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**WTO 81
AGRI 194
PECHE 160**

LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DECISION on the position to be taken on behalf of the European Union within the 12th Ministerial Conference of the World Trade Organization

of ...

**on the position to be taken on behalf of the European Union
within the 12th Ministerial Conference of the World Trade Organization**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207(4), first subparagraph, in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) 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 Articles IV:1 and IX:1 of the WTO Agreement, the Ministerial Conference of the World Trade Organization (WTO) is able to adopt decisions by consensus.
- (3) During its 12th meeting, from 12 to 15 June 2022, the WTO Ministerial Conference could adopt decisions on: fisheries subsidies; trade and health; measures related to intellectual property, as provided for in the TRIPS Agreement; transparency improvements in agriculture; domestic support in agriculture; trade and food security; public stockholding for food-security purposes; export restrictions in agriculture, including the United Nations (UN) World Food Programme exemption from export restrictions; export competition in agriculture; market access in agriculture; the special safeguard mechanism ('SSM') in agriculture; cotton; least-developed countries ('LDCs') and special and differential treatment ('SDT') provisions; notifications; and trade concerns.

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).

- (4) It is appropriate to establish the position to be taken on the Union's behalf in the WTO Ministerial Conference, to the extent that any decisions adopted could have legal effects.
- (5) Negotiations on fisheries subsidies are part of the Doha Development Agenda (DDA) and were identified as a priority in target 6 of UN Sustainable Development Goal 14, as agreed by Heads of State in 2015, and in the WTO Ministerial Decision of 13 December 2017 (WT/MIN(17)/64). Given the importance of the issue for trade and sustainable development, and the fact that the Union has been one of the proponents, the Union should support the agreed outcome.
- (6) Discussions on trade and health issues started in 2020. On 23 November 2020 the Ottawa Group, a group of 13 like-minded WTO partners, including the Union, agreed on a proposal for a trade and health initiative in response to the current pandemic and future pandemics (WT/GC/223). A revised proposal for a draft WTO General Council declaration (WT/GC/W/823) was tabled on 15 July 2021. It contains trade-policy-related actions designed to contribute to the WTO response to the COVID-19 pandemic and to enhance resilience against future pandemics. Building on the proposals from the Union, as well as proposals from other WTO Members, the WTO facilitator (selected by the WTO General Council) consulted WTO Members to work towards the adoption of a declaration on this matter at the 12th Ministerial Conference. Given the importance of the issue, the Union should support the agreed outcome in this area.

(7) Negotiations on measures related to intellectual property, as provided for in the TRIPS Agreement are part of the ongoing discussions in the WTO on how the trade system can enhance global access to COVID-19 vaccines, therapeutics and other essential medical goods. On 21 May 2021 a number of WTO Members submitted to the WTO Council for TRIPS a communication with a revised proposal for a waiver from certain provisions of the TRIPS Agreement for the prevention, containment and treatment of COVID-19 (IP/C/W/669/Rev.1). On 4 June 2021 the Union submitted a communication on urgent trade policy responses to the COVID-19 crisis (WT/GC/231) to the WTO General Council and a communication on urgent trade policy responses to the COVID-19 crisis with regard to intellectual property (IP/C/W/680) to the WTO Council for TRIPS. On 18 June 2021 the Union submitted to the WTO Council for TRIPS a communication with a draft declaration on the TRIPS Agreement and public health in the circumstances of a pandemic (IP/C/W/681), which aims to clarify or facilitate the use of the compulsory licensing system provided for in the TRIPS Agreement, in order to make it work as efficiently as possible in the circumstances of a pandemic. Given the importance of this issue, the Union should support the agreed outcome.

(8) The relationship between trade and food security, which has long been a critical issue on the WTO agenda, has become a central concern as a consequence of Russia's unprovoked and unjustified war of aggression against Ukraine. Against this background, the Union should support a [decision][multilateral outcome] on trade and food security [based on a joint statement on open and predictable trade in agricultural and food products], in line with the Union's position on food security. Given the importance of this issue, the Union should support the agreed outcome.

(9) Negotiations on transparency improvements in agriculture as a cross-cutting issue have gained renewed attention during the COVID-19 pandemic due to the fact that transparency contributes to keeping trade flows open. Transparency is an essential element for monitoring obligations under the Agreement on Agriculture, for informing negotiations and for ensuring fair, effective and resilient agricultural markets and trade. Given the importance of the issue, the Union, together with Canada, Japan and the United States, has made a proposal for a ministerial decision on transparency improvements in agriculture (JOB/AG/213). The Union should therefore support the agreed outcome.

