



EUROPEAN
COMMISSION

Brussels, 5.7.2018
COM(2018) 517 final

2018/0274 (NLE)

Proposal for a

COUNCIL DECISION

**on the signature, on behalf of the European Union, of the Agreement in the form of an
Exchange of Letters between the Union and the People's Republic of China in
connection with the WTO dispute settlement proceedings DS492 Measures affecting
Tariff Concessions on Certain Poultry Meat Products**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- **Reasons for and objectives of the proposal**

Following the WTO panel report adopted on 19 April 2017 in the WTO dispute settlement proceedings DS492 *Measures affecting Tariff Concessions on Certain Poultry Meat Products* brought by the People's Republic of China against the European Union, the EU needed to comply with the findings. In particular, the panel found that when allocating quantities within tariff rate quotas to supplying countries under WTO rules, the EU should have taken into account as a “special factor” China's increased ability to export poultry products to the EU following the relaxation of sanitary measures in July 2008. The reasonable period of time for the implementation of the Panel Report under the WTO rules began on 19 April 2017.

On 12 March 2018, the Council authorised the Commission to open negotiations on a mutually agreed solution (“MAS”) with China. The Council (Trade Policy Committee) has been regularly consulted on the content and advancement of the negotiations. Negotiations with China resulted in an Agreement in the form of an Exchange of Letters that was initialled on 18 June 2018 in Geneva (“the Agreement”). The Agreement should respect rights of other suppliers, which were agreed in the context of past Article XXVIII GATT negotiations. The Commission also needs to provide for transparent and appropriate tariff quota management.

Thailand has indicated that it is in agreement with the allocation of TRQs to China as set out in the Agreement and we expect to receive their written confirmation shortly (and in any case before signature of this Agreement)

Consequently, the European Commission proposes to the Council to authorise the signature of the Agreement, subject to its conclusion at a later stage.

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

Not applicable – the measure is taken in implementation of a WTO Panel Report, a Union obligation under the WTO Agreement.

- **Consistency with other Union policies**

Not applicable – the measure is taken in implementation of a WTO Panel Report, a Union obligation under the WTO Agreement.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

Article 207 of the Treaty on the Functioning of the European Union (TFEU), in conjunction with Article 218(5) of the TFEU for the signature of international agreements.

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

The proposal falls under exclusive competence of the Union, Article 3(1)(e) of the Treaty on the Functioning of the European Union. The subsidiarity principle therefore does not apply.

- **Proportionality**
The measure is taken in implementation of a WTO Panel Report, a Union obligation under the WTO Agreement.
 - **Choice of the instrument**
A Decision of the Council authorising the signature of the Agreement is required under Article 218(5) 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 a WTO Panel Report, a Union obligation under the WTO Agreement.
 - **Stakeholder consultations**
Publication of the roadmap, regular consultation with the industry, stakeholders and Member States. Feedback from the European Poultry, Egg and Game Association (EPEGA) received in January 2018 following the publication of the roadmap clearly stated their support for the opening of these additional quotas.
 - **Collection and use of expertise**
Not applicable – the measure is taken in implementation of a WTO Panel Report, a Union obligation under the WTO Agreement.
 - **Impact assessment**
Not applicable – the measure is taken in implementation of a WTO Panel Report, a Union obligation under the WTO Agreement.
 - **Regulatory fitness and simplification**
Not applicable – the measure is taken in implementation of a WTO Panel Report, a Union obligation under the WTO Agreement.
 - **Fundamental rights**
Not applicable.
- 4. BUDGETARY IMPLICATIONS**
See Financial Statement.
- 5. OTHER ELEMENTS**
- **Implementation plans and monitoring, evaluation and reporting arrangements**
The Commission proposes to the Council that the Agreement in the form of an Exchange of Letters with China be signed on behalf of the Union. In parallel, a separate proposal on the conclusion of the Agreement MAS is also being submitted to the Council.
The results of the Agreement are as follows:
The European Union shall open the following Tariff Rate Quotas (TRQ):

- a TRQ of 6060 tonnes for the tariff line 1602.3929 (with specific country allocation of 6000 tonnes to China and 60 tonnes to all others), with an in-quota duty rate of 10.9%
- a TRQ of 660 tonnes for the tariff line 1602.3985 (with specific country allocation of 600 tonnes to China and 60 tonnes to all others), with an in-quota duty rate of 10.9%
- an erga omnes TRQ of 5000 tonnes for the tariff line 1602.3219, with an in-quota duty rate of 8%

The Commission will adopt implementing Regulations to expand and manage the relevant quotas, pursuant to Article 187(a) of the Single Common Market Organisation (CMO) Regulation (Regulation (EC) No 1308/2013).

