



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 19 March 2012

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**Interinstitutional File:
2012/0046 (NLE)**

**WTO 109
AGRI 158
UD 81**

PROPOSAL

from:	the Commission
dated:	15 March 2012
No Cion doc.:	COM (2012) 106 final
Subject:	Proposal for a Council Decision on the conclusion of Agreements in form of exchanges of letters on the modification of concessions with respect to processed poultry meat between the European Union and the Federal Republic of Brazil, and between the European Union and the Kingdom of Thailand pursuant to Article XXVIII of the General Agreement on Tariffs and Trade 1994 (GATT 1994)

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) 106 final



EUROPEAN COMMISSION

Brussels, 15.3.2012
COM(2012) 106 final

2012/0046 (NLE)

Proposal for a

COUNCIL DECISION

on the conclusion of Agreements in form of exchanges of letters on the modification of concessions with respect to processed poultry meat between the European Union and the Federal Republic of Brazil, and between the European Union and the Kingdom of Thailand pursuant to Article XXVIII of the General Agreement on Tariffs and Trade 1994 (GATT 1994)

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 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 implementing regulation.

2. BUDGETARY IMPLICATION

See Financial Fiche in Annex.

Proposal for a

COUNCIL DECISION

on the conclusion of Agreements in form of exchanges of letters on the modification of concessions with respect to processed poultry meat between the European Union and the Federal Republic of Brazil, and between the European Union and the Kingdom of Thailand pursuant to Article XXVIII of the General Agreement on Tariffs and Trade 1994 (GATT 1994)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 207(4), first subparagraph and 218(6)(a)(v) thereof,

Having regard to the proposal from the European Commission,

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

Having regard to the consent of the European Parliament¹,

Whereas:

- (1) 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.
- (2) Those negotiations resulted in Agreements in the form of exchanges of letters initialled with the Federal Republic of Brazil on 7 December 2011 and with the Kingdom of Thailand on 22 November 2011.
- (3) In accordance with Council Decision No .../2012/EU of ...² the Agreements were signed on behalf of the Union on...
- (4) The Agreements should be approved.

¹ OJ C , , p. .

² OJ C [...], [...], p. [...]

HAS ADOPTED THIS DECISION:

Article 1

The Agreements in the form of exchanges of letters between the European Union and the Federal Republic of Brazil, and between the European Union and the Kingdom of Thailand, pursuant to Article XXVIII of the GATT 1994 relating to the modification of concessions with respect to processed poultry meat products of HS codes

1602 3211 "(Processed chicken meat, uncooked, containing 57 % or more by weight of poultry meat or offal)",

1602 3230 "(Processed chicken meat, containing 25 % or more but less than 57% by weight of poultry meat or offal)",

1602 3290 "(Processed chicken meat, containing less than 25% by weight of poultry meat or offal)",

1602 3921 "(Processed duck, geese, guinea fowl meat, uncooked, containing 57 % or more by weight of poultry meat or offal)",

1602 3929 "(Processed duck, geese, guinea fowl meat, cooked, containing 57 % or more by weight of poultry meat or offal)", and

1602 3940 "(Processed duck, geese, guinea fowl meat, containing 25 % or more but but less than 57 % by weight of poultry meat or offal)" and

1602 3980 "(Processed duck, geese, guinea fowl meat, containing less than 25 % by weight of poultry meat or offal)"

in the EC Schedule CXL annexed to the GATT 1994³ are hereby approved on behalf of the Union.

The text of the Agreements is annexed to this Decision.

³ The Agreements have been published in OJ ...together with the decision on signature.

Article 2

The President of the Council is hereby authorised to make the notifications provided in the Agreements.

Article 3

This Decision shall enter into force on the day following that of its adoption

Done at Brussels,

*For the Council
The President*

ANNEX

AGREEMENT IN THE FORM OF AN EXCHANGE OF LETTERS

Between the European Union and Brazil pursuant to Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 relating to the modification of concessions with respect to processed poultry meat provided for in the EU Schedule annexed to GATT 1994

A. Letter from the European Union

Place, date

Sir,

Following negotiations under Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994, relating to the modification of EU concessions with respect to processed poultry meat, I have the honour to propose the following:

1. The European Union shall incorporate in its Schedule the following modifications:

The bound rate of duty for items 1602 3211, 1602 3230 and 1602 3290 shall be 2 765 €/tonne.