(10) Negotiations on trade-distorting domestic support are included in Article 20 of the Agreement on Agriculture and have been part of the DDA mandate, in accordance with the Doha Ministerial Declaration of 14 November 2001 (WT/MIN(01)/DEC/1). Given the importance of the issue, the Union should support an agreed outcome in the form of a work programme on a reform of trade-distorting domestic support.

(11) Negotiations on public stockholding for food-security purposes are aimed at agreeing on a permanent solution that fulfils the goal set out in the Bali Ministerial Decision of 7 December 2013 (WT/MIN(13)/38, WT/L/913), as interpreted by the subsequent WTO General Council Decision of 27 November 2014 (WT/L/939). That goal was repeated in the Nairobi Ministerial Decision of 19 December 2015 (WT/MIN(15)/44, WT/L/979). Given the importance of the issue, the Union should support the agreed outcome.

(12) Negotiations on export restrictions in agriculture, including the UN World Food Programme exemption from export restrictions, have shown that many WTO Members support the commitment not to impose such restrictions on purchases for humanitarian purposes. In view of the proposal for a ministerial decision on this matter and given that this is an important element of a food-security package to be adopted at the 12th Ministerial Conference, the Union should support the agreed outcome.

- (13) On export competition, the discussions have shown a certain interest from WTO Members in transparency improvements. The Union included several ideas in this respect in its co-sponsored proposal for a ministerial decision on transparency improvements in agriculture (JOB/AG/213). The Union should therefore support the agreed outcome.
- (14) As regards market access negotiations in agriculture, transparency elements are the most likely outcome. This should include the proposal by Australia, Brazil, Canada and Ukraine on transparency in applied tariff changes and treatment of goods en route (JOB/AG/212), which the Union supports. The Union should therefore support the agreed outcome.
- (15) Discussions on the SSM in agriculture have continued pursuant to the proposals on the table and the Nairobi Ministerial Decision of 19 December 2015 (WT/MIN(15)/43, WT/L/978). The Union should support the agreed outcome.

(16) Discussions on cotton have continued within the framework set up in paragraphs 5, 6 and 7 of the Bali Ministerial Decision on cotton (WT/MIN(13)/41, WT/L/916) and in paragraph 14 of the Nairobi Ministerial Decision on cotton (WT/MIN(15)/46, WT/L/981). Given the divergence of positions in the negotiations, certain transparency improvements are the most likely outcome at the 12th Ministerial Conference. The Union should support the agreed outcome.

(17) Negotiations on SDT provisions are part of the DDA. Given the importance of the issue, the Union should support the agreed outcome.

(18) Discussions on notifications are ongoing in the WTO General Council as regards the proposal for a General Council decision on procedures to enhance transparency and improve compliance with notification requirements under WTO Agreements (JOB/GC/204/Rev.10). Given the importance of improving transparency and compliance with existing notification requirements, and given the Union's role as one of the co-sponsors of the proposal, the Union should support the agreed outcome in this area.

(19) Discussions on trade concerns are ongoing in the WTO General Council as regards the draft Decision on Procedural Guidelines for WTO Councils and Committees addressing trade concerns (WT/GC/W/777/Rev.6). Given the importance of strengthening the effectiveness of the work of regular WTO councils and committees, in particular as regards the consideration of trade concerns, and given the Union's role as one of the co-sponsors of the proposal, the Union should support the agreed outcome in this area,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf within the 12th WTO Ministerial Conference shall be to support the adoption of the following draft WTO decisions:

- (a) fisheries subsidies (...);
- (b) trade and health (...);
- (c) measures related to intellectual property, as provided for in the TRIPS Agreement (...);
- (d) trade and food security (...);
- (e) transparency improvements in agriculture (...);
- (f) domestic support in agriculture (...);
- (g) public stockholding for food-security purposes (...);
- (h) export restrictions in agriculture, including the UN World Food Programme exemption from export restrictions (...);
- (i) export competition in agriculture (...);

- (j) market access in agriculture (...);
- (k) the SSM in agriculture (...);
- (l) cotton (...);
- (m) LDCs and SDT provisions (...);
- (n) notifications (...); and
- (o) trade concerns (...).

Article 2

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

Done at ..., ...

For the Council

The President