



EUROPEAN
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Proposal for a

COUNCIL DECISION

concluding an Agreement in the form of an Exchange of Letters between the European Union and the People's Republic of China 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 schedule of the Republic of Croatia in the course of its accession to the European Union

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

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

With the accession of the Republic of Croatia, the European Union enlarged its customs union. Consequently, the European Union was required under World Trade Organisation (WTO) rules (Article XXIV:6 of the GATT 1994) to enter into negotiations with WTO Members having negotiating rights related to the tariff schedule of Croatia in order to eventually agree on a 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.

On 15 July 2013, the Council authorised the Commission to open negotiations under Article XXIV:6 of the 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 schedule of the Republic of Croatia in the course of its accession to the European Union.

Negotiations with the People's Republic of China resulted in a draft Agreement in the form of an Exchange of Letters that was initialled on 7 October 2015 in Brussels (the Agreement). Consequently, this proposal asks the Council to adopt a decision to conclude the Agreement in the form of an Exchange of Letters with People's Republic of China. In parallel, a separate proposal on the signature of this Agreement is also submitted.

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

The proposal is consistent with EU practice followed in previous EU enlargements.

- **Consistency with other Union policies**

The proposal follows EU practice which is consistent with the EU external action, industrial and agricultural policies.

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 People's Republic of China was affected by the withdrawal of Croatia's concessions. The compensatory adjustments do not exceed China's rights in this respect. The proposal complies with the proportionality treatment.

- **Choice of the instrument**

A Decision of the Council to conclude the Agreement is required under Article 218(5) TFEU.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

• Stakeholder consultations

The Council (Trade Policy Committee) has been regularly consulted on the content and advancement of the negotiations. The European Parliament (INTA Committee) has been informed.

4. BUDGETARY IMPLICATIONS

See Financial Statement.

5. OTHER ELEMENTS

• Implementation plans and monitoring, evaluation and reporting arrangements

This proposal asks the Council to adopt a Decision to conclude the Agreement in the form of an Exchange of Letters with the People's Republic of China. In parallel, a separate proposal on the signature of this Agreement is also being submitted to the Council.

The results of the Agreement will have to be incorporated, for industrial goods, into Annex I of Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff by means of a Commission implementing regulation amending the Annex, on the basis of Article 9 of Regulation, to reduce the conventional rate of duty fixed in the Common Customs Tariff as follows:

- On tariff line 6404 19 90 (footwear with outer soles of rubbers or plastics - other) lower the current bound EU duty of 17 % to 16,9%
- On tariff line 8415 10 90 (window or wall air conditioning machines "split-system") lower the current bound EU duty of 2,7 % to 2,5%.

For the agriculture quota increases, the Commission will adopt an implementing Regulation to open and administer the following quotas, pursuant to Article 187(a) of the Single Common Market Organisation (CMO) Regulation (Regulation (EU) No 1308/2013):

- On tariff line 0703 20 00 add 2 150 tonnes to the allocation for People's Republic of China under the EU tariff rate quota for garlic, maintaining the present in-quota rate of 9.6%.
- Add 650 tonnes to the allocation for People's Republic of China under the EU tariff rate quota for mushroom of species agaricus, prepared, preserved or provisionally preserved; maintaining the present in-quota rates.

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

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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(4), first subparagraph, in conjunction with Article 218(6)(a)(v) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament¹,

Whereas:

- (1) On 15 July 2013 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 accession to the European Union of the Republic of Croatia.
- (2) Negotiations have been conducted by the Commission within the framework of the negotiating directives issued by the Council.
- (3) These negotiations have been concluded and an Agreement in the form of an Exchange of Letters between the European Union and the People's Republic of China 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 schedule of the Republic of Croatia in the course of its accession to the European Union was initialled on 7 October 2015.
- (4) The Agreement was signed on behalf of the European Union on [...], subject to the conclusion of the Agreement at a later date, in accordance with Council Decision [...].
- (5) The Agreement should be concluded,

HAS ADOPTED THIS DECISION:

Article 1

The Agreement in the form of an Exchange of Letters between the European Union and the People's Republic of China 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 schedule of the Republic of Croatia in the course of its accession to the European Union, is hereby concluded.

¹ OJ C [...], [...], p. [...].

The text of the Agreement is annexed to this Decision.

Article 2

The President of the Council shall designate the person empowered to proceed, on behalf of the European Union, to the notification provided for in 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 of its adoption. It shall be published in the Official Journal of the European Union.

The date of entry into force of the Agreement shall be published in the Official Journal of the European Union.

Done at Brussels,

*For the Council
The President*

FINANCIAL STATEMENT

DATE: 16/10/2015

1.	BUDGET HEADING: Chapter 12 – Custom duties and other duties			
2.	TITLE: Proposal for a Council Decision concluding an Agreement in the form of an Exchange of Letters between the European Union and the People's Republic of China 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 schedule of the Republic of Croatia in the course of its accession to the European Union			
3.	LEGAL BASIS: Treaty on the Functioning of the European Union, and in particular Articles 207 and 218.			
4.	AIMS: To conclude the Agreement in the form of an Exchange of Letters between the European Union and the People's Republic of China.			
5.	FINANCIAL IMPLICATIONS	CURRENT FINANCIAL YEAR 2015 (EUR million)	FOLLOWING FINANCIAL YEAR 2016 (EUR million)	FINANCIAL YEAR 2017 (EUR million)
5.0	EXPENDITURE			
	- CHARGED TO THE EU BUDGET (REFUNDS/INTERVENTIONS)	-	-	-
	- NATIONAL AUTHORITIES			
	- OTHER			
5.1	REVENUE			
	- OWN RESOURCES OF THE EU (LEVIES/CUSTOMS DUTIES)	-	- 2.45	- 4.9
	- NATIONAL			
5.0.1	ESTIMATED EXPENDITURE			
5.1.1	ESTIMATED REVENUE	-	-	-
5.2	METHOD OF CALCULATION: -			
6.0	CAN THE PROJECT BE FINANCED FROM APPROPRIATIONS ENTERED IN THE RELEVANT CHAPTER OF THE CURRENT BUDGET?			NO
6.1	CAN THE PROJECT BE FINANCED BY TRANSFER BETWEEN CHAPTERS OF THE CURRENT BUDGET?			NO
6.2	WILL A SUPPLEMENTARY BUDGET BE NECESSARY?			NO
6.3	WILL APPROPRIATIONS NEED TO BE ENTERED IN FUTURE BUDGETS?			NO
OBSERVATIONS:				
<p>Following the accession of the Republic of Croatia, the European Union enlarged its customs union. Consequently, the European Union was required under WTO rules (Article XXIV:6 of the GATT 1994) 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. Negotiations with the People's Republic of China resulted in the present Agreement containing:</p> <ul style="list-style-type: none"> - an increase of the volumes of the existing quotas allocated to China for garlic and mushrooms, - a EU tariff reduction of -0.1% for footwear classified in tariff line 6404 19 90 - a EU tariff reduction of -0.2% for air conditioning machines classified in tariff line 8415 10 90 <p>It is foreseen that these measures will become effective by the second half of 2016.</p>				