For item 1602 3211 a tariff rate quota of 16 140 tonnes is opened, of which 15 800 tonnes shall be allocated to Brazil. The in-quota rate shall be 630€/tonne.

For item 1602 3230 a tariff rate quota of 79 705 tonnes is opened, of which 62 905 tonnes shall be allocated to Brazil. The in-quota rate shall be 10,9%.

For item 1602 3290 a tariff rate quota of 2 865 tonnes is opened, of which 295 tonnes shall be allocated to Brazil. The in-quota rate shall be 10,9%.

2. Imports under the tariff rate quotas referred to in paragraph 1 shall take place on the basis of certificates of origin issued in a non-discriminatory way by the competent authorities in Brazil.
3. Consultations may be held at any time with regard to any of the above matters at the request of either Party.

I should be obliged if you would confirm that your Government is in agreement with the content of this letter. Should this be the case, this letter and your confirmation shall together constitute an Agreement in the form of an Exchange of Letters between the European Union and Brazil.

The European Union and Brazil shall notify each other the completion of their internal procedures for the entry into force of the agreement. The agreement shall enter into force 14 (fourteen) days after the date of the latest notification.

Please accept, Sir, the assurance of my highest consideration.

On behalf of the European Union

B. Letter from Brazil

Place, date

Sir,

I have the honour to acknowledge the receipt of your letter of ..., which reads as follows:

"Following negotiations under Article XXVIII of the General Agreement on Tariffs and Trade 1994 (GATT), relating to the modification of EU concessions with respect to processed poultry meat, I have the honour to propose the following:

1. The European Union shall incorporate in its Schedule the following modifications:

The bound rate of duty for items 1602 3211, 1602 3230 and 1602 3290 shall be 2 765 €/tonne.

For item 1602 3211 a tariff rate quota of 16 140 tonnes is opened, of which 15 800 tonnes shall be allocated to Brazil. The in-quota rate shall be 630€/tonne.

For item 1602 3230 a tariff rate quota of 79 705 tonnes is opened, of which 62 905 tonnes shall be allocated to Brazil. The in-quota rate shall be 10,9%.

For item 1602 3290 a tariff rate quota of 2 865 tonnes is opened, of which 295 tonnes shall be allocated to Brazil. The in-quota rate shall be 10,9%.

2. Imports under the tariff rate quotas referred to in paragraph 1 shall take place on the basis of certificates of origin issued in a non-discriminatory way by the competent authorities in Brazil.
3. Consultations may be held at any time with regard to any of the above matters at the request of either Party.

I should be obliged if you would confirm that your Government is in agreement with the content of this letter. Should this be the case, this letter and your confirmation shall together constitute an Agreement in the form of an Exchange of Letters between the European Union and Brazil.

The European Union and Brazil shall notify each other the completion of their internal procedures for the entry into force of the agreement. The agreement shall enter into force 14 (fourteen) days after the date of the latest notification."

I hereby have the honour to express my Government's agreement with the above letter.

On behalf of Brazil

AGREEMENT IN THE FORM OF AN EXCHANGE OF LETTERS

Between the European Union and Thailand pursuant to Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 relating to the modification of concessions with respect to processed poultry meat provided for in the EU Schedule annexed to GATT 1994

A. Letter from the European Union

Place, date

Sir,

Following negotiations under Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994, relating to the modification of EU concessions with respect to processed poultry meat, I have the honour to propose the following:

1. The European Union shall incorporate in its Schedule the following modifications:

The bound rate of duty for items 1602 3230, 1602 3290 and 1602 39 shall be 2 765 €/tonne.

For item 1602 3230 a tariff rate quota of 79 705 tonnes is opened, of which 14 000 tonnes shall be allocated to Thailand. The in-quota rate shall be 10,9%.

For item 1602 3290 a tariff rate quota of 2 865 tonnes is opened, of which 2 100 tonnes shall be allocated to Thailand. The in-quota rate shall be 10,9%.

For item 1602 3921 a tariff rate quota of 10 tonnes allocated to Thailand is opened. The in-quota rate shall be 630€/tonne.

For item 1602 3929, a tariff rate quota of 13 720 tonnes is opened, of which 13 500 tonnes shall be allocated to Thailand. The in-quota rate shall be 10,9%.

