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SENSITIVE* : LIMITED

Proposal for a

COUNCIL DECISION

on the signing, on behalf of the Union, of the Agreement in the form of an Exchange of Letters between the European Union and Switzerland in connection with the negotiations under Article XXVIII of the GATT 1994 on the modification of Switzerland's WTO concessions on meat not further prepared than seasoned

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EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

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

Switzerland notified WTO Members the intention to negotiate under Article XXVIII of the GATT 1994 in order to modify the tariff concessions in Schedule LIX – Switzerland-Liechtenstein for "meat not further prepared than seasoned". The notification G/SECRET/40 was dated 27 March 2018. Switzerland intends to increase the tariffs for "meat not further prepared than seasoned".

According to Article XXVIII of the GATT 1994, the EU, as the WTO Member with principal supplying interest with respect to the concessions which are to be the subject of negotiation, had the right to negotiate with Switzerland appropriate compensation, in order to maintain a general level of concessions not less favourable to trade than before the change envisaged by Switzerland.

Following WTO rules, on 16 May 2018 the EU presented to Switzerland a claim of interest as the Member having the principal supplying interest for "meat not further prepared than seasoned".

On 6 December 2018, the Council authorised the Commission to open negotiations pursuant to Article XXVIII of the GATT 1994 on an adequate compensation for the EU following Switzerland's decision to modify the tariff concession in Schedule LIX – Switzerland-Liechtenstein for "meat not further prepared than seasoned". The negotiations with Switzerland resulted in an Agreement in the form of an Exchange of Letters between the European Union and Switzerland ('the Agreement') that was initialled on 17 July 2019 in Geneva ('the Agreement').

Consequently, the European Commission proposes to the Council to authorise the signature of the Agreement, subject to its conclusion at a later stage.

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

Not applicable. The Council Decision is put in place to formalise an agreement with Switzerland following negotiations in the framework of the Article XXVIII of the GATT 1994.

- **Consistency with other Union policies**

Not applicable. The Council Decision is put in place to formalise an agreement with Switzerland following negotiations in the framework of the Article XXVIII of the GATT 1994.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

Article 207(3) and the first subparagraph of Article 207 (4) TFEU, in conjunction with Article 218(5) TFEU for the signature of international agreements.

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

The proposal relates exclusively to the EU trade policy and therefore falls under exclusive competence of the Union, pursuant to Article 3(1)(e) TFEU. The subsidiarity principle therefore does not apply.

- **Proportionality**

The Council Decision is put in place to formalise an agreement with Switzerland following negotiations in the framework of the Article XXVIII of the GATT 1994.

- **Choice of the instrument**

A Decision of the Council authorising the signature of the Agreement is required under Article 218(5) TFEU.

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

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

Not applicable. The Council Decision is put in place to formalise an agreement with Switzerland following negotiations in the framework of the Article XXVIII of the GATT 1994.

- **Stakeholder consultations**

Not applicable. According to the WTO rules, negotiations under Article XXVIII of the GATT 1994 should be conducted with the greatest possible secrecy.

- **Collection and use of expertise**

Not applicable. The Council Decision is put in place to formalise an agreement with Switzerland following negotiations in the framework of the Article XXVIII of the GATT 1994.

- **Impact assessment**

Not applicable. The Council Decision is put in place to formalise an agreement with Switzerland following negotiations in the framework of the Article XXVIII of the GATT 1994.

- **Regulatory fitness and simplification**

Not applicable. The Council Decision is put in place to formalise an agreement with Switzerland following negotiations in the framework of the Article XXVIII of the GATT 1994.

- **Fundamental rights**

Not applicable.

4. BUDGETARY IMPLICATIONS

None.

5. OTHER ELEMENTS

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

Not applicable.

- **Explanatory documents (for directives)**

Not applicable.

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

Not applicable.

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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) On 6 December 2018, the Council authorised the Commission to open negotiations pursuant to Article XXVIII of the General Agreement on Tariffs and Trade ('GATT') 1994 on an adequate compensation following Switzerland's decision to modify the tariff concession in Schedule LIX – Switzerland-Liechtenstein for "meat not further prepared than seasoned".
- (2) The negotiations have been concluded and an Agreement in the form of an Exchange of Letters between the European Union and Switzerland ('the Agreement') was initialled on 17 July 2019.
- (3) This Council Decision relates exclusively to the EU trade policy and implements an agreement following negotiations in the framework of the Article XXVIII of the GATT 1994, a Union right under the WTO Agreement.
- (4) Therefore, the 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 on behalf of the Union of the Agreement in the form of an Exchange of Letters between the European Union and Switzerland in connection with the negotiations under Article XXVIII of the GATT 1994 on the modification of Switzerland's WTO concessions on meat no further prepared than seasoned, is hereby authorised, subject to the conclusion of the said Agreement.

The text of the Agreement is attached to this Decision.

Article 2

The Council Secretariat General shall establish the instrument of full powers to sign the Agreement, subject to its conclusion, for the person(s) indicated by the negotiator of the Agreement.

Article 3

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

Done at Brussels,

*For the Council
The President*