



Brussels, 24.6.2019
COM(2019) 296 final/2 –
DOWNGRADED on 16.7.2019

2019/0141 (NLE)

Proposal for a

COUNCIL DECISION

on the signing, on behalf of the European Union, of an agreement with the United States of America on the Allocation to the United States of a Share in the Tariff Rate Quota provided for by Regulation (EC) No 617/2009 of 13 July 2009 opening an autonomous tariff quota for imports of high-quality beef

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

Pursuant to Council Regulation (EC) No 617/2009, the European Union opened an annual tariff rate quota¹ for High Quality Beef in compliance with the Memorandum of Understanding between the European Commission and the United States and its revised version, the *Revised Memorandum of Understanding with the United States of America Regarding the Importation of Beef from Animals Not Treated with Certain Growth-Promoting Hormones and Increased Duties applied by the United States to Certain Products of the European Union of 21 October 2013*² (the "TRQ "). The revised Memorandum of Understanding was communicated by the Union and the United States to the WTO Dispute Settlement Body on 14 April 2014 and it sets out a roadmap aimed at settling the WTO dispute *EC – Measures concerning Meat and Meat Products (Hormones)* (DS26) ("*EC-Hormones*").

In December 2016, the United States took steps to reinstate increased duties on certain EU products in connection with the dispute in DS26. The procedure for the reinstatement of duties was opened upon the request of the US beef industry who raised concerns about the implementation of the TRQ.

With a view to avoid the reinstatement of increased duties on certain EU products, the European Union and the United States conducted consultations regarding the operation of the revised Memorandum of Understanding pursuant to Article IV.1(b) thereof, whereby the United States requested the allocation of a share of the tariff rate quota opened pursuant to the revised Memorandum of Understanding.

It is in the interest of the Union to allocate a share of the TRQ to the United States so that both Parties may eventually reach a mutually agreed solution to the WTO dispute in case DS26 to be notified to the WTO Dispute Settlement Body.

On 19 October 2018, the Council authorised the Commission to open negotiations on behalf of the Union with the United States of America, concerning the operation of the TRQ, with a view to allocate a share in the TRQ to the United States, with a view to a definitive resolution of the WTO dispute in case DS26. These negotiations were successfully concluded.

In addition, the Council authorised the Commission to seek the agreement of the other substantial supplying countries under the TRQ as regards the country-allocation of the TRQ, in line with the applicable WTO rules, to the extent necessary. Indeed, in order to comply with Article XIII:2 of the GATT, when a tariff quota is allocated among supplying countries, the party allocating the tariff quota should seek agreement with respect to the allocation of shares in the tariff quota with all substantial suppliers. In order to make sure that the country allocation of the TRQ complies with the EU WTO obligations, the EU therefore has to seek the agreement of the other substantial suppliers under the TRQ (Australia, Uruguay and Argentina). Accordingly, the Commission sought the accord of the substantial supplying countries and obtained their written consent with the allocation of a share of the TRQ to the United States in the form of letters of acceptance received on 10, 20 and 31 May 2019.

¹ Council Regulation (EC) No 617/2009 of 13 July 2009 opening an autonomous tariff quota for imports of high-quality beef (OJ L 182, 15.7.2009, p. 1)

² OJ L 27, 30.1.2014 p. 2.

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

Not applicable.

- **Consistency with other Union policies**

Not applicable.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

Article 207(3) and the first subparagraph of Article 207(4), in conjunction with Article 218(5) of the TFEU

- **Subsidiarity (for non-exclusive competence)**

Not applicable, as the Union competence in the area of common commercial policy is exclusive (Article 3(1)(e) TFEU).

- **Proportionality**

Not applicable.

- **Choice of the instrument**

An international agreement is the appropriate instrument for the allocation of a share of the TRQ to the United States.

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

- **Ex-post evaluations/fitness checks of existing legislation**

Not applicable.

- **Stakeholder consultations**

Not applicable.

- **Collection and use of expertise**

Not applicable.

- **Impact assessment**

Not applicable.

- **Regulatory fitness and simplification**

Not applicable.

- **Fundamental rights**

Not applicable.

4. BUDGETARY IMPLICATIONS

None.

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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(3) and the first subparagraph of Article 207(4), in conjunction with Article 218(5) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Pursuant to Regulation (EC) No 617/2009³ the European Union opened an annual tariff rate quota for High Quality Beef (the “TRQ”).
- (2) On 19 October 2018, the Council authorised the Commission to open negotiations on behalf of the Union with the United States of America concerning the operation of the TRQ, including on the country-allocation of the TRQ, with a view to a definitive resolution of the WTO dispute in case DS26 (EC – Measures concerning Meat and Meat Products (*Hormones*)).
- (3) These negotiations were successfully concluded with the United States on 27 February 2019.
- (4) In addition, the Council authorised the Commission to seek the agreement of the other substantial supplying countries under the TRQ as regards the country-allocation of the TRQ, in line with the applicable WTO rules, to the extent necessary.
- (5) The other substantial supplying countries confirmed in writing that they agree to the above country-allocation of the TRQ.
- (6) Therefore, the above-mentioned agreement should be signed on behalf of the Union, subject to its conclusion at a later date,

HAS ADOPTED THIS DECISION:

Article 1

The signing of the agreement between the United States of America and the European Union on the Allocation to the United States of a Share in the Tariff Rate Quota for High Quality Beef referred to in the Revised Memorandum of Understanding between the United States of America and the European Union Regarding the Importation of Beef from Animals not Treated with Certain Growth-Promoting Hormones and Increased Duties Applied by the

³ Council Regulation (EC) No 617/2009 of 13 July 2009 opening an autonomous tariff quota for imports of high-quality beef (OJ L 182, 15.7.2009, p. 1)

United States to Certain Products of the European Union (2014) is hereby approved on behalf of the Union, subject to the conclusion of the said agreement⁴.

The text of the agreement is attached to this Decision.

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to sign the Agreement on behalf of the Union.

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Article 3

This Decision shall enter into force on the date of its adoption.

Done at Brussels,

*For the Council
The President*

⁴ The text of the Agreement will be published together with the decision on its conclusion.