



EUROPEAN COMMISSION

Brussels, 29.6.2012  
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2012/0166 (NLE)

Proposal for a

### **COUNCIL DECISION**

**on the signing, on behalf of the European Union, of the Agreement in the form of an Exchange of Letters between the European Union and the United States of America pursuant to Article XXIV:6 and Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 relating to the modification of concessions in the schedules of the Republic of Bulgaria and Romania in the course of their accession to the European Union**

## EXPLANATORY MEMORANDUM

### **1. CONTEXT OF THE PROPOSAL**

With the accession of the Republic of Bulgaria and Romania, the European Union enlarged its customs union. Consequently, the European Union was obliged under WTO rules (GATT Article XXIV:6) to enter into negotiations with WTO Members having negotiating rights in the schedules of any of the acceding Members in order to agree on compensatory adjustment. Such adjustment is due if the adoption of the EU's external tariff regime results in an increase in tariff beyond the level for which the acceding country has bound itself at the WTO, whilst taking 'due account of reductions of duties on the same tariff line made by other constituents of the customs union upon its formation'.

On 29 January 2007, the Council authorised the Commission to open negotiations under Article XXIV:6 of GATT 1994. The Commission has negotiated with the Members of the WTO holding negotiating rights with respect to the withdrawal of specific concessions in relation to the withdrawal of the schedules of the Republic of Bulgaria and Romania, in the course of their accession to the European Union.

Negotiations with the United States of America resulted in a draft Agreement in the form of an Exchange of Letters that was initialled by the EU side on 21 December 2011 in Brussels and by the US side on 17 February in Washington D.C..

### **2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS**

Negotiations have been conducted by the Commission within the framework of the negotiating directives issued by the Council. The Council (TPC) and the European Parliament (INTA) were informed of the text of the draft agreement prior to being initialled.

### **3. LEGAL ELEMENTS OF THE PROPOSAL**

This proposal asks the Council to authorise the signature of the Agreement in the form of an Exchange of Letters with the United States of America. In parallel, a separate proposal on the conclusion of this Agreement is also submitted.

The implementing Regulation will consequently be adopted by the Commission, as foreseen in Article 144 of the Single Common Market Organisation (CMO) Regulation (Regulation (EC) No 1234/2007) and in Article 7 of the Regulation (EC) No 1216/2009 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products.

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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(5) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) On 29 January 2007 the Council authorised the Commission to open negotiations with certain other Members of the World Trade Organization under Article XXIV:6 of the General Agreement on Tariffs and Trade (GATT) 1994, in the course of the accessions to the European Union of the Republic of Bulgaria and Romania.
- (2) Negotiations have been conducted by the Commission within the framework of the negotiating directives adopted by the Council.
- (3) These negotiations have been concluded and the Agreement in the form of an Exchange of Letters between the European Union and the United States of America pursuant to Article XXIV:6 and Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 relating to the modification of concessions in the schedules of the Republic of Bulgaria and Romania in the course of their accession to the European Union (the Agreement) was initialled by a representative of the European Union on 21 December 2011 and by a representative of the United States of America on 17 February 2012.
- (4) This Agreement should be signed,

HAS ADOPTED THIS DECISION:

### *Article 1*

The signing of the Agreement in the form of an Exchange of Letters between the European Union and the United States of America pursuant to Article XXIV:6 and Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 relating to the modification of

concessions in the schedules of the Republic of Bulgaria and Romania in the course of their accession to the European Union (the Agreement) is hereby approved on behalf of the Union, subject to the conclusion of the agreement.

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

*Article 2*

The President of the Council is hereby authorised to designate the person(s) empowered to sign the Agreement on behalf of the Union.

*Article 3*

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

Done at Brussels,

*For the Council  
The President*

## ANNEX

### AGREEMENT IN THE FORM OF AN EXCHANGE OF LETTERS

**Between the European Union and the United States of America pursuant to Article XXIV:6 and Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 relating to the modification of concessions in the schedules of the Republic of Bulgaria and Romania in the course of their accession to the European Union**

#### *A. Letter from the European Union*

Place, date

Sir,

Following negotiations under Article XXIV:6 and Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 relating to the modification of the Schedules of the Republic of Bulgaria and Romania in the course of their accession to the European Union, I have the honour to confirm the following understanding:

1. The European Union shall incorporate and bind in its WTO Schedule for the customs territory of the EU 27 the concessions that were included in its schedule for the customs territory of the EU 25 with the modifications set out in this letter.

