



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 19 March 2012

7886/12

**Interinstitutional File:
2012/0054 (COD)**

**WTO 113
AGRI 163
UD 85
CODEC 728**

PROPOSAL

from:	the Commission
dated:	16 March 2012
No Cion doc.:	COM (2012) 115 final
Subject:	Proposal for a Regulation of the European Parliament and of the Council concerning the implementation of the Agreements concluded by the EU following negotiations in the framework of Article XXVIII of GATT 1994, amending and supplementing Annex I to Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff

Delegations will find attached a proposal from the Commission, submitted under a covering letter from Mr Jordi AYET PUIGARNAU, Director, to Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union.

Encl.: COM (2012) 115 final



EUROPEAN COMMISSION

Brussels, 16.3.2012
COM(2012) 115 final

2012/0054 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

concerning the implementation of the Agreements concluded by the EU following negotiations in the framework of Article XXVIII of GATT 1994, amending and supplementing Annex I to Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

Negotiations under Article XXVIII of GATT 1994 concluded on poultry in 2007 (OJ L138 30.5.2007) covered tariff lines on poultry meat under heading 0210 as well as one processed poultry line, 1602 32 19 in the EC Schedule CXL: *cooked preparations containing more than 57% of poultry meat*. Limiting the negotiations to the processed poultry line 1602 32 19 was considered to sufficiently prevent potential substitution effects. Subsequent import data, however, showed a dramatic import surge of processed poultry meat under tariff line 1602 32 30: *preparations containing 25% or more but less than 57% by weight of poultry meat or offal*. This indicated that exporters seemed to take advantage of a relative gap in the EU level of protection, substituting poultry preparations containing more than 57% of poultry meat with preparations containing less than 57%, under tariff line 1602 32 30. Comparable substitution effects were to be expected under other 1602 tariff lines in the future. In order to comprehensively address these substitution effects affecting the EU poultry industry, the Commission requested from the Council the authorisation to renegotiate the concessions on poultry meat under Chapter 16 of the CN.

On 25 May 2009 the Council authorised the Commission to open negotiations under Article XXVIII of the GATT 1994 (COM proposal 8615/09 WTO 72 AGRI 166) with a view to the renegotiation of concessions on poultry meat tariff lines under Chapter 16 of the CN.

On 16 June 2009 the communication of the EU's intention to modify the concessions on items 1602 20 10, 1602 32 11, 1602 32 30, 1602 32 90, 1602 39 21, 1602 39 29, 1602 39 40 and 1602 39 80 included in Schedule CXL of the European Communities was circulated to the other WTO Members.

Negotiations have been conducted by the Commission in consultation with the Trade Policy Committee and within the framework of the negotiating directives issued by the Council.

The Commission has negotiated with the Federal Republic of Brazil and with the Kingdom of Thailand holding each principal supplying interests and/or substantial interests in various of the tariff lines concerned.

The Commission has negotiated with the Federal Republic of Brazil, holding a principal supplying interest in products of HS codes 1602 32 11 (Processed chicken meat, uncooked, containing 57% or more by weight of poultry meat or offal), 1602 32 30 (Processed chicken meat, containing 25% or more but less than 57% by weight of poultry meat or offal) and 1602 32 90 (Processed chicken meat, containing less than 25% by weight of poultry meat or offal) and with the Kingdom of Thailand, holding a principal supplying interest in products of HS codes 1602 39 21 (Processed duck, geese, guinea fowl meat, uncooked, containing 57% or more by weight of poultry meat or offal), 1602 39 29 (Processed duck, geese, guinea fowl meat, cooked, containing 57% or more by weight of poultry meat or offal), 1602 39 40 (Processed duck, geese, guinea fowl meat, cooked, containing more than 25% but less than 57% by weight of poultry meat or offal) and 1602 39 80 (Processed duck, geese, guinea fowl meat, cooked, containing less than 25% by weight of poultry meat or offal) and a substantial interest in products of HS code 1602 32 30 (Processed chicken meat, containing more than 25% but less than 57% by weight of poultry meat or offal) and 1602 32 90 (Processed chicken meat, containing less than 25% by weight of poultry meat or offal).

The negotiations have resulted in Agreements in the form of exchanges of letters initialled with the Kingdom of Thailand on 22 November 2011 and with the Federal Republic of Brazil on 7 December 2011.

The agreements were negotiated on the basis of the Combined Nomenclature codes in force at the time.

In the newest version of Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff as laid down in Commission Regulation (EU) No 1006/2011 published in OJ L 282 of 28 October 2011, the tariff lines 1602 39 40 and 1602 39 80 have been merged into a new tariff line 1602 39 85. It is therefore appropriate to reflect this new situation in the present implementing regulation.

