

COUNCIL DECISION

of 20 October 2011

on the conclusion of the Agreement in the form of an Exchange of Letters between the European Union, of the one part, and the Palestinian Authority of the West Bank and the Gaza Strip, of the other part, providing further liberalisation of agricultural products, processed agricultural products and fish and fishery products and amending the Euro-Mediterranean Interim Association Agreement on trade and cooperation between the European Community, of the one part, and the Palestine Liberation Organization (PLO) for the benefit of the Palestinian Authority of the West Bank and the Gaza Strip, of the other part

(2011/824/EU)

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(6)(a), thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament ⁽¹⁾,

Whereas:

- (1) The relationship between the Union and the Palestinian Authority of the West Bank and the Gaza Strip ('the Palestinian Authority') builds on the Euro-Mediterranean Interim Association Agreement on trade and cooperation between the European Community, of the one part, and the Palestine Liberation Organization (PLO) for the benefit of the Palestinian Authority of the West Bank and the Gaza Strip, of the other part ⁽²⁾ ('Interim Agreement'), which was signed in February 1997 and whose trade provisions entered into force on 1 July 1997. Its main objective is to promote trade and investment and harmonious economic relations between the Parties thereby fostering their sustainable economic development.
- (2) The Interim Agreement provides for duty-free access to the Union markets for Palestinian industrial goods, and a phasing-out of duties on the Union exports to the occupied Palestinian territory over 5 years. The possibility of granting the Palestinian Authority additional trade preferences is envisaged in the Interim Agreement. Article 12 of the Interim Agreement provides that the Community and the Palestinian Authority shall progressively establish a greater liberalisation of their trade in agricultural and fishery products of interest to both Parties. Article 14(2) of the Interim Agreement provides that the Community and the Palestinian Authority shall examine, in the Joint Committee, the possibility of granting each other further concessions.
- (3) The European Neighbourhood Policy Action Plan ('ENP Action Plan') for the Palestinian Authority, which was

approved in May 2005 and subsequently extended, also contains provisions concerning the gradual liberalisation of trade in agriculture and fishery products.

- (4) *The Euro-Mediterranean Roadmap for agriculture (Rabat Roadmap)* adopted by the Euro-Mediterranean Ministers of Foreign Affairs on 28 November 2005 provides that a high degree of trade liberalisation for agricultural products, processed agricultural products and fish and fishery products is desirable; the objective is full liberalisation of such trade by 2010, possibly excluding a very limited number of sensitive products.
- (5) At the last Trade Euro-Mediterranean Ministerial meeting in December 2009, Ministers of Trade of the Euro-Mediterranean region committed themselves to facilitate the trade of Palestinian products, as stated in the document *The Euromed Trade Roadmap beyond 2010*. In addition, a comprehensive package of measures to facilitate trade of Palestinian products with other Euro-Mediterranean partners on a bilateral and regional basis has been agreed by Ministers of Trade in 2010.
- (6) Negotiations with the Palestinian Authority concerning greater liberalisation of trade in agricultural products, processed agricultural products and fish and fishery products were successfully concluded by signing the Agreement in the form of an Exchange of Letters between the European Union, of the one part, and the Palestinian Authority of the West Bank and the Gaza Strip, of the other part, providing further liberalisation of agricultural products, processed agricultural products and fish and fishery products and amending the Euro-Mediterranean Interim Association Agreement on trade and cooperation between the European Community, of the one part, and the Palestine Liberation Organization (PLO) for the benefit of the Palestinian Authority of the West Bank and the Gaza Strip, of the other part ('the Agreement'), in accordance with Council Decision 2011/248/EU ⁽³⁾.
- (7) The occupied Palestinian territory governed by the Palestinian Authority is a state in the making. It is therefore not listed under any United Nations classification and therefore cannot benefit from the Union's Generalised System of Preferences ⁽⁴⁾.

⁽¹⁾ Consent of 5 September 2011 (not yet published in the Official Journal).

⁽²⁾ OJ L 187, 16.7.1997, p. 3.

⁽³⁾ OJ L 104, 20.4.2011, p. 2.

⁽⁴⁾ OJ L 169, 30.6.2005, p. 1.

