



2018/0281(NLE)

10.9.2018

DRAFT RECOMMENDATION

on the proposal for a Council decision on the conclusion, 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
(COM(2018)0518 – C8-0000/2018 – 2018/0281(NLE))

Committee on International Trade

Rapporteur: Iuliu Winkler

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a Council decision on the conclusion, 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

(COM(2018)0518 – C8-0000/2018 – 2018/0281(NLE))

(Consent)

The European Parliament,

- having regard to the proposal for a Council decision (COM(2018)0518),
 - having regard to the draft Agreement in the form of an exchange of letters between the European Union and the People's Republic of China in relation to DS492 European Union - Measures affecting Tariff Concessions on Certain Poultry Meat Products (0000/2018),
 - having regard to the request for consent submitted by the Council in accordance with first subparagraph of Article 207(4) and Article 218(6), second subparagraph, point (a)(v), of the Treaty on the Functioning of the European Union (C8-0000/2018),
 - having regard to Rule 99(1) and (4), and Rule 108(7) of its Rules of Procedure,
 - having regard to the recommendation of the Committee on International Trade (A8-0000/2018),
1. Gives its consent to conclusion of the agreement;
 2. Instructs its President to forward its position to the Council, the Commission and the governments and parliaments of the Member States and of the People's Republic of China.

EXPLANATORY STATEMENT

This is a proposal to conclude an agreement in the form of an Exchange of Letters with the People's Republic of China in order to implement the WTO panel report of 19 April 2017 in the WTO dispute settlement proceedings DS492 *Measures affecting Tariff Concessions on Certain Poultry Meat Products*, brought by China against the EU. The EU is obliged to comply with the panel's 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" in this case China's increased ability to export poultry products to the EU following the relaxation of sanitary measures in July 2008. This obligation stems from Article XIII GATT "Non-discriminatory administration of quantitative restrictions", notably Article XIII:2 which provides: "*In applying import restrictions to any product, contracting parties shall aim at a distribution of trade in such product approaching as closely as possible the shares which the various contracting parties might be expected to obtain in the absence of such restrictions [...]*". This provision further lists conditions that must be observed, inter alia, in point (d) "*special factors which may have affected or which may be affecting the trade in the product*".

In this case, the EU had increased its tariffs following surges of imports for certain poultry products in two separate modification exercises under Article XXVIII GATT. The EU negotiated a compensation with Brazil and Thailand, which each held principal and/or substantial supplying interest, on the basis of import statistics for the relevant representative three-year period. Chinese exports to the EU were non-existent at the time, as China could not export poultry to the EU due to sanitary restrictions. However, later trade statistics showed that after the relaxation of sanitary measures imports of some cooked poultry products from China increased substantially. Thus the panel concluded that when sub-allocating the tariff rate quotas to supplying countries, the EU should have treated China as a supplying country and taken these Chinese exports into account (the panel rejected Chinese claims for other products where there were no imports).

Overall, the panel ruling was reassuring from the EU's perspective as it confirmed that in general the EU acted consistently with its WTO obligations when adjusting its poultry tariffs under Article XXVIII GATT 1994 and granting tariff rate quota compensation to its partners.

The reasonable time period for the implementation of the panel report under the WTO rules began on 19 April 2017. Since then the Commission negotiated an agreement with China to reach a mutually agreed solution (the Council adopted negotiating directives on 12 March 2018).

The proposed agreement grants the following tariff rate quotas:

- a tariff rate quota of 6060 tonnes for the tariff line 1602.3929 (processed duck, geese, guinea fowl meat, cooked, containing 57% or more by weight of poultry meat or offal) with specific country allocation of 6000 tonnes to China and 60 tonnes to all others, having an in-quota duty rate of 10.9%;

- a tariff rate quota of 660 tonnes for the tariff line 1602.3985 (processed duck, geese, guinea fowl meat, cooked, containing less than 57% by weight of poultry meat or offal) with specific country allocation of 600 tonnes to China and 60 tonnes to all others, having an in-quota duty rate of 10.9%;
- an *erga omnes* tariff rate quota of 5000 tonnes for the tariff line 1602.3219 (of fowls of the species *Gallus domesticus*, cooked, containing less than 57% by weight of poultry meat or offal), with an in-quota duty rate of 8%.

The EU is under time pressure to conclude this agreement in order to comply with the WTO panel report. The Rapporteur recommends that the European Parliament give consent to the conclusion of the agreement. The EU should conclude this agreement as soon as possible also in order to confirm once again through specific action the EU's firm and unwavering commitment to multilateralism through the WTO and, in particular, to WTO's most efficient mechanism - the dispute settlement system.