



Brussels, 29.7.2015
COM(2015) 369 final

Limited

Recommendation for a

COUNCIL DECISION

authorising the Commission, upon certain conditions, to open negotiations under Article XXIV:6 and/or Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 with WTO members which are relevant for the purposes of post-April 2015 submissions modifying tariff concessions

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- **Reasons for and objectives of the proposal**

The list of GATT Article XXIV:6 and XXVIII submissions by WTO members has grown considerably. In this regard, the European Commission has recently sought and obtained authorisation to open negotiations related to modifications of commitments by Ukraine, Gabon and Armenia and is currently seeking authorisation to open negotiations with the Kyrgyz Republic. The relevant Council decisions, which are very similar, authorise the European Commission to open negotiations with the relevant WTO members with a view to ensure appropriate compensatory adjustment and provide for the same consultation mechanisms.

As EU Member States have highlighted for each of those negotiations, it is in the EU interest to initiate the relevant negotiations as soon as possible and not to unnecessarily delay the obtention of due compensatory adjustments. Therefore, anticipating future GATT Article XXIV:6 and XXVIII submissions by WTO members, the European Commission, for reasons of economy of procedure, seeks the authorisation of the Council of the European Union to enter, under certain conditions, into the relevant negotiations. It is noteworthy that, such an authorisation would cover a very narrow in scope and WTO specific technical negotiations, which do not require any concession from the EU. The 2005 Council Decision authorising the Commission to open, under certain conditions, negotiations with third countries towards mutual recognition agreements of qualifications of natural person supplying architectural or urban planning and landscape architectural services provides a useful reference in this respect.

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

The proposal is not only consistent but also practically identical to previous Council decisions authorising the Commission to open negotiations on compensatory adjustment following GATT Article XXIV:6 and XXVIII submissions by WTO members.

- **Consistency with other Union policies**

Consistent with the EU external action, the proposal is aligned with a previous Council decisions authorising the Commission to open negotiations on compensatory adjustment following GATT Article XXIV:6 and XXVIII submissions by WTO members.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

Pursuant to Article 218(3) of the Treaty of the Functioning of the European Union, the Council shall adopt a Decision authorising to open negotiations.

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

Not applicable. EU exclusive competence for trade.

- **Proportionality**

Not applicable. An authorisation to negotiate is required.

- **Choice of the instrument**

An authorisation to negotiate is required.

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 required.

An authorisation to negotiate is required. It is in the EU interest to initiate the relevant negotiations as soon as possible and not to unnecessarily delay the obtention of due compensatory adjustments. The Council authorisation would cover a very narrow in scope and WTO specific technical negotiations, which do not require any concession from the EU.

- **Regulatory fitness and simplification**

The proposal is not linked to REFIT

- **Fundamental rights**

The proposal has no consequences for the protection of fundamental rights.

4. BUDGETARY IMPLICATIONS

The proposals has no budgetary implications.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

Not applicable

- **Detailed explanation of the specific provisions of the proposal**

Not applicbale

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty of the Functioning of the European Union, and in particular Article 218(3) thereof,

Having regard to the recommendation from the European Commission,

Whereas:

- (1) The list of notifications submitted by Members of the World Trade Organization (WTO) seeking to modify their tariff concessions pursuant to Article XXIV:6 and/or Article XXVIII of the General Agreement on Tariffs and Trade (GATT) of 1994 has grown considerably. In this regard, the Commission has recently sought and obtained authorisation to open negotiations related to modifications of commitments by Ukraine, Gabon and Armenia and is currently seeking authorisation to open negotiations with the Kyrgyz Republic. The relevant Council decisions, which are very similar, authorise the Commission to open negotiations with the relevant WTO members with a view to ensure appropriate compensatory adjustment and provide for the same consultation mechanisms.
- (2) Anticipating future submissions pursuant to Article XXIV:6 and/or Article XXVIII of the GATT by other WTO Members, it is in the Union's interest to initiate the relevant negotiations as soon as possible and not to unnecessarily delay the obtention of due compensatory adjustments. Negotiations should, under certain conditions, be opened and conducted with the relevant WTO Members with a view to reaching agreement on any appropriate compensatory adjustments resulting from the modification of the concessions,

