



EUROPEAN PARLIAMENT

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Plenary sitting

A7-0295/2011

31.8.2011

RECOMMENDATION

on the draft Council decision on the conclusion of the Agreement in the form of an Exchange of Letters between the European Union and New Zealand 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
(06536/2011 – C7-0106/2011 – 2011/0029(NLE))

Committee on International Trade

Rapporteur: Vital Moreira

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 draft Council decision on the conclusion of the Agreement in the form of an Exchange of Letters between the European Union and New Zealand 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 (06536/2011 – C7-0106/2011 – 2011/0029(NLE))

(Consent)

The European Parliament,

- having regard to the draft Council decision (06536/2011),
 - having regard to the Agreement in the form of an Exchange of Letters between the European Union and New Zealand 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 (06537/2011),
 - having regard to the request for consent submitted by the Council in accordance with Article 207(4), first subparagraph and Article 218(6), second subparagraph, point (a)(v), of the Treaty on the Functioning of the European Union (C7-0106/2011),
 - having regard to Rules 81 and 90(8) of its Rules of Procedure,
 - having regard to the recommendation of the Committee on International Trade (A7-0295/2011),
1. Consents 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 New Zealand.

EXPLANATORY STATEMENT

With the accession of Bulgaria and Romania, the EU has enlarged its customs union. Consequently, the EU 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'.

The procedure set forth in Article XXVIII GATT¹, as elaborated in the guidelines adopted on 10 November 1980 (BISD 27S/26-28)² and in the Understanding on the Interpretation of Article XVIII of 1994³ are to be followed.

The aim is to agree on a mutually satisfactory compensatory adjustment in order to offset the increase in bound duties. Both parties have an interest in reaching an agreement. In case an agreement is not reached, the customs may still modify or withdraw the concessions, but the affected Members are then free to withdraw substantially equivalent concessions in accordance with Article XXVIII GATT (not necessarily on the same tariff line).

The procedure starts when the contracting party intended to negotiate for the modification or withdrawal transmits a notification to the WTO secretariat. That contracting party should also provide all the relevant documents to inform the WTO secretariat of the tariff lines involved, the most important trading partners and trade volumes and values involved. Any party which considers it has a principle or a substantial supplying interest in a concession which is to be subject to negotiations under Article XXVIII GATT should within 90 days following notification communicate its claim to the concession modifying country.

For Bulgaria and Romania the EU notified on 27 September 2006 and the procedure then entailed comparing the duties to be paid by importers to Bulgaria and Romania prior to and following the accession to the EU. The average of three years for which the most recent figures were available were the starting point of comparison. For the enlargement of 2007 the years 2002-2004 were used as the reference period. The duties calculated are the bound duties, not the applied duties. The imports that are considered are the imports that enter with most-favoured nation status (not preferential treatment). Compensation takes place on the same tariff line as where the adjustment of tariff is felt by the third country.

On 29 January 2007, the Council authorised the Commission to open negotiations under Article XXIV:6 of GATT with countries meriting compensation. The initialling with New Zealand took place on 7 September 2010. The Council authorized the signature on 11 April

¹ WTO ANALYTICAL INDEX: GATT 1994, General Agreement on Tariffs and Trade 1994, XV. Article XIV (http://www.wto.org/english/res_e/booksp_e/analytic_index_e/gatt1994_06_e.htm#article14)

² General Agreement on Tariffs and Trade C/113, 5 November 1980, Council 10 November 1980, Procedures for negotiations under article XXVIII

³ WTO, Uruguay Round Agreement: Understanding on the Interpretation of Article XXIV of the General Agreement on Tariffs and Trade 1994 (http://www.wto.org/english/docs_e/legal_e/10-24_e.htm)

2011. The signature of the agreement with New Zealand took place on 28 April 2011⁴.

Agreements were earlier concluded with Cuba and Brazil, which did not require consent of the European Parliament, because they were concluded in 2008 and 2009 respectively. Besides these two (Brazil and Cuba) and New Zealand together with Australia and Argentina, the EU is also negotiating with the United States and China, but the negotiations have not yet been concluded.

In order to meet WTO requirements two issues are addressed in the agreements. Firstly, the compensation of higher tariffs which are to be compensated. The instrument most often used is the opening of country allocated tariff rate quota or increasing existing ones. Secondly, pre accession erga omnes tariff rate quota of Bulgaria and Romania (not country allocated but open to the whole world) also need to be added to the existing erga omnes tariff rate quota of the EU.

The products concerned in this agreement are meat of sheep or goats (for Australia and New Zealand) and high quality beef.

The implementing Regulation will consequently be adopted by the Commission, pursuant to Article 144 of the Single Common Market Organisation (CMO) Regulation 1234 (2007) of 22 October 2007. The regulation is at present being revised. In agreement with the ongoing alignment to the delegated and implementing acts procedure in Art 290 and 291 TEU, the Commission proposes in Proposal for a new CMO Regulation (COM (2010) 799) 'Tariff quotas (...) shall be opened and administrated by the Commission by means of delegated and implementing acts.'

Observations from the rapporteur

Your rapporteur welcomes the agreement with New Zealand and believes the European Parliament should give its consent. New Zealand has the right to have its trading rights, which were slightly eroded due to the enlargement of the EU customs union with Romania and Bulgaria, restored.

Article XXIV: 4 GATT rightly underlines that ...'the purpose of a customs union or of a free-trade area should be to facilitate trade between the constituent territories and not to raise barriers to the trade of other contracting parties with such territories'. This agreement is another sign that the EU wants to respect the rules of the multilateral trading regime, hoping to contribute to a collective willingness to reach a comprehensive deal in the Doha Development Round.

In general, enlargement of the EU has been positive for the WTO membership. In case of acceding countries had higher tariffs than the EU tariff, the gain is for the WTO membership. In the opposite case where the acceding countries had lower tariffs than the EU and now have to increase their tariff, the EU will compensate the difference. So overall the WTO members will be winners.

The Commission has rightly chosen the enlargement of the tariff rate quota for New Zealand for products involved as the instrument of compensation, since it is the most targeted way of

⁴ OJ, L 110 Volume 54, 29 April 2011

compensating which country deserves compensation.

Although the Commission has not done an official impact assessment, research and dialogue with stakeholders have confirmed that this agreement does not harm the EU agricultural interests, because it only restores previously existing rights of New Zealand.

The EU and New Zealand 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 and the rapporteur hopes that also our partner country will complete its internal procedures without delay so that producers will soon benefit from the market access.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	31.8.2011
Result of final vote	+: 25 -: 0 0: 1
Members present for the final vote	William (The Earl of) Dartmouth, Kader Arif, David Campbell Bannerman, Daniel Caspary, Yannick Jadot, Metin Kazak, Bernd Lange, David Martin, Vital Moreira, Paul Murphy, Franck Proust, Godelieve Quisthoudt-Rowohl, Nicolò Rinaldi, Helmut Scholz, Peter Šťastný, Robert Sturdy, Gianluca Susta, Keith Taylor, Paweł Zalewski
Substitute(s) present for the final vote	Catherine Bearder, George Sabin Cutaş, Mário David, Albert Deß, Salvatore Iacolino, Maria Eleni Koppa, Elisabeth Köstinger, Marietje Schaake
Substitute(s) under Rule 187(2) present for the final vote	Patrice Tirolien