These implementation measures are being prepared in parallel with this proposal.

Once the quotas are opened, the EU and China will notify the agreement to the WTO Dispute Settlement Body as a MAS in relation to the dispute DS492.

- **Explanatory documents (for directives)**

Not applicable.

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

Not applicable.

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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 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 12 March 2018, the Council authorised the Commission to open negotiations on a mutually agreed solution with China in the context of the WTO dispute settlement proceedings *DS492 Measures affecting Tariff Concessions on Certain Poultry Meat Products*.
- (2) The negotiations have been concluded and an agreement in the form of an Exchange of Letters between the European Union and China was initialled on 18 June 2018.
- (3) 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 in the form of an Exchange of Letters between the European Union and China is hereby approved on behalf of the Union, subject to the conclusion of that Agreement¹.

The text of the Agreement to be signed is attached 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.

¹ The text of the Agreement will be published together with the decision on its conclusion.

Article 3

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

Done at Brussels,

*For the Council
The President*

LEGISLATIVE FINANCIAL STATEMENT

<h1 style="margin: 0;">Annex</h1> <h2 style="margin: 0;">FINANCIAL STATEMENT</h2>		FinancSt/18/ 2693978 CMaj	
		6.146.2018.1 agri.ddg1.a.2(2018)26 26366	
		DATE: 07/05/2018	
1. BUDGET HEADING: Chapter 12 – Customs duties and other duties		APPROPRIATIONS: EUR 22 844 million	
2. TITLE: Proposal for a COUNCIL DECISION on the signature, on behalf of the European Union, of the Agreement in the form of an Exchange of Letters between the Union and the People's Republic of China in connection with the WTO dispute settlement proceedings DS492 Measures affecting Tariff Concessions on Certain Poultry Meat Products			
3. LEGAL BASIS: Treaty on the Functioning of the European Union, and in particular Articles 207 in conjunction with Article 218(5)			
4. AIMS: to authorise the signature of the Agreement on opening tariff rate quotas on certain poultry meat products with specific allocation of quantities to China and quantities to all others, following the WTO dispute settlement proceedings DS492			
5. FINANCIAL IMPLICATIONS	CURRENT FINANCIAL PERIOD	FINANCIAL YEAR 2019 (EUR million)	FOLLOWING FINANCIAL YEARS 2020 and onwards (EUR million)
	2018 (EUR million)		
5.0 EXPENDITURE	N.A.	-	-
- CHARGED TO THE EU BUDGET (REFUNDS/INTERVENTIONS)			
- NATIONAL AUTHORITIES			
- OTHER			
5.1 REVENUE	N.A.	-	-
- OWN RESOURCES OF THE EU (LEVIES/CUSTOMS DUTIES)			
- NATIONAL			
5.2 METHOD OF CALCULATION:			
6.0 CAN THE PROJECT BE FINANCED FROM APPROPRIATIONS ENTERED IN THE RELEVANT CHAPTER OF THE CURRENT BUDGET?			YES NO
6.1 CAN THE PROJECT BE FINANCED BY TRANSFER BETWEEN CHAPTERS OF THE CURRENT BUDGET?			YES NO
6.2 WILL A SUPPLEMENTARY BUDGET BE NECESSARY?			YES NO
6.3 WILL APPROPRIATIONS NEED TO BE ENTERED IN FUTURE BUDGETS?			YES NO
OBSERVATIONS: The financial impact of the opening of the tariff quotas is assessed in the financial statement annexed to the Commission proposal for a Council Decision on the conclusion of the Agreement between the Union and the People's Republic of China.			