EUROPEAN COMMISSION

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2012/0154 (NLE)

Proposal for a

COUNCIL DECISION

establishing the position to be taken by the European Union within the General Council of the World Trade Organization on the Philippines' request for a WTO waiver to extend the special treatment for rice

EXPLANATORY MEMORANDUM

1. OBJECTIVE OF THE PROPOSAL

The objective of this proposal is to establish the position to be taken by the European Union within the General Council of the World Trade Organization (WTO) on the Philippines' request for a WTO waiver to extend the special treatment for rice from 1 July 2012 until 30 June 2017 and thus allow the European Union to support this waiver request. The request is likely to be on the agenda of the WTO General Council meeting scheduled for July 2012.

2. LEGAL BASIS OF THE PROPOSAL

Article 218(9) of the Treaty on the Functioning of the European Union (TFEU) provides that when a decision having legal effect needs to be taken in a body set up by an international agreement, the Council, on a proposal from the Commission or the High Representative of the Union for Foreign Affairs and Security Policy, shall adopt a decision establishing the position to be adopted on the Union's behalf. The granting of a waiver to allow the Philippines to extend the special treatment for rice from 1 July 2012 until 30 June 2017 falls under this provision as the decision is taken in a body set up by an international agreement (the WTO General Council or Ministerial Conference) affecting the rights and obligations of the EU.

3. SCOPE OF THE PROPOSAL

The Commission will be authorised to take a position on behalf of the EU to support the Philippines' request for a WTO waiver to extend the special treatment for rice from 1 July 2012 until 30 June 2017.

On 20 March 2012 the Philippines presented a waiver request in the WTO from its obligations under Articles 4.2 and paragraphs 8, 10 of Annex 5 of the Agreement on Agriculture and from the Philippines' commitment under the "Extension Agreement" in order to allow the Philippines to continue special treatment for rice, with an increase in market access as specified in paragraph 3 and Annex A of the draft Waiver decision from 1 July 2012 – 30 June 2017. This request was preceded by a notification made on 22 November 2011 to the Committee on Agriculture, whereby the Philippines initiated the negotiations with WTO Members that have "substantial interest" in rice (under the HS chapter 10.06) in order to extend its special treatment for rice. Such Members were asked to communicate their intention to participate in the negotiations until 21 January 2012 (60 days after the notification).

The Philippines mention as justification for the waiver that it is addressing a non-trade concern related to food security, stressing that special treatment will allow the Philippines to prepare its farmers for liberalisation by use of support programmes for farmers to improve competitiveness.

The requested waiver is limited in scope to allow the Philippines to continue the special treatment for rice (classified under the Chapter 10.06 of the HS) from 1 July 2012 until 30 June 2017. Pursuant to the waiver request, during this period the Philippines shall provide a minimum market access (MMA) for rice, to be increased annually each year (to be specified in the annex to the waiver based on the results of ongoing negotiations with interested

Members). Also the annual and final reduction of in-quota tariff of rice shall be agreed with these Members as of 1 July 2012, providing country – specific quotas for these countries.

The requested waiver would be the second extension of the special treatment, currently valid until 30 June 2012. The Philippines were initially provided with special treatment for rice upon the entry into force of the WTO Agreement in 1995, with an implementation period of 10 years (pursuant to paragraph 1 and 1(d) of Annex 5 of the Agreement on Agriculture, and as reflected in the Philippines' Goods Schedule LXXV, Part I, Section I B (on tariff quotas for agricultural products)). The first extension of the special treatment was made during 2004 - 2007 by modifying its schedule LXXV (pursuant to section B of Annex 5 of the Agreement on Agriculture) after concluding negotiations with Members (3 countries received country specific quotas: Australia, China and Thailand). On 8 February 2007, a final, certified copy of the PHL modified schedule LXXV (WT/LeT/562) was distributed to Members.

For the EU (rice industry), the waiver request does not pose economic concerns since the EU's export of rice to the Philippines is less than 10 tonnes per year (according to COMEXT), without significant variation. As there was no reason to expect an increase, the EU had not expressed interest to enter into negotiations with the Philippines as a Member with "substantial interest".

The Philippines' current MMA is 350.000 metric tonnes (MT), with an in-quota rate of 40%. Besides its MMA, the Philippines import an additional 2 million MT, of which Vietnam (74%), Thailand (19%) and Pakistan (7%) are the main suppliers (source: Global Trade Atlas (GTA), year 2010).

The EU is a net rice importer, covering some 40% of its needs from imports. The consumption is increasing (slowly). Whilst the production is rather stable, the EU imports will also increase. EU exports are around 100-120 000 tonnes per year (the last two years were a bit higher due to record production) without any potential for tendency-like increase. The EU exports are mainly shipped to nearby locations (mainly to Turkey). It hardly exports any rice to Asia and especially not to Southern Asia, which are the major rice producing regions of the world.

The Philippines aims to finalise the negotiations with interested members and adopt the waiver latest at the General Council meeting in July 2012.

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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 the first subparagraph of Article 207(4), in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) Pursuant to paragraph 1 and 1(d) of Annex 5 of the Agreement on Agriculture, and as reflected in the Philippines' Goods Schedule LXXV, Part I, Section I B (on tariff quotas for agricultural products) the Philippines were provided with special treatment for rice upon the entry into force of the WTO Agreement, with an implementation period of 10 years.

(2) Pursuant to paragraph 8 of Annex 5 of the Agreement on Agriculture, the Philippines extended the special treatment for rice from 01 July 2005 to 30 June 2012 by modifying its Schedule LXXV, certified by the WTO Secretariat on 8 February 2007.

(3) Pursuant to paragraph 5.1 of the Certification of Modifications and Rectifications to Schedule LXXV, any continuation of special treatment after 30 June 2012 for rice was set to be contingent on the outcome of the Doha Development Agenda (DDA) negotiations, providing an alternative special mechanism. However, the DDA negotiations have not yet been concluded.

(4) The Philippines notified the Committee on Agriculture of the WTO on 22 November 2011 about its intentions to enter into negotiations with Members that have substantial interests in the products concerned for continuation of the special treatment on rice.

(5) Article IX paragraphs 3 and 4 of the Marrakesh Agreement establishing the World Trade Organization (WTO Agreement) set out the procedures for the granting of waivers concerning the Multilateral Trade Agreements in Annex 1A or 1B or 1C to the WTO Agreement and their annexes.

(6) On 20 March 2012 the Philippines requested a waiver in the WTO from its obligations under Articles 4.2 and Section B of Annex 5 of the Agreement on Agriculture in order to provide special treatment for rice from 1 July 2012 – 30 June 2017 in accordance with the Philippines' waiver request.

(7) The EU is a net importer of rice. The granting of this waiver would thus be of minimal economic and trade importance to the Union.

(8) It is appropriate, therefore, to establish the position to be taken by the Union within the WTO General Council to support this waiver request,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken by the European Union within the General Council of the World Trade Organization is to support the Philippines' waiver request to extend the special treatment for rice from 1 July 2012 until 30 June 2017 in accordance with the terms of the waiver request.

This position shall be expressed by the Commission.

Article 2

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

Done at Brussels,

For the Council
The President