Agreements under Article XXI GATS with Argentina, Australia, Brazil, Canada, China, the Separate customs territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei), Columbia, Cuba, Ecuador, Hong Kong China, India, Japan, Korea, New Zealand, the Philippines, Switzerland, and the United States: compensatory adjustments resulting from the last accession of new Member States to the EU

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PURPOSE: to approve the conclusion of the relevant agreements under Article XXI GATS with Argentina, Australia, Brazil, Canada, China, the Separate customs territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei), Columbia, Cuba, Ecuador, Hong Kong China, India, Japan, Korea, New Zealand, the Philippines, Switzerland, and the United States, on the necessary compensatory adjustments resulting from the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Austria, Poland, Slovenia, the Slovak Republic, Finland and Sweden to the European Union.

PROPOSED ACT: Council Decision.

ROLE OF THE EUROPEAN PARLIAMENT: Council may adopt the act only if Parliament has given its consent to the act.

CONTENT: the present Commission proposal for a Council decision aims at **formally concluding the compensatory agreements reached between the European Union and several WTO Members** in order to obtain a consolidated GATS schedule of specific commitments covering all the Member States who were members of the European Union in 2006.

The terms and conditions under which WTO Members commit access to their market to the services and service suppliers of other WTO Members are specified in their GATS schedules of specific commitments. The original schedule of specific commitments of the European Union and its Member States (‘the EU GATS schedule’) dates back to 1994, and only covers those twelve Member States who were members of the European Union at that time.

The thirteen Member States that have joined the European Union in 1995 and 2004 continued to maintain their individual GATS schedules, which were adopted prior to their accession to the European Union.

In order to ensure that those thirteen Member States did not maintain commitments which would be in breach of the *acquis communautaire* and that they were covered by the horizontal limitations included in the EU GATS schedule, it was necessary to notify the modification and withdrawal of certain specific commitments included in the EU GATS schedule and in the individual GATS schedules of the thirteen Member States concerned, and to consolidate those individual schedules with the EU GATS schedule.

To this end, on 28 May 2004, the European Union notified to the WTO the modification and withdrawal of certain commitments included in the EU GATS schedule and in the GATS schedules of the thirteen Member States concerned. The European Union subsequently entered into negotiations with eighteen WTO Members, who claimed to be affected by these modifications and withdrawals, under Article XXI of GATS. In the course of such negotiations, in accordance with the Council Conclusions of 26 July 2006, the European Union agreed on the compensation to be offered to the affected WTO Members. The notified modifications and withdrawals, together with the agreed **compensatory adjustments**, were incorporated into a consolidated EU GATS schedule, the certification of which was concluded pursuant to the applicable WTO rules on 15 December 2006.

Thereby, the European Union became the first member of the World Trade Organization that successfully used the GATS provisions on the modification and withdrawal of commitments. As a result of the successful consolidation of the EU GATS schedule, its services commitments could be presented in a **single document** covering its, at that time, twenty five Member States (hereafter 'the EU25 consolidated schedule').

The agreed compensatory adjustments constituted a satisfactory and balanced outcome of the negotiations and should therefore be approved on behalf of the European Union.

Accordingly, on 27 March 2007, the Commission submitted a proposal for a Council Decision on the conclusion of the Agreements.

On 23 July 2007, the Council agreed on the text of a draft decision of the Council and of the representatives of the governments of the Member States meeting within the Council approving the conclusion of the Agreements on behalf of the European Union and its Member States.

On 11 October 2007 the Parliament, in a consultation procedure, approved the conclusion of the Agreements.

At this stage, the Council has not yet approved the conclusion of the Agreements, which have not been ratified by all the Member States concerned.

The fact that the Agreements have not yet been formally concluded is **hindering the consolidation process of the EU GATS schedule** regarding the Member States having joined the European Union after 2006, since the WTO Members who claimed to be affected by the modifications of the schedules of those Member States refuse to engage in this process until the legal status of the Agreements had been clarified.