's biggest trading partner. China and Europe trade on average over EUR 1 billion a day. Agri-food trade is an important component of this relation and its balance between the EU and China is clearly positive for the EU. In 2018, the EU recorded a trade surplus of EUR 5,4 billion with China in this sector. China was the EU's second largest export destination (EUR 11 billion) and was in third place in terms of EU imports (EUR 5,6 billion). These figures are against the EU's overall trade deficit for goods with China of EUR 184,9 billion in 2018 (EUR 209,9 billion in exports and EUR 394,8 billion in imports).

The development of China's middle class, which should reach 500 million people in the next three years, is boosting the demand for quality products and thus, for European geographical indications. According to a study commissioned by DG AGRI in 2013[1], a geographical indication product sells on average for more than twice the price of a similar non-geographical indication product. This agreement will therefore benefit European producers and should be a boost to rural areas where these products are made.

This agreement is also a further step towards the overall recognition of geographical indications and the importance of protecting them, a process driven by the EU through the various free trade agreements signed by the EU in recent years.

In addition to the economic benefits, the agreement will also be a milestone in our relation with China as it will be the first significant bilateral trade agreement signed between the EU and China. It is also a sign to the world of both parties' commitment to deeper trade relations and symbol of our openness and our adherence to international rules as a basis for trade relations.

On 10 September 2010 the Council authorised the opening of negotiations[2] on an agreement with China to obtain the highest possible level of protection for the geographical indications coming within the scope of the Agreement and to provide instruments to counter deceptive practices and the wrongful uses of geographical indications.

On the basis of these negotiating directives, the Commission has negotiated with the People's Republic of China an ambitious and comprehensive agreement on cooperation and on protection of geographical indications.

The Commission is putting forward the following proposals for Council decisions:

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[1] "Value of production of agricultural products and foodstuffs, wines, aromatised wines and spirits protected by a geographical indication (GI)": https://op.europa.eu/en/publication-detail/-/publication/32b62342-b151-4bf3-8ba8-18568f37f43b

[2] Document 13325/10 : https://data.consilium.europa.eu/doc/document/ST-13325-2010-INIT/en/pdf

– Proposal for a Council Decision on the signing, on behalf of the European Union, of the Agreement between the European Union and the government of the People's Republic of China on cooperation on, and protection of, geographical indications;

– Proposal for a Council Decision on the conclusion of the Agreement between the European Union and the government of the People's Republic of China on cooperation on, and protection of, geographical indications.

The attached proposal for a Council Decision constitutes the legal instrument for the signing of the Agreement between the European Union and the government of the People's Republic of China on cooperation on, and protection of, geographical indications.

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

The conclusion of the Agreement fits into the overall EU strategy of promoting the EU geographical indications policy. The initiative aims to provide a high level of protection, at least at Article 23 TRIPS+ level, to a list of EU geographical indications in the People's Republic of China and Chinese geographical indications in the EU. The initiative will give producers of products bearing geographical indications a competitive advantage.

- **Consistency with other Union policies**

The conclusion of a bilateral agreement on geographical indications with the People's Republic of China is in line with the EU's external actions and in particular with the Union objectives regarding the EU strategy of promoting the geographical indication policy.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The EU-China Agreement on geographical indications is to be signed by the Union pursuant to a decision of the Council based on Article 218(5) TFEU and concluded by the Union pursuant to a decision of the Council based on Article 207(3) and the first subparagraph of Article 207(4), as well as 218(6) TFEU, following the European Parliament's consent.

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

The Agreement between the European Union and the government of the People's Republic of China as presented to Council does not cover any matters that fall outside of the EU's exclusive competence.

- **Proportionality**

This proposal is in line with the vision of the Europe 2020 strategy and contributes to the EUs trade and development objectives.

- **Choice of the instrument**

This proposal is in accordance with Article 218 TFEU, which envisages the adoption by the Council of decisions on international agreements. There exists no other legal instrument that could be used in order to achieve the objective expressed in this proposal.

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**

The proposal does not affect the protection of fundamental rights in the Union

4. BUDGETARY IMPLICATIONS

The Agreement will have no direct impact on the EU budget.

5. OTHER ELEMENTS

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

The Agreement between the European Union and the government of the People's Republic of China on cooperation on, and protection of, geographical indications includes institutional provisions that provide for a Joint Committee with the purpose of monitoring the implementation of the Agreement and of intensifying the co-operation and dialogue on geographical indications.

The Joint Committee shall also see to the proper functioning of this Agreement and may consider any matter related to its implementation and operation.

- **Explanatory documents (for directives)**

Not applicable.

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

The EU-China agreement on geographical indications establishes the conditions for a high level of protection on the Chinese market for the proposed geographical indications.

In line with the objectives set by the negotiating directives, the Commission secured, among others matters:

– A TRIPs-plus level of protection to EU geographical indications following the entry into force of the Agreement which provides protection against translation, transcription or transliteration, and against the use of the said geographical indications accompanied by expressions such as "kind", "type", "style", "imitation" or the like in respect of a non-originating product;

– The protection of 175 additional geographical indications within four years of the entry into force and a mechanism to add more geographical indications thereafter;

– The geographical indications will co-exist with the legitimate earlier trademarks of which the vast majority belong to the legitimate owners of Europe.

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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 Article 218(5) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) On 10 September 2010 the Council authorised the Commission to open negotiations with the government of the People's Republic of China for an Agreement on cooperation on, and protection of, geographical indications. The negotiations were successfully concluded by initialling of the Agreement.

(2) The proposed agreement seeks to obtain the highest possible level of protection for geographical indications and to provide instruments to counter deceptive practices and wrongful uses of geographical indications

(3) Therefore, the Agreement should be signed on behalf of the Union, subject to its conclusion at a later date,

HAS ADOPTED THIS DECISION:

Article 1

The signing of the Agreement between the European Union and the government of the People's Republic of China on cooperation on, and protection of, geographical indications is hereby approved on behalf of the Union, subject to the conclusion of the said Agreement.

The text of the Agreement to be signed is attached to this Decision.

Article 2

The Council Secretariat General shall establish the instrument of full powers to sign the Agreement, subject to its conclusion, for the person(s) indicated by the negotiator of the Agreement.

Article 3

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

Done at Brussels,

For the Council
The President