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EUROPEAN COMMISSION

Brussels, 14.2.2011
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2011/0032 (NLE)

Proposal for a

COUNCIL DECISION

concluding an Agreement in the form of an Exchange of Letters between the European Union and Australia 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 Australia resulted in a draft Agreement in the form of an Exchange of Letters that was initialled on 15 June 2010 in Geneva.

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.

3. LEGAL ELEMENTS OF THE PROPOSAL

This proposal asks the Council to adopt a decision concluding the Agreement in the form of an Exchange of Letters with Australia. In parallel, a separate proposal on the signature of this Agreement is also submitted.

The implementing Regulation will consequently be adopted by the Commission, pursuant to Article 144 of the Single Common Market Organisation (CMO) Regulation (Regulation (EC) No 1234/2007).

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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 29 January 2007 the Council authorised the Commission to open negotiations with certain other Members of the WTO under Article XXIV:6 of the General Agreement on Tariffs and Trade (GATT) 1994, in the course of the accessions to the European Community of the Republic of Bulgaria and Romania.
- (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 Australia 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 was initialled on 15 June 2010.
- (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,

¹ OJ C [...], [...], p. [...].

HAS ADOPTED THIS DECISION:

Article 1

The Agreement in the form of an Exchange of Letters between the European Union and Australia 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, is hereby concluded.

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 [...],

*For the Council
The President*

ANNEX

AGREEMENT IN THE FORM OF AN EXCHANGE OF LETTERS

between the European Union and Australia 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

[...], [...]

Sir,

Following negotiations under Article XXIV:6 and Article XXVIII of the General Agreement on Tariffs and Trade 1994 (GATT) 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 propose the following:

1. The European Union will incorporate in its schedule, for the customs territory of the EU 27, the concessions granted and applied for the EU 25 with the following modifications:

Add 400 tonnes (carcase weight) to the allocation for Australia under the EU tariff rate quota 'meat of sheep or goats, fresh, chilled or frozen', maintaining the present in-quota rate of 0%.

Create an erga omnes allocation of 200 tonnes (carcase weight) under the EU tariff rate quota 'meat of sheep or goats, fresh, chilled or frozen', maintaining the present in- quota rate of 0%.

Adjust the EU tariff rate quota 'live sheep, other than pure-bred breeding animals', with an in-quota rate 10%, by removing the allocations of 1010 tonnes (Romania) and 4255 tonnes (Bulgaria).

Adjust the EU tariff rate quota 'meat of sheep or goats, fresh, chilled or frozen', with an in-quota rate 0%, by removing the allocations of 75 tonnes (Romania) and 1250 tonnes (Bulgaria).

2. The European Union will ensure that the full additional allocation of 400 tonnes for Australia under the EU tariff rate quota 'meat of sheep or goats, fresh, chilled or frozen', is available in the first annual quota period which applies on the date of entry into force of the agreement, and in each annual quota period thereafter.

3. Australia accepts the European Union's approach to netting-out of tariff rate quotas as a way of adjusting the GATT obligations of the EU 25 and those of the Republic of Bulgaria and Romania following the recent enlargement of the European Union.

4. 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. Should this be the case, this letter and your confirmation will together constitute an Agreement in the form of an Exchange of Letters between the European Union and Australia.

The European Union and Australia will notify each other the completion of their internal procedures for the entry into force of the agreement. The agreement will enter into force 14 days after the date of the latest notification.

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

For the European Union

Sir,

I have the honour 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 1994 (GATT) 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 propose the following:

1. The European Union will incorporate in its schedule, for the customs territory of the EU 27, the concessions granted and applied for the EU 25 with the following modifications:

Add 400 tonnes (carcase weight) to the allocation for Australia under the EU tariff rate quota 'meat of sheep or goats, fresh, chilled or frozen', maintaining the present in-quota rate of 0%.

Create an erga omnes allocation of 200 tonnes (carcase weight) under the EU tariff rate quota 'meat of sheep or goats, fresh, chilled or frozen', maintaining the present in- quota rate of 0%.

Adjust the EU tariff rate quota 'live sheep, other than pure-bred breeding animals', with an in-quota rate 10%, by removing the allocations of 1010 tonnes (Romania) and 4255 tonnes (Bulgaria).

Adjust the EU tariff rate quota 'meat of sheep or goats, fresh, chilled or frozen', with an in-quota rate 0%, by removing the allocations of 75 tonnes (Romania) and 1250 tonnes (Bulgaria).

2. The European Union will ensure that the full additional allocation of 400 tonnes for Australia under the EU tariff rate quota 'meat of sheep or goats, fresh, chilled or frozen', is available in the first annual quota period which applies on the date of entry into force of the agreement, and in each annual quota period thereafter.

3. Australia accepts the European Union's approach to netting-out of tariff rate quotas as a way of adjusting the GATT obligations of the EU 25 and those of the Republic of Bulgaria and Romania following the recent enlargement of the European Union.

4. 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. Should this be the case, this letter and your confirmation will together constitute an Agreement in the form of an Exchange of Letters between the European Union and Australia.

The European Union and Australia will notify each other the completion of their internal procedures for the entry into force of the agreement. The agreement will enter into force 14 days after the date of the latest notification."

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

