

**COUNCIL DECISION (EU) 2020/2026****of 4 December 2020****on the position to be taken on behalf of the European Union within the General Council of the World Trade Organization as regards the adoption of a decision exempting certain purchases of foodstuffs from application of export prohibitions or restrictions**

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) The Marrakesh Agreement establishing the World Trade Organization of 1994 (the 'WTO Agreement') was concluded by the Union by means of Council Decision 94/800/EC <sup>(1)</sup> on 22 December 1994 and entered into force on 1 January 1995.
- (2) Pursuant to paragraph 1 of Article IV of the WTO Agreement, the Ministerial Conference of the WTO has the authority to take decisions on all matters under any of the Multilateral Trade Agreements, if so requested by a Member.
- (3) Pursuant to paragraph 2 of Article IV of the WTO Agreement, the functions of the Ministerial Conference are to be conducted by the General Council of the WTO in the intervals between meetings of the Ministerial Conference.
- (4) Pursuant to paragraph 1 of Article IX of the WTO Agreement, the WTO continues, where possible, the practice of decision-making by consensus.
- (5) The General Council of the WTO, at its meeting in December 2020, or at a subsequent meeting in 2021, may be requested to consider and adopt a proposal aimed at exempting foodstuffs purchased for non-commercial humanitarian purposes by the United Nations (UN) World Food Programme from export prohibitions and restrictions.
- (6) Paragraph 2(a) of Article XI of the General Agreement on Tariffs and Trade 1947 (GATT 1947) permits WTO Members to apply export prohibitions or restrictions temporarily, under specific circumstances, to prevent or relieve critical shortages of foodstuffs or other products essential to them. Article 12 of the WTO Agreement on Agriculture, which belongs to the GATT 1994, specifies additional conditions to be observed by WTO Members in such cases. During the COVID-19 pandemic, WTO Members have resorted to such restrictive measures, which can also affect foodstuffs purchased for non-commercial humanitarian purposes.
- (7) Humanitarian purchases by the UN World Food Programme should be exempted from export prohibitions and restrictions in view of the critical need for humanitarian support provided by the UN World Food Programme, which has become even more crucial during the COVID-19 pandemic.
- (8) It is appropriate to establish the position to be taken on behalf of the Union at the relevant future meeting of the General Council of the WTO as regards the adoption of a decision on a proposal aimed at exempting foodstuffs purchased for non-commercial humanitarian purposes by the UN World Food Programme from export prohibitions and restrictions, as such a decision would be binding on the Union,

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<sup>(1)</sup> Council Decision 94/800/EC of 22 December 1994 concerning the conclusion on behalf of the European Community, as regards matters within its competence, of the agreements reached in the Uruguay Round multilateral negotiations (1986-1994) (OJ L 336, 23.12.1994, p. 1).

HAS ADOPTED THIS DECISION:

*Article 1*

The position to be taken on behalf of the Union within the General Council of the World Trade Organization (WTO) at its meeting in December 2020, or at a subsequent meeting in 2021, shall be to join the consensus, in the event it is reached among WTO Members, on a decision exempting foodstuffs purchased by the World Food Programme for non-commercial humanitarian purposes from the application of export prohibitions or restrictions.

*Article 2*

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

Done at Brussels, 4 December 2020.

*For the Council*  
*The President*  
M. ROTH

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