The autonomous Customs duty rates for the tariff lines covered by the negotiations are currently set at levels below the new conventional duty rates resulting from the modification of concessions pursuant to Article XXVIII of GATT 1994. However, under Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff, the autonomous customs duties apply when they are below the conventional duties.

The autonomous rate of duty fixed in the Common Customs Tariff should therefore be increased to the level of the conventional duty in the present implementing regulation.

2. BUDGETARY IMPLICATION

See Financial Fiche in Annex.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

concerning the implementation of the Agreements concluded by the EU following negotiations in the framework of Article XXVIII of GATT 1994, amending and supplementing Annex I to Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Council Regulation (EEC) No 2658/87(1) established a goods nomenclature, hereinafter referred to as the "Combined Nomenclature", and set out the conventional duty rates of the Common Customs Tariff.
- (2) By its decision ... concerning the conclusion of Agreements between the European Union and the Federal Republic of Brazil, and between the European Union and the Kingdom of Thailand, the Council concluded, on behalf of the Union, the before mentioned Agreements with a view to closing negotiations initiated pursuant to Article XXVIII of GATT 1994.
- (3) The agreements were negotiated on the basis of the Combined Nomenclature codes in force at the time.
- (4) In the newest version of Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff as laid down in Commission Regulation (EU) No 1006/2011 published in OJ L 282 of 28 October 2011, the tariff lines 1602 39 40 and 1602 39 80 have been merged into a new tariff line 1602 39 85. The Annex to this Regulation reflects this new situation.
- (5) The autonomous Customs duty rates for the tariff lines covered by the negotiations are currently set at levels below the new conventional duty rates resulting from the modification of concessions pursuant to Article XXVIII of GATT 1994. However, under Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature

and on the Common Customs Tariff, the autonomous customs duties apply when they are below the conventional duties.

- (6) The autonomous rate of duty fixed in the Common Customs Tariff should therefore be increased to the level of the conventional duty.
- (7) Annex I to Council Regulation (EEC) No 2658/87 should be amended accordingly and the autonomous and conventional duties set at the determined level.

HAVE ADOPTED THIS REGULATION:

Article 1

In Regulation (EEC) No 2658/87, Part Two of Annex I (Schedule of Customs Duties) shall be amended with the duties shown in the Annex to this Regulation.

The autonomous duties shall be set at the level of the conventional duties.

Article 2

In Regulation (EEC) No 2658/87 Annex 7 of Section III of Part Three (WTO tariff quotas to be opened by the Competent Community Authorities) shall be amended with the tariff quotas and supplemented with the volumes and duties shown in the Annex of this Regulation.

Article 3

This Regulation shall enter into force on [x]¹

This Regulation shall be binding in its entirety and directly applicable in all Member States in accordance with the Treaties.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

¹ The date of entry into force of the regulation should be the same as the date of entry into force of the two agreements. In order to ensure that both agreements enter into force on the same date, the notification provided in the agreements to the effect that the Union has concluded its internal procedures should not be made until the notifications from both Thailand and Brazil have been received by the Union. Both notifications by the Union should then be made on the same date.

ANNEX

Notwithstanding the rules for the interpretation of the Combined Nomenclature, the wording for the description of the products is to be considered as having no more than an indicative value, the concessions being determined, within the context of this Annex, by the coverage of the CN codes as they exist at the time of adoption of the current Regulation.

Part Two Schedule of Customs Duties

CN code	Description	Duty rate (autonomous and conventional)
1602 32 11	Processed chicken meat, uncooked, containing 57 % or more by weight of poultry meat or offal	2 765 €/ton
1602 32 30	Processed chicken meat, containing 25 % or more but less than 57 % by weight of poultry meat or offal	2 765 €/ton
1602 32 90	Processed chicken meat, containing less than 25 % by weight of poultry meat or offal	2 765 €/ton
1602 39 21	Processed duck, geese, guinea fowl meat, uncooked, containing 57 % or more by weight of poultry meat or offal	2 765 €/ton
1602 39 29	Processed duck, geese, guinea fowl meat, cooked, containing 57 % or more by weight of poultry meat or offal	2 765 €/ton
1602 39 85	Processed duck, geese, guinea fowl meat, containing less than 57 % by weight of poultry meat or offal	2 765 €/ton

Part Three Tariff Annexes

CN code	Description	Duty rate
1602 32 11	Processed chicken meat, uncooked, containing 57 % or more by weight of poultry meat or offal	Open a tariff quota of 16 140 tonnes, of which 15 800 tonnes shall be allocated to Brazil In-quota rate: 630 €/ton
1602 32 30	Processed chicken meat, containing 25 % or more but less than 57 % by weight of poultry meat or offal	Open a tariff quota of 79 705 tonnes, of which 62 905 tonnes shall be allocated to Brazil and 14 000 tonnes to Thailand In-quota rate: 10,9 %
1602 32 90	Processed chicken meat, containing less than 25 % by weight of poultry meat or offal	Open a tariff quota of 2 865 tonnes, of which 295 tonnes shall be allocated to