HAS ADOPTED THIS DECISION:

Article 1

In the event that a Member of the World Trade Organization (WTO) notifies the WTO its intention to modify its tariff concessions in accordance with Article XXIV:6 or Article XXVIII of the General Agreement on Tariff and Trade (GATT) of 1994, the Commission is hereby authorised to negotiate with the relevant WTO Members, either on a regional basis or

on a bilateral basis, in accordance with the principles laid down in the applicable GATT provisions, whenever the following conditions are met:

- (a) the European Union has negotiating rights on the tariff lines affected by the modification of concessions notified by the WTO Member concerned;
- (b) the third country or regional group of countries which is relevant for the purposes of such notification does not grant to the European Union better tariff concessions for those lines on the basis of a preferential trade agreement; and
- (c) therefore, compensatory adjustments should be pursued in the multilateral instead of in a bilateral context.

Negotiations shall be conducted with a view to obtaining the largest possible compensatory adjustments resulting from the modification of concessions notified by the WTO Members concerned.

Article 2

The Commission shall conduct the negotiations in consultation with the Trade Policy Committee established under Article 207 of the Treaty.

In particular, the Commission shall consult the Trade Policy Committee before opening negotiations pursuant to this decision on whether the conditions set out in Article 1 are fulfilled.

Article 3

This Decision is addressed to the Commission.

Done at Brussels,

For the Council
The President

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Information Note

1. Proposal for a recommendation for a Council Decision authorising the Commission, upon certain conditions, to open negotiations under Article XXIV:6 and/or Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 with WTO members which are relevant for the purposes of post-April 2015 submissions modifying tariff concessions.

2. Date of Commission document:

30th July 2015

3. Number of Commission document:

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4. Number of Council document:

11333/15

5. Dealt with in Brussels by:

Trade Policy Committee

6. Department with primary responsibility:

Department of Jobs, Enterprise, and Innovation

7. Other Departments involved:

Department of Foreign Affairs and Trade

8. Background to, Short summary and aim of the proposal:

The list of GATT Article XXIV:6 and XXVII submissions by WTO members has grown considerably. In this regard, the European Commission has recently sought and obtained authorisation to open negotiations related to modifications of commitments by Ukraine, Gabon and Armenia and is currently seeking authorisation to open negotiations with the Kyrgyz Republic, with a view to ensure appropriate compensatory adjustment and provide for the same consultation mechanisms.

It is in the EU interest to initiate the relevant negotiations as soon as possible and not to unnecessarily delay the obtention of due compensatory adjustments. Therefore, the European Commission, for reasons of economy of procedure, seeks the authorisation of the Council of the European Union to enter, under certain conditions, into the relevant negotiations. It is noteworthy that, such an authorisation would cover a very narrow in scope and WTO specific technical negotiations, which do not require any concession from the EU.

9. Legal basis of the proposal:

Article 218 (3) of the Treaty on the Functioning of the European Union.

10. Voting Method:

QVM

11. Role of the EP:

None

12. Category of proposal:

Technical

13.Implications for Ireland & Ireland’s Initial View’:

Support the proposal

14.Are there any subsidiary issues for Ireland?:

None

15.Proposed implementation date:

Unknown

16.Consequences for national legislation:

None

17.Method of Transposition into Irish law:

Not applicable

18.Anticipated Transposition date:

Not applicable

19.Consequences for the EU budget in euros annually:

None

20.Contact name, telephone number and e-mail address of official in Department with primary responsibility.

Paul Mc Mahon

Trade Policy Unit

Department of Jobs, Enterprise, and Innovation

Email: paul.mcmahon@djei.ie

Tel: 01-6312470

Date: 21 August 2015