For item 1602 3940 a tariff rate quota of 748 tonnes is opened, of which 600 tonnes shall be allocated to Thailand. The in-quota rate shall be 10,9%.

For item 1602 3980 a tariff rate quota of 725 tonnes is opened, of which 600 tonnes shall be allocated to Thailand. The in-quota rate shall be 10,9%.

2. Imports under the tariff rate quotas referred to in paragraph 1 shall take place on the basis of certificates of origin issued in a non-discriminatory way by the competent authorities in Thailand.
3. Consultations may be held at any time with regard to any of the above matters at the request of either Party.

I should be obliged if you would confirm that your Government is in agreement with the content of this letter. Should this be the case, this letter and your confirmation shall together constitute an Agreement in the form of an Exchange of Letters between the European Union and Thailand.

The European Union and Thailand shall notify each other the completion of their internal procedures for the entry into force of the agreement. The agreement shall enter into force 14 (fourteen) days after the date of the latest notification.

Please accept, Sir, the assurance of my highest consideration.

On behalf of the European Union

B. Letter from Thailand

Place, date

Sir,

I have the honour to acknowledge the receipt of your letter of ..., which reads as follows:

"Following negotiations under Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994, relating to the modification of EU concessions with respect to processed poultry meat, I have the honour to propose the following:

1. The European Union shall incorporate in its Schedule the following modifications:

The bound rate of duty for items 1602 3230, 1602 3290 and 1602 39 shall be 2 765 €/tonne.

For item 1602 3230 a tariff rate quota of 79 705 tonnes is opened, of which 14 000 tonnes shall be allocated to Thailand. The in-quota rate shall be 10,9%.

For item 1602 3290 a tariff rate quota of 2 865 tonnes is opened, of which 2 100 tonnes shall be allocated to Thailand. The in-quota rate shall be 10,9%.

For item 1602 3921 a tariff rate quota of 10 tonnes allocated to Thailand is opened. The in-quota rate shall be 630€/tonne.

For item 1602 3929, a tariff rate quota of 13 720 tonnes is opened, of which 13 500 tonnes shall be allocated to Thailand. The in-quota rate shall be 10,9%.

For item 1602 3940 a tariff rate quota of 748 tonnes is opened, of which 600 tonnes shall be allocated to Thailand. The in-quota rate shall be 10,9%.

For item 1602 3980 a tariff rate quota of 725 tonnes is opened, of which 600 tonnes shall be allocated to Thailand. The in-quota rate shall be 10,9%.

2. Imports under the tariff rate quotas referred to in paragraph 1 shall take place on the basis of certificates of origin issued in a non-discriminatory way by the competent authorities in Thailand.
3. Consultations may be held at any time with regard to any of the above matters at the request of either Party.

I should be obliged if you would confirm that your Government is in agreement with the content of this letter. Should this be the case, this letter and your confirmation shall together constitute an Agreement in the form of an Exchange of Letters between the European Union and Thailand.

The European Union and Thailand shall notify each other the completion of their internal procedures for the entry into force of the agreement. The agreement shall enter into force 14 (fourteen) days after the date of the latest notification."

I hereby have the honour to express my Government's agreement with the above letter.

On behalf of Thailand

FINANCIAL STATEMENT		Fichefin/11/ 1163256 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 Council Decision on the conclusion of Agreements in form of exchanges of letters on the modification of concessions with respect to processed poultry meat between the European Union and the Federal Republic of Brazil, and between the European Union and the Kingdom of Thailand pursuant to Article XXVIII of the general Agreement on Tariffs and Trade 1994 (GATT 1994).			
3.	LEGAL BASIS: Treaty on the Functioning of the European Union, and in particular Articles 207 and 218.			
4.	AIMS: To conclude the Agreements 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	2015
5.0.1	ESTIMATED EXPENDITURE	-	-	-
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: Following negotiations under Article XXVIII of GATT 1994, started mid-2009 with Brazil and Thailand, the measure concerns the conclusion of the Agreements between EU – Brazil and Thailand, in order to address the substitution effects of imports affecting the EU poultry industry. The financial impact of the Regulation of the European Parliament and of the Council, implementing these Agreements, is indicated in its specific Financial Statement*, and can be estimated of 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. * Financial Statement No 1163357/2011				