- (8) The Palestinian Authority is the smallest trading partner for the Union in the Euro-Mediterranean region and almost worldwide, with total trade amounting to EUR 56,6 million in 2009 where the vast majority of it is accounted for by EU exports (EUR 50,5 million). Union imports from the Palestinian Authority amount to just EUR 6,1 million in 2009 and consist mainly of agricultural products and processed agricultural products (approximately 70,1 % of total Union imports). In 2009, the Union exported EUR 1,7 million of agricultural goods, EUR 3,3 million of processed agricultural products and EUR 0,1 million of fish and fishery products. Further market opening is expected to support the development of the economy of the West Bank and the Gaza Strip through increased export performance while not creating negative effects for the Union. It is therefore appropriate to grant additional trade preferences to the Palestinian Authority by improving access to the Union market for agricultural products.
- (9) In accordance with the ENP Action Plan, the level of ambition of the Union-Palestinian Authority relationship will depend on the degree of the Palestinian Authority's commitment to common values as well as its capacity to implement jointly agreed priorities. The Union is planning to complement the granting of additional trade preferences with a package of trade related technical assistance which will further help the Palestinian Authority to prepare for a future Palestinian State.
- (10) In addition, entitlement to benefit from the additional trade preferences granted by the Union is conditional upon the Palestinian Authority's compliance with the relevant rules of origin and the procedures related thereto as well as the provision of effective administrative cooperation and assistance to the European Union. Any serious and systematic violations of these conditions, or other findings of fraud or irregularity, may lead to the adoption of measures by the Union following the relevant procedures in Article 23 bis of the Interim Agreement.
- (11) For the purposes of defining the concept of originating products, certification of origin and administrative cooperation procedures, Protocol 3 to the Interim Agreement concerning the definition of the concept of 'originating products' and methods of administrative cooperation applies.
- (12) If the imports of agricultural products, processed agricultural products and fish and fishery products originating in the territory of the Palestinian Authority significantly increase and thereby cause serious distortion to the Union internal market, the Union should be able to adopt, if appropriate, safeguard measures in accordance with this Decision.
- (13) The import arrangements adopted by the Agreement should be renewed on the basis of the conditions established by the Council and in the light of the experience gained in granting them. It is therefore appropriate to limit their duration to 10 years. However, taking into

account the economic situation of the West Bank and Gaza Strip, the Parties should prolong the application of duty-free quota-free treatment should they consider that the Palestinian economy needs an additional transitional period in order to be ready to enter into negotiations leading to further reciprocal concessions.

- (14) The Union and the Palestinian Authority should meet 5 years from the date of entry into force of the Agreement to consider the possibility of granting each other further permanent concessions of trade in agricultural products, processed agricultural products, fish and fishery products in accordance with the objective laid down in Article 12 of the Interim Agreement. If this will be considered as not appropriate due to the limited future economic developments of the occupied Palestinian territory, such discussions should take place at later stage.

- (15) The Agreement should be concluded,

HAS ADOPTED THIS DECISION:

Article 1

The Agreement in the form of an Exchange of Letters between the European Union, of the one part, and the Palestinian Authority of the West Bank and the Gaza Strip, of the other part, providing further liberalisation of agricultural products, processed agricultural products and fish and fishery products and amending the Euro-Mediterranean Interim Association Agreement on trade and cooperation between the European Community, of the one part, and the Palestine Liberation Organization (PLO) for the benefit of the Palestinian Authority of the West Bank and the Gaza Strip, of the other part ('the Agreement'), is hereby approved on behalf of the Union.

The text of the Agreement is attached to this Decision.

Article 2

Where the Union needs to take a safeguard measure concerning agricultural products and fish and fishery products, as provided for in the Article 23 of the Interim Association Agreement, that measure shall be adopted in accordance with the procedures provided for in Article 159(2) of Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ⁽¹⁾, or by Article 30 of Council Regulation (EC) No 104/2000 of 17 December 1999 on the common organisation of the markets in fishery and aquaculture products ⁽²⁾. For processed agricultural products, such safeguard measures shall be adopted in accordance with the procedures provided for, as appropriate, in Article 7(2) of Council Regulation (EC) No 614/2009 of 7 July 2009 on the common system of trade for ovalbumin and lactalbumin ⁽³⁾, or in Article 11(4) of Council Regulation (EC) No 1216/2009 of 30 November 2009 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products ⁽⁴⁾.

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 17, 21.1.2000, p. 22.

⁽³⁾ OJ L 181, 14.7.2009, p. 8.

⁽⁴⁾ OJ L 328, 15.12.2009, p. 10.

Article 3

The President of the Council shall designate the person empowered to proceed, on behalf of the Union, with the deposit of the instrument of approval provided in the Agreement, in order to express the consent of the Union to be bound by it ⁽¹⁾.

Article 4

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

Done at Luxembourg, 20 October 2011.

For the Council
The President
M. SAWICKI

⁽¹⁾ The date of entry into force of the Agreement will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.