Add 4680 tonnes in the country allocated (US) EU tariff rate quota for 'meat and edible offal of poultry, fresh, chilled or frozen', maintaining the existing in-quota rates

(tariff item numbers 0207 1110, 0207 1130, 0207 1190, 0207 1210, 0207 1290, 0207 1310, 0207 1320, 0207 1330, 0207 1340, 0207 1350, 0207 1360, 0207 1370, 0207 1410, 0207 1420, 0207 1430, 0207 1440, 0207 1450, 0207 1460, 0207 1470, 0207 2410, 0207 2490, 0207 2510, 0207 2590, 0207 2610, 0207 2620, 0207 2630, 0207 2640, 0207 2650, 0207 2660, 0207 2670, 0207 2680, 0207 2710, 0207 2720, 0207 2730, 0207 2740, 0207 2750, 0207 2760, 0207 2770, 0207 2780);

Add 200 tonnes in the country allocated (US) EU tariff rate quota for 'frozen boneless hams and loins', maintaining the present in-quota rate of 250 €/t (tariff item numbers ex 0203 1955 and ex 0203 2955);

Create a country allocated (US) tariff rate quota of 1550 tonnes for 'food preparations', with an in-quota rate 'Agricultural Element' (tariff item number 2106 9098);

Add 600 tonnes (erga omnes) in the EU tariff rate quota for 'cuts of domestic swine, fresh, chilled or frozen, with or without bone, excluding tenderloin, presented separately', maintaining the existing in-quota rates (tariff item numbers 0203 1211, 0203 1219, 0203 1911, 0203 1913, 0203 1915, ex 0203 1955, 0203 1959, 0203 2211, 0203 2219, 0203 2911, 0203 2913, 0203 2915, ex 0203 2955, 0203 2959);

Add 500 tonnes (erga omnes) in the EU tariff rate quota for 'chicken cuts, fresh, chilled or frozen', maintaining the existing in-quota rates (tariff item numbers 0207 1310, 0207 1320, 0207 1330, 0207 1340, 0207 1350, 0207 1360, 0207 1370, 0207 1420, 0207 1430, 0207 1440, 0207 1460);

Add 400 tonnes (erga omnes) in the EU tariff rate quota for 'cuts of fowls', maintaining the existing in quota rate 795 €/t (tariff item number 0207 1410);

Add 580 tonnes (erga omnes) in the EU tariff rate quota for 'turkey meat, fresh, chilled or frozen', maintaining the existing in-quota rates (tariff item numbers 0207 2410, 0207 2490, 0207 2510, 0207 2590, 0207 2610, 0207 2620, 0207 2630, 0207 2640, 0207 2650, 0207 2660, 0207 2670, 0207 2680, 0207 2730, 0207 2740, 0207 2750, 0207 2760, 0207 2770);

If all internal procedures required for the EU to incorporate and bind in its WTO schedule the modifications set forth in this letter are not completed 60 days prior to the expiration of the period for the United States to exercise its right to withdraw substantially equivalent concessions pursuant to Article XXVIII of the GATT, the EU shall request that the WTO Council for Trade in Goods approve, prior to the expiration of the period, an extension of the period. Such extension shall be of sufficient length to ensure that all those EU internal procedures are completed 60 days prior to the expiration of the period for the United States to exercise its rights under Article XXVIII of the GATT.

2. Concurrent with the negotiation of the modifications set forth above and also related to the enlargement of the customs territory of the European Union to include the Republic of Bulgaria and Romania, the United States of America shall within 21 days of entry into force of this agreement submit for publication in the Federal Register a notice modifying the tariff-rate import quotas for cheeses allocated for the European Union in the additional U.S. notes 16, 17, 18, 19, 20, 21, 22, 23 and 25 of Chapter 04 of the Harmonized Tariff Schedule of the United States to reflect the enlargement of the customs territory of the European Union to include Bulgaria and Romania.

3. Consultations may be held at any time with regard to any of the above matters at the request of either Party.

I should be obliged if you would confirm that your Government is in agreement with the content of this letter. I have the honour to propose that, should this be the case, this letter and your confirmation shall together constitute an Agreement in the form of an Exchange of Letters between the European Union and the United States of America (the 'Agreement').

The European Union and the United States of America shall notify to each other in writing of the completion of any internal procedures necessary for the entry into force of this Agreement. This Agreement shall enter into force 14 days after the date of receipt of the date of the latest notification.

