



Brussels, 3.10.2016
COM(2016) 630 final

2016/0307 (NLE)

Proposal for a

COUNCIL DECISION

on the conclusion of the Agreement in the form of an Exchange of Letters between the European Union and the Federative Republic of Brazil 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 Federative Republic of Brazil resulted in a draft Agreement in the form of an Exchange of Letters that was initialled on 12 July 2016 in Geneva (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 the Federative Republic of Brazil. 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(6)(a)(v) of the TFEU for the conclusion 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 Federative Republic of Brazil was affected by the withdrawal of Croatia's concessions. The compensatory adjustments do not exceed Brazil'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(6)(a) TFEU.

3. STAKEHOLDER CONSULTATIONS

- **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**

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

The results of the Agreement are as follows:

Add 4 766 tonnes to the country allocated (Brazil) EU tariff rate quota 'Cut of fowls of the species *gallus domesticus*, frozen', tariff item numbers 0207.14.10, 0207.14.50 and 0207.14.70, maintaining the present in quota rate of 0%.

Add 610 tonnes to the country allocated (Brazil) EU tariff rate quota 'Cut of turkey, frozen', tariff item numbers 0207.27.10, 0207.27.20 and 0207.27.80, maintaining the present in quota rate of 0%.

Add 36 000 tonnes under the *erga omnes* part of the EU tariff rate quota 'Raw cane sugar, for refining', tariff item 1701.13.10 and 1701.14.10, maintaining the present in quota rate of €98 per tonne.

Add 78 000 tonnes to the allocation for Brazil under the EU tariff rate quota 'Raw cane sugar, for refining', tariff item 1701.13.10 and 1701.14.10, maintaining the present in quota rate of €98 per tonne.

As regards the volume of 78 000 tonnes allocated to Brazil under the EU tariff rate quota 'Raw cane sugar, for refining', tariff item 1701.13.10 and 1701.14.10, notwithstanding the bound in quota rate of €98 per tonne, the EU shall autonomously apply:

- during the first six years during which this volume is available, an in quota rate of no more than €11 per tonne, and
- in the seventh year during which this volume is available, an in quota rate of no more than €54 per tonne.

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 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 first subparagraph of Article 207(4), in conjunction with point (a)(v) of the second subparagraph of Article 218(6) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament,

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 1994 ('GATT 1994') , in the course of the accession to the Union of the Republic of Croatia.
- (2) Negotiations were conducted by the Commission in accordance with the negotiating directives adopted by the Council.
- (3) Those negotiations have been concluded and an Agreement in the form of an Exchange of Letters between the Union and the Federative Republic of Brazil pursuant to Article XXIV:6 and Article XXVIII of GATT 1994 relating to the modification of concessions in the schedule of the Republic of Croatia in the course of its accession to the Union was initialled on 12 July 2016.
- (4) The Agreement was signed on behalf of the Union on [...], subject to its conclusion at a later date, in accordance with Council Decision [...]¹.
- (5) The Agreement should be approved,

HAS ADOPTED THIS DECISION:

Article 1

The Agreement in the form of an Exchange of Letters between the European Union and the Federative Republic of Brazil pursuant to Article XXIV:6 and Article XXVIII of the General Agreement on Tariffs and Trade 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 approved on behalf of the Union.

¹ OJ L [...], [...], p. [...].

The text of the Agreement is attached to this Decision.

Article 2

The President of the Council shall designate the person empowered to proceed, on behalf of the Union, to give the notification provided for in the Agreement.

Article 3

This Decision shall enter into force on the date of its adoption. It shall be published in the *Official Journal of the European Union*.

The date of the entry into force of the Agreement shall be published in the *Official Journal of the European Union* by the General Secretariat of the Council.

Done at Brussels,

For the Council
The President

FINANCIAL STATEMENT				
			DATE:	
1. BUDGET HEADING: Chapter 12 – Custom duties and other duties				
2. TITLE: Proposal for a Council Decision on the conclusion of the Agreement in the form of an Exchange of Letters between the European Union and the Federative Republic of Brazil 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 Federative Republic of Brazil.				
5.	FINANCIAL IMPLICATIONS	CURRENT FINANCIAL YEAR 2016 (EUR million)	FOLLOWING FINANCIAL YEAR 2017 (EUR million)	FINANCIAL YEAR 2018 (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)	4,4	4,4	4,4
	- NATIONAL			
		2016	2017	2018
5.0.1	ESTIMATED EXPENDITURE			
5.1.1	ESTIMATED REVENUE	4,4	4,4	4,4
5.2	METHOD OF CALCULATION: volumes multiplied by the in-quota rate duty			
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:				