



Council of the
European Union

Brussels, 27 May 2021
(OR. en)

9211/21

AGRI 244
AGRILEG 114
WTO 143

COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	26 May 2021
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

No. Cion doc.:	COM(2021) 259 final
Subject:	Recommendation for a COUNCIL DECISION authorising the opening of negotiations on agreements on trade in organic products between the European Union and Argentina, Australia, Canada, Costa Rica, India, Israel, Japan, New Zealand, the Republic of Korea, Tunisia and the United States of America

Delegations will find attached document COM(2021) 259 final.

Encl.: COM(2021) 259 final



Brussels, 26.5.2021
COM(2021) 259 final

Recommendation for a

COUNCIL DECISION

authorising the opening of negotiations on agreements on trade in organic products between the European Union and Argentina, Australia, Canada, Costa Rica, India, Israel, Japan, New Zealand, the Republic of Korea, Tunisia and the United States of America

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

Regulation (EU) 2018/848 of the European Parliament and the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation (EC) No 834/2007¹ establishes the possibility to grant access to Union market for organic products coming from third countries whose organic production and control systems have been recognised as equivalent to those of the Union. This recognition of equivalence of third countries should be granted through trade agreements between the Union and those countries.

Regulation (EU) 2018/848, as amended by Regulation (EU) 2020/1693², sets on 31 December 2026 the expiration date for recognitions for the purposes of equivalence granted on the basis of Article 33(2) of Regulation (EC) No 834/2007³. As a result, the recognitions granted to Argentina, Australia, Canada, Costa Rica, India, Israel, Japan, New Zealand, the Republic of Korea, Tunisia and the United States of America will expire on the above mentioned date.

In order to ensure the continuity of trade flows on organics with those partners after 2026, it is necessary to negotiate new equivalence recognitions in the form of trade agreements.

• Consistency with existing policy provisions in the policy area

By fostering trade on organic products through bilateral agreements, the proposal contributes to the general objective of “a stronger EU in the world”.

• Consistency with other Union policies

By fostering trade on organic products through bilateral agreements, the proposal contributes to the general objective of “a stronger EU in the world”. In addition, by encouraging trade on organics, these agreements will also contribute to the Green Deal objective to work with international partners to improve global environmental standards.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal basis

Article 218(3) and (4) of the Treaty on the Functioning of the European Union (TFEU) shall be indicated as legal basis for this proposal.

• Subsidiarity (for non-exclusive competence)

According to Article 5(3) of the TEU, the subsidiarity principle does not apply in areas of exclusive EU competence.

• Proportionality

The Commission recommendation is in line with the principle of proportionality.

¹ OJ L 150, 14.6.2018, p. 10.

² Regulation (EU) 2020/1693 of the European Parliament and of the Council of 11 November 2020 amending Regulation (EU) 2018/848 as regards its date of application and certain other dates referred to in that Regulation (OJ L 381, 13.11.2020, p. 1).

³ Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91 (OJ L 189, 20.7.2007, p. 1).

- **Choice of the instrument**

The only available instrument to achieve the objective is an international agreement. An authorisation to open negotiations over an international agreement is therefore required.

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

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

Not applicable

- **Stakeholder consultations**

A considerable number of stakeholder consultations have taken place in the context of the reform of the organic regulation. Several meetings and Civil Society Dialogue meetings have been organised at that time.

- **Collection and use of expertise**

Not relevant

- **Impact assessment**

An impact assessment took place in the context of the reform of the organic regulation leading to Regulation (EU) 2018/848 on which this proposal is based.

- **Regulatory fitness and simplification**

Not applicable

- **Fundamental rights**

The recommendation is consistent with the EU Treaties and the Charter of Fundamental Rights of the European Union.

4. BUDGETARY IMPLICATIONS

Not relevant

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**

This proposal authorises the Commission to negotiate, on behalf of the Union, agreements on trade in organic products with Argentina, Australia, Canada, Costa Rica, India, Israel, Japan, New Zealand, the Republic of Korea, Tunisia and the United States of America. The proposal establishes in its annex the negotiating directives to be followed by the Commission and the special committee to be consulted during the negotiation.

