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2013/0329 (NLE)

Proposal for a

COUNCIL DECISION

on the conclusion of the Agreements in the form of an Exchange of Letters between the European Union and the Commonwealth of Australia, the Federative Republic of Brazil, Canada, the Hong Kong Special Administrative Region of the People's Republic of China, the Republic of India and Japan pursuant to Article XXI of the General Agreement on Trade in Services (GATS) 1994, relating to the modifications of the commitments in the schedules of the Republic of Bulgaria and Romania in the course of their accession to the European Union

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

Each Member of the World Trade Organisation (WTO) has annexed to the General Agreement on Trade in Services (hereinafter called: GATS) a list of specific commitments which includes the conditions of market access and national treatment for each service sector and, where applicable, of exemptions to the Most-Favoured Nation clause.

The European Communities and its Member States at the time submitted at the end of the Uruguay Round (1994), a single schedule of commitments and of MFN exemptions, which reflected their obligations vis-à-vis third countries (EC-12).

In 2003, the European Communities¹ launched the consolidation of the EC-12 GATS schedule and of the 13 separate GATS schedules of the EC Member States that joined the EC in 1995 and 2004 (*i.e.*, the Republic of Austria, the Republic of Cyprus, the Czech Republic, the Republic of Estonia, the Republic of Finland, Hungary, the Republic of Latvia, the Republic of Lithuania, the Republic of Malta, the Republic of Poland, the Slovak Republic, the Republic of Slovenia and the Kingdom of Sweden).

The negotiations with WTO Members and the certification process of the new EC-25 GATS schedule were concluded at the end of 2006. The conclusion of the agreements signed with the different affected WTO Members is underway (awaiting ratification in five Member States).

Following the accession of the Republic of Bulgaria and Romania to the EU, their GATS schedules have to be consolidated with that of the EU-25 and the process of consolidation of the certified EU-25 GATS schedule and of schedules of the Republic of Bulgaria and Romania has been launched (EU-27).

With a Communication pursuant to Article V of the GATS (circulated as document S/SECRET/11, dated 30 October 2007, and S/SECRET/11/Corr.1, dated 26 November 2007), the European Communities and its Member States notified its intention to modify the commitments included in the list of commitments attached to the Communication in view of the accession of the Republic of Bulgaria and Romania to the EU ("EU 27").

On 31 January 2008, the Council authorised the Commission to open negotiations with certain other Members of the WTO under Article XXI of the General Agreement on Trade in Services (GATS) 1994, with a view of reaching an agreement on any necessary compensatory adjustment resulting from the modification of GATS trade commitments as a consequence of the accession of the Republic of Bulgaria and Romania to the European Union.

Following the submission of that Communication, the Commonwealth of Australia, the Federative Republic of Brazil, Canada, the People's Republic of China, the Republic of India, the Hong Kong Special Administrative Region of the People's Republic of China, Japan and the United Mexican States² submitted respective claims of interest.

Pursuant to paragraph 4 of the procedures for the implementation of Article XXI of the GATS (S/L/80), the modifying Member and any Member considering itself affected shall negotiate

¹ Now: European Union (EU)

² Mexico and China withdrew their claims later.

with a view to reaching an agreement within three months following the last date on which a claim of interest may be made.

Negotiations with the Commonwealth of Australia, the Federative Republic of Brazil, Canada, the Republic of India, the Hong Kong Special Administrative Region of the People's Republic of China and Japan resulted in the draft Agreements in the form of an Exchange of Letters that were initialled by the EU side on XXXX [date to be added later] and by the Commonwealth of Australia, the Federative Republic of Brazil, Canada, the Republic of India, Hong Kong Special Administrative Region of the People's Republic of China and Japan side on XXXX [date to be added later].

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

Negotiations have been conducted by the Commission within the framework of the negotiating directives issued by the Council³. The Council (TPC) and the European Parliament (INTA) were informed of the text of the draft Agreements prior to being initialled.

3. LEGAL ELEMENTS OF THE PROPOSAL

This proposal asks the Council to adopt a decision concluding the Agreements in the form of an Exchange of Letters with the Commonwealth of Australia, the Federative Republic of Brazil, Canada, the Hong Kong Special Administrative Region of the People's Republic of China, the Republic of India and Japan.

In parallel, a separate proposal on the signature of these Agreements is also submitted.

Once the Council Decision on the conclusion of these Agreements is adopted, the Commission will launch the certification procedure provided for by the applicable WTO rules.

³ 5291/08 dated 31 January 2008

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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 Article 207(1) and the first subparagraph of Article 207(4), in conjunction with Article 218(6)(a) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament,

Whereas:

- (1) On 31 January 2008, the Council authorised the Commission to open negotiations with certain other Members of the World Trade Organisation under Article XXI of the General Agreement on Trade in Services (GATS) 1994, with a view to reaching an agreement on any necessary compensatory adjustment resulting from the modification of GATS trade commitments as a consequence of the accession of the Republic of Bulgaria and Romania to the European Union.
- (2) Negotiations have been conducted by the Commission within the framework of the negotiating directives adopted by the Council.
- (3) These negotiations have been concluded and the Agreements in the form of an Exchange of Letters between the European Union and Commonwealth of Australia, the Federative Republic of Brazil, Canada, the Hong Kong Special Administrative Region of the People's Republic of China, the Republic of India and Japan pursuant to Article XXI of the General Agreement on Trade in Services (GATS) 1994, relating to the modification of commitments in the schedules of the Republic of Bulgaria and Romania in the course of their accession to the European Union ('the Agreements') were initialled by a representative of the European Union on XXXX and by a representative of the Commonwealth of Australia, the Federative Republic of Brazil, Canada, the Hong Kong Special Administrative Region of the People's Republic of China, the Republic of India and Japan on XXXXX, respectively.
- (4) The Agreements were signed on behalf of the European Union on [...], subject to its conclusion at a later date, in accordance with Council Decision [...] ⁴.
- (5) The Agreements should be approved,

⁴ OJ L [...], [...], p. [...].

HAS ADOPTED THIS DECISION:

Article 1

The Agreements in the form of an Exchange of Letters between the European Union and the Commonwealth of Australia, the Federative Republic of Brazil, Canada, the Hong Kong Special Administrative Region of the People's Republic of China, the Republic of India and Japan pursuant to Article XXI of the General Agreement on Trade in Services (GATS) 1994, relating to the modification of commitments in the schedules of the Republic of Bulgaria and Romania in the course of their accession to the European Union ('the Agreements') are hereby approved on behalf of the Union.

The text of the Agreements is annexed to this Decision.

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to give, on behalf of the Union, the notification provided for in the Agreements⁵.

Article 3

This Decision shall enter into force on the date of its adoption.

Done at Brussels,

*For the Council
The President*

⁵ The date of entry into force of the Agreements will be published in the Official Journal of the European Union by the General Secretariat of the Council.