Please accept, Sir, the assurance of my highest consideration.

*For the European Union*

*B. Letter from the United States of America*

Place, date

Sir,

I have the honor to acknowledge the receipt of your letter of ..., which reads as follows:

“Following negotiations under Article XXIV:6 and Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 relating to the modification of the Schedules of the Republic of Bulgaria and Romania in the course of their accession to the European Union, I have the honour to confirm the following understanding:

1. The European Union shall incorporate and bind in its WTO Schedule for the customs territory of the EU 27 the concessions that were included in its schedule for the customs territory of the EU 25 with the modifications set out in this letter.

Add 4680 tonnes in the country allocated (US) EU tariff rate quota for 'meat and edible offal of poultry, fresh, chilled or frozen', maintaining the existing in-quota rates

(tariff item numbers 0207 1110, 0207 1130, 0207 1190, 0207 1210, 0207 1290, 0207 1310, 0207 1320, 0207 1330, 0207 1340, 0207 1350, 0207 1360, 0207 1370, 0207 1410, 0207 1420, 0207 1430, 0207 1440, 0207 1450, 0207 1460, 0207 1470, 0207 2410, 0207 2490, 0207 2510, 0207 2590, 0207 2610, 0207 2620, 0207 2630, 0207 2640, 0207 2650, 0207 2660, 0207 2670, 0207 2680, 0207 2710, 0207 2720, 0207 2730, 0207 2740, 0207 2750, 0207 2760, 0207 2770, 0207 2780);

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Create a country allocated (US) tariff rate quota of 1550 tonnes for 'food preparations', with an in-quota rate 'Agricultural Element' (tariff item number 2106 9098);

Add 600 tonnes (erga omnes) in the EU tariff rate quota for 'cuts of domestic swine, fresh, chilled or frozen, with or without bone, excluding tenderloin, presented separately', maintaining the existing in-quota rates (tariff item numbers 0203 1211, 0203 1219, 0203 1911, 0203 1913, 0203 1915, ex 0203 1955, 0203 1959, 0203 2211, 0203 2219, 0203 2911, 0203 2913, 0203 2915, ex 0203 2955, 0203 2959);

Add 500 tonnes (erga omnes) in the EU tariff rate quota for 'chicken cuts, fresh, chilled or frozen', maintaining the existing in-quota rates (tariff item numbers 0207 1310, 0207 1320, 0207 1330, 0207 1340, 0207 1350, 0207 1360, 0207 1370, 0207 1420, 0207 1430, 0207 1440, 0207 1460);

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If all internal procedures required for the EU to incorporate and bind in its WTO schedule the modifications set forth in this letter are not completed 60 days prior to the expiration of the period for the United States to exercise its right to withdraw substantially equivalent concessions pursuant to Article XXVIII of the GATT, the EU shall request that the WTO Council for Trade in Goods approve, prior to the expiration of the period, an extension of the period. Such extension shall be of sufficient length to ensure that all those EU internal procedures are completed 60 days prior to the expiration of the period for the United States to exercise its rights under Article XXVIII of the GATT.

2. Concurrent with the negotiation of the modifications set forth above and also related to the enlargement of the customs territory of the European Union to include the Republic of Bulgaria and Romania, the United States of America shall within 21 days of entry into force of this agreement submit for publication in the Federal Register a notice modifying the tariff-rate import quotas for cheeses allocated for the European Union in the additional U.S. notes 16, 17, 18, 19, 20, 21, 22, 23 and 25 of Chapter 04 of the Harmonized Tariff Schedule of the United States to reflect the enlargement of the customs territory of the European Union to include Bulgaria and Romania.

3. Consultations may be held at any time with regard to any of the above matters at the request of either Party.

I should be obliged if you would confirm that your Government is in agreement with the content of this letter. I have the honour to propose that, should this be the case, this letter and your confirmation shall together constitute an Agreement in the form of an Exchange of Letters between the European Union and the United States of America (the 'Agreement').

The European Union and the United States of America shall notify to each other in writing of the completion of any internal procedures necessary for the entry into force of this Agreement. This Agreement shall enter into force 14 days after the date of receipt of the date of the latest notification.”

I hereby have the honor to express my Government's agreement with the above letter.

Please accept, Sir, the assurance of my highest consideration.

*On behalf of the United States of America*