Recommendation for a

COUNCIL DECISION

authorising the opening of negotiations on agreements on trade in organic products between the European Union and Argentina, Australia, Canada, Costa Rica, India Israel, Japan, New Zealand, the Republic of Korea, Tunisia and the United States of America

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 218(3) and (4) thereof,

Having regard to the recommendation from the European Commission,

Whereas:

- (1) Article 45(1)(b)(ii) of Regulation (EU) 2018/848 of the European Parliament and the Council¹, read in conjunction with Article 47 of that Regulation, establishes the possibility to grant access to the Union market for organic products coming from third countries that have been recognised under a trade agreement as having a system of production meeting the same objectives and principles by applying rules which ensure the same level of assurance of conformity as those of the Union.
- (2) In accordance with Article 48 of Regulation (EU) 2018/848, as amended by Regulation (EU) 2020/1693 of the European Parliament and of the Council², the recognition for the purposes of equivalence of third countries on the basis of Article 33(2) of Council Regulation (EC) No 834/2007³ will expire on 31 December 2026. Therefore, it is necessary to open negotiations with a view to concluding the relevant agreements with the third countries concerned.
- (3) The trade in organic products between the Union and Switzerland is covered by the Agreement between the European Community and the Swiss Confederation on trade in agriculture products⁴. Switzerland was included in Annex III to Commission Regulation (EC) No 1235/2008⁵ for transparency reasons. Annex 9 to that Agreement provides for a mechanism to update the agreement in case of changes to the laws and regulations of one of the parties. It is therefore not necessary to open negotiations with Switzerland.

¹ Regulation (EU) 2018/848 of the European Parliament and the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation (EC) No 834/2007 (OJ L 150, 14.6.2018, p. 10).

² Regulation (EU) 2020/1693 of the European Parliament and of the Council amending Regulation (EU) 2018/848 of 11 November 2020 on organic production and labelling of organic products as regards its date of application and certain other dates referred to in that Regulation (OJ L 381, 13.11.2020, p. 1).

³ Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91 (OJ L 189, 20.7.2007, p. 1).

⁴ OJ L 114, 30.4.2002, p. 132.

⁵ Commission Regulation (EC) No 1235/2008 of 8 December 2008 laying down detailed rules for implementation of Council Regulation (EC) No 834/2007 as regards the arrangements for imports of organic products from third countries (OJ L 334, 12.12.2008, p. 25).

- (4) Chile is recognised as an equivalent third country by means of the Agreement between the European Union and the Republic of Chile on trade in organic products⁶. Chile was included in Annex III to Regulation (EC) No 1235/2008 for clarity reasons. Articles 3 and 4 of that Agreement provide for the possibility to adapt the recognition in case of changes to the laws and regulations of one of the parties. It is therefore not necessary to open negotiations with Chile.
- (5) The Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, on the one part, and the United Kingdom of Great Britain and Northern Ireland, on the other part,⁷ established a reciprocal recognition of equivalence of the current organic legislation and control system of both parties to the Agreement. Article 3(3) of Annex TBT-4 on organic products provides that in view of the application of Regulation (EU) 2018/848 on 1 January 2022, the equivalency recognition is to be reassessed by each Party by 31 December 2023. It is therefore not necessary to open negotiations with the United Kingdom.
- (6) Therefore, it is appropriate to authorise the Commission to open negotiations with a view to concluding the relevant agreements with Argentina, Australia, Canada, Costa Rica, India, Israel, Japan, New Zealand, the Republic of Korea, Tunisia and the United States of America.
- (7) In order to enable the Union to pursue reciprocal relations with third countries concerning trade in organic products, it is appropriate to set out negotiating directives for agreements allowing the Union and the third country concerned to acknowledge the equivalence of their organic production standards and control systems,

HAS ADOPTED THIS DECISION:

Article 1

The Commission is hereby authorised to negotiate, on behalf of the Union, agreements on trade in organic products with Argentina, Australia, Canada, Costa Rica, India, Israel, Japan, New Zealand, the Republic of Korea, Tunisia and the United States of America.

Article 2

The negotiating directives are set out in the Annex.

Article 3

The negotiations shall be conducted in consultation with the [name of the special committee to be inserted by the Council].

Article 4

This Decision is addressed to the Commission.

⁶ OJ L 331, 14.12.2017, p. 4.

⁷ OJ L 444, 31.12.2020, p. 14.

Done at Brussels,

*For the Council
The President*