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From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	3 September 2018
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2018) 332 final
Subject:	Recommendation for a COUNCIL DECISION authorising the opening of negotiations on an agreement with the United States of America Regarding the Importation of High Quality Beef from animals not treated with certain growth-promoting hormones

Delegations will find attached document COM(2018) 332 final.

Encl.: COM(2018) 332 final



EUROPEAN
COMMISSION

Brussels, 6.6.2018
COM(2018) 332 final

Recommendation for a

COUNCIL DECISION

authorising the opening of negotiations on an agreement with the United States of America Regarding the Importation of High Quality Beef from animals not treated with certain growth-promoting hormones

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

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

This initiative is intended to modify the current arrangements with the US regarding the importation of hormone-free beef. It is not meant to affect in any way the EU ban on hormones-treated beef as such.

In December 2016 the United States took steps to reinstate increased duties on certain EU products following concerns raised by the US beef industry claiming that the European Union may be violating 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 2013¹ (the "revised MOU"). The revised MOU was concluded between the European Union and United States of America following a WTO dispute settlement proceeding in DS26 EC – Measures concerning Meat and Meat Products (Hormones) and notified to the WTO Dispute Settlement Body on 14 April 2014 as a mutually agreed solution to implement the report in the dispute settlement proceedings.

Pursuant to the original MOU and its revised version the EU opened an annual tariff rate quota for High Quality Beef.²

Following the opening of the procedure by the United States to reinstate increased duties on certain EU products in December 2016 the parties conducted consultations regarding the operation of the revised MOU, as referred to in its Article IV.

The recommendation seeks an authorisation to negotiate an agreement with the United States of America, following the mentioned consultations, as regards the operation the tariff rate quota for High Quality Beef and possibly its country allocation.

Negotiations with other supplying countries may be needed to ensure that any agreed country allocation of the said tariff rate quota with the United States respects their existing rights under the WTO/GATT Agreements.

- **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 of the TFEU (common commercial policy) together with Article 218(3) and (4).

¹ OJ L 27, 30.1.2014 p. 2.

² OJ L 148, 8.6.2012 p. 9.

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

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

- **Proportionality**

Not applicable.

- **Choice of the instrument**

The conclusion of an International agreement is the only method that ensures that its signatories will not question what was agreed at a later stage.

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

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

Not applicable.

- **Stakeholder consultations**

The Roadmap on the initiative on authorising the opening of negotiations on an agreement with the United States of America regarding the importation of high quality beef from animals not treated with certain growth-promoting hormones was open for public consultation from 27 March to 24 April 2018. In total 37 contributions were submitted, 24 from EU citizens or enterprises or professional organisations, 13 from non-EU companies and governments.

Twelve submissions were from EU citizens (Belgium, Germany, Greece, Italy, Spain and Sweden), expressing support for an agriculture respectful of the environment, for animal welfare and healthy products, and highlighting the importance of producing meat without hormones and antibiotics. Some argued that meat consumption should be reduced.

Four submissions were from EU small and medium size companies (Greece, Italy and the UK), either in favour of the EU initiative, or requesting that the management system be revisited too, while another called for a wait-and-see approach. One suggests consulting companies active in trade of beef meat and giving them time to adapt to the outcome. One expressed satisfaction with the current supply of beef under the quota.

The last eight contributions from inside the EU were from professional organisations: EU-level, France, Germany, Italy and the UK. They recalled that in the EU hormones are banned as growth promoters in animal husbandry, that standards of food safety and health that apply in the EU must be maintained. Two stressed that negotiations should not increase the volume authorised to import under the quota. One flagged also that antibiotics are being used in substitution as growth promoters. One stressed that any agreement must be in line with WTO law. Two argued for EU authorities to support the EU bovine meat sector, and two underlined the importance of finding a solution with the US to avoid any damageable trade war.

Thirteen non-EU contributions came mostly from Argentinian companies and professional organisations that advocate for Argentina being recognised as a party in the negotiations. A New Zealander meat organisation supported by its government stressed that while being a small supplier within the quota these exports are important for New Zealand economy and requested that New Zealand be consulted.

The last two submissions are from the Australian and Uruguayan governments arguing for participating to the negotiations according to WTO law.

- **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 Articles 207 and 218(3) and (4) thereof,

Having regard to the recommendation from the European Commission,

Whereas,

- (1) On 21 October 2013 the European Union concluded 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 Union³ (the revised MOU).
- (2) The revised MOU was concluded following a WTO dispute settlement proceeding in DS26 EC – Measures concerning Meat and Meat Products (Hormones) and was notified to the WTO Dispute Settlement Body on 14 April 2014.
- (3) Pursuant to the original MOU and its revised version the EU opened an annual tariff rate quota for High Quality Beef.⁴
- (4) The European Union and the United States of America conducted consultations regarding the operation of the revised MOU, as foreseen in Article IV thereof.
- (5) The Commission should therefore be authorised to open negotiation with the United States of America regarding the operation, including the country-allocation, of the tariff rate quota opened pursuant to the revised MOU. The Commission should also seek to obtain the accord of other substantial supplying countries with regard to the country-allocation of the said tariff rate quota, in line with the applicable WTO rules, to the extent necessary.

³ OJ L 27, 30.1.2014 p. 2.

⁴ OJ L 148, 8.6.2012 p. 9.

HAS ADOPTED THIS DECISION:

Article 1

The Commission is hereby authorised to open negotiation on behalf of the European Union with the United States of America concerning the operation of the tariff rate quota opened pursuant to 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, including the country-allocation of the same tariff rate quota. The Commission is hereby also authorised to open negotiation on behalf of the European Union with other substantial supplying countries, to seek to obtain their accord as regards the country-allocation of the same tariff rate quota, in line with the applicable WTO rules, to the extent necessary.

Article 2

The negotiations shall be conducted on the basis of the negotiating directives of the Council set out in the Annex.

Article 3

The Commission shall conduct negotiations in accordance with WTO rules and in consultation with [name of the special committee to be inserted by the Council].

Article 4

This Decision is addressed to the Commission.

Done at Brussels,

For the Council
The President