EU/China Agreement: modification of concessions in the schedules of Bulgaria and Romania in the course of their accession to the EU

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PURPOSE: to conclude an Agreement in the form of an Exchange of Letters between the European Union and the People's Republic of China pursuant to Article XXIV:6 and Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 relating to the modification of concessions in the schedules of Bulgaria and Romania in the course of their accession to the European Union.

PROPOSED ACT: Council Decision.

BACKGROUND: with the accession of the Republic of Bulgaria and Romania, the European Union enlarged its customs union. Consequently, the European Union was obliged under World Trade Organization (WTO) rules (GATT Article XXIV:6) to enter into negotiations with WTO Members having negotiating rights in the schedules of any of the acceding Members in order to agree on compensatory adjustment. Such adjustment is due if the adoption of the EU's external tariff regime results in an increase in tariff beyond the level for which the acceding country has bound itself at the WTO, whilst taking "due account of reductions of duties on the same tariff line made by other constituents of the customs union upon its formation".

On 29 January 2007, the Council authorised the Commission to open negotiations under Article XXIV:6 of GATT 1994. The Commission has therefore negotiated with the Members of the WTO holding negotiating rights with respect to the **withdrawal of specific concessions in relation to the withdrawal of the schedules of the Republic of Bulgaria and Romania**, in the course of their accession to the European Union.

Negotiations with the People's Republic of China resulted in a draft Agreement in the form of an Exchange of Letters that was initialled on 31 May 2012.

It is now necessary to approve the agreement on behalf of the EU.

LEGAL BASE: the first subparagraph of Article 207(4), in conjunction with point (v) of Article 218(6)(a) of the Treaty on the Functioning of the European Union (TFUE).

CONTENT: this proposal asks the Council to adopt a Decision concluding the Agreement in the form of an Exchange of Letters with the People's Republic of China. In parallel, a separate proposal on the signature of this Agreement is also submitted.

The ensuing implementing Regulation will be adopted by the Commission, pursuant to Article 144 of the Single Common Market Organisation (CMO) Regulation (Regulation (EC) No 1234/2007) and to Article 7 of the Regulation (EC) No 1216/2009 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products.

Concessions foreseen:

- - the European Union shall incorporate in its schedule, for the customs territory of the EU 27, the concessions contained in the schedule of the EU 25 with the following modifications:

- on tariff line 0703 20 00 add 12 375 tonnes to the allocation for People's Republic of China under the EU tariff rate quota for **garlic**, maintaining the present in quota rate of 9.6%;
- add 800 tonnes (drained net weight) to the allocation for People's Republic of China under the EU tariff rate quota for **mushroom of species *Agaricus***, prepared or preserved otherwise than by vinegar and mushroom of species Agaricus, provisionally preserved or preserved otherwise than by vinegar in-quota rate 23%;
- create a tariff rate quota of 2 026 tonnes for **chocolate** with an in-quota rate of 38%;
- create a tariff rate quota of 2 289 tonnes for **confectionary** with an in-quota rate of 35%;
- create a tariff rate quota of 409 tonnes for **biscuits** with an in-quota rate of 40%.

People's Republic of China accepts the European Union's approach to netting-out of tariff rate quotas as a way of adjusting the GATT obligations of the EU 25 and those of the Republic of Bulgaria and Romania following the most recent enlargement of the European Union.

BUDGETARY IMPLICATIONS: the proposal has no implications for the EU budget.