		Brazil and 2 100 tonnes to Thailand In-quota rate: 10,9 %
1602 39 21	Processed duck, geese, guinea fowl meat, uncooked, containing 57 % or more by weight of poultry meat or offal	Open a tariff quota of 10 tonnes for Thailand In-quota rate: 630 €/ton
1602 39 29	Processed duck, geese, guinea fowl meat, cooked, containing 57 % or more by weight of poultry meat or offal	Open a tariff quota of 13 720 tonnes, of which 13 500 tonnes shall be allocated to Thailand In-quota rate: 10,9 %
ex 1602 39 85	Processed duck, geese, guinea fowl meat, containing 25 % or more but less than 57 % by weight of poultry meat or offal	Open a tariff quota of 748 tonnes, of which 600 tonnes shall be allocated to Thailand In-quota rate: 10,9 %
ex 1602 39 85	Processed duck, geese, guinea fowl meat, containing less than 25 % by weight of poultry meat or offal	Open a tariff quota of 725 tonnes, of which 600 tonnes shall be allocated to Thailand In-quota rate: 10,9 %

The exact tariff description of the EU WTO Schedule shall apply to all tariff lines and quotas above.

FINANCIAL STATEMENT		Fichefin/11/ 1163357 DDG/GM/nh 6.146.2011.1	
		DATE: 06/10/2011	
1.	BUDGET HEADING: Chapter 12 – Custom duties and other duties		APPROPRIATIONS: DB2012: 19 171.2 M€
2.	TITLE: Proposal for a Regulation of the European Parliament and of the Council concerning the implementation of the Agreements concluded by the EU following negotiations in the framework of Article XXVIII of GATT 1994, amending and supplementing Annex I to Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff.		
3.	LEGAL BASIS: Treaty on the Functioning of the European Union, and in particular Articles 207 and 218.		
4.	AIMS: To implementing the import Agreement between EU – Brazil and Thailand, in order to address the substitution effects of imports affecting the EU poultry industry.		
5.	FINANCIAL IMPLICATIONS	12 MONTH PERIOD (EUR million)	CURRENT FINANCIAL YEAR 2011 (EUR million)
			FOLLOWING FINANCIAL YEAR 2012 (EUR million)
5.0	EXPENDITURE		
	- CHARGED TO THE EC BUDGET (REFUNDS/INTERVENTIONS)	-	-
	- NATIONAL AUTHORITIES		
	- OTHER		
5.1	REVENUE		
	- OWN RESOURCES OF THE EC (LEVIES/CUSTOMS DUTIES)	-	-
	- NATIONAL		- 1.4
		2013	2014
5.0.1	ESTIMATED EXPENDITURE		2015
5.1.1	ESTIMATED REVENUE	-	-
5.2	METHOD OF CALCULATION: -		
6.0	CAN THE PROJECT BE FINANCED FROM APPROPRIATIONS ENTERED IN THE RELEVANT CHAPTER OF THE CURRENT BUDGET?		YES NO
6.1	CAN THE PROJECT BE FINANCED BY TRANSFER BETWEEN CHAPTERS OF THE CURRENT BUDGET?		YES NO
6.2	WILL A SUPPLEMENTARY BUDGET BE NECESSARY?		YES NO
6.3	WILL APPROPRIATIONS NEED TO BE ENTERED IN FUTURE BUDGETS?		YES NO
OBSERVATIONS:			
<p>Following negotiations under Article XXVIII of GATT 1994, started mid-2009 with Brazil and Thailand, the measure aims to implementing the import Agreement between EU – Brazil and Thailand*, in order to address the substitution effects of imports affecting the EU poultry industry. The implementation of the agreement concerns:</p> <ul style="list-style-type: none"> - an increase the out-of-quota rates for 7 tariff lines of processed poultry meat products, and, - opening TRQs for the same 7 tariff lines of processed poultry meat products, for Brazil, Thailand and other countries. <p>The import volume of the quota is similar to the quantity imported prior to this agreement. There is no effect on the internal market balance that could lead to needs for market instruments. In case of import of the total quota under this draft regulation, it can be estimated that the measure could involve a reduction of own resources of an approximated net amount of EUR 1.4 million, after deduction of 25% of collection costs by Member States.</p> <p>* Financial Statement of the conclusion of the Agreement: No 1163256/2011.</p>			

