



Brussels, 29.4.2016
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2016/0123 (NLE)

Proposal for a

COUNCIL DECISION

establishing the position to be taken on behalf of the European Union within the General Council of the World Trade Organization on the European Union request for an extension of the WTO waiver relating to the autonomous preferential regime for Western Balkans

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• **Reasons for and objectives 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) concerning an extension of the WTO waiver on autonomous trade preferences which should be granted by the European Union to Western Balkans until 31 December 2021.

This would be the third waiver's extension by the WTO.

On 8 December 2000, the General Council of the WTO agreed to grant the European Union a waiver of its obligations under paragraph 1 of Article I of the GATT 1994 to the extent necessary to permit the European Union to afford the preferential treatment to the beneficiaries countries for a period through 31 December 2006¹. On 28 July 2006, the European Union was granted an extension until 31 December 2011². On 5 December 2011, the European Union was granted an extension until 31 December 2016³.

• **Consistency with existing policy provisions in the policy area**

The European Union granted preferential tariffs to the Western Balkans on the basis of Council Regulation (EC) No 2007/2000 of 18 September 2000 introducing duty-free or preferential treatment to products originating in the Western Balkans (Albania, Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, Kosovo⁴, Montenegro and Serbia). Regulation (EC) No 2007/2000 was substantially amended several times and was codified by Council Regulation (EC) No 1215/2009⁵. Further amendments were introduced in 2011 on the basis of Regulation (EU) No 1336/2011 of the European Parliament and of the Council of 13 December 2011⁶, namely extending the autonomous trade preferences until 31 December 2015. Regulation (EU) No 517/2013⁷ removed Croatia from the scope of Council Regulation (EC) No 1215/2009, following its accession to the EU.

The European Union has adopted the Regulation (EU) No 2423/2015 of the European Parliament and of the Council of 16 December 2015 further amending Council Regulation (EC) No 1215/2009 and renewing the autonomous preferential regime for the Western Balkans until 31 December 2020.

• **Consistency with other Union policies**

N.a.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• **Legal basis**

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

¹ WT/L/380.

² WT/L/654.

³ WT/L/836.

⁴ Under United Nations Security Council Resolution 1244/99.

⁵ OJ L 328, 15.12.2009, p. 1.

⁶ OJ L 347, 30.12.2011, p.1.

⁷ OJ L 158, 10.6.2013, p. 1

Union for Foreign Affairs and Security Policy, shall adopt a decision establishing the position to be adopted on the European Union's behalf. The granting of a waiver on additional autonomous trade preferences granted by the European Union to the Western Balkans 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 European Union.

- **Subsidiarity (for non-exclusive competence)**

N.a.

- **Proportionality**

N.a.

- **Choice of the instrument**

N.a.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

N.a.

4. BUDGETARY IMPLICATIONS

N.a.

5. OTHER ELEMENTS

N.a.

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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) Paragraphs 3 and 4 of Article IX of the Marrakesh Agreement establishing the World Trade Organization ('WTO Agreement') set out the procedures for waiving an obligation imposed on a Member by the WTO Agreement or any of the Multilateral Trade Agreements.
- (2) Council Regulation (EC) No 2007/2000 of 18 September 2000 introducing duty-free or preferential treatment to products originating in the Western Balkans (Albania, Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, Kosovo*, Montenegro and Serbia) was substantially amended several times and was codified by Council Regulation (EC) No 1215/2009⁸. Regulation (EU) No 1336/2011⁹ of the European Parliament and of the Council of 13 December 2011 extended the granting of the autonomous trade preferences until 31 December 2015. Regulation (EU) No 517/2013¹⁰ removed Croatia from the scope of Council Regulation (EC) No 1215/2009, following its accession to the European Union. Regulation (EU) No 2423/2015 of the European Parliament and of the Council of 16 December 2015 extends the granting of the autonomous trade preferences until 31 December 2020. Council Regulation (EC) No 1215/2009, as most recently amended, provides for free access to the Union market for products originating in the Western Balkan countries and territories, except certain agricultural products, which benefit from limited concessions in the form of duty free tariff quotas.
- (3) In the absence of a waiver from the European Union's obligations under paragraph 1 of Article I GATT 1994 and Article XIII GATT 1994, to the extent necessary, the treatment provided by the autonomous trade preferences would need to be extended to all other Members of the World Trade Organization (WTO).

* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

⁸ OJ L 328, 15.12.2009, p. 1.

⁹ OJ L 347, 30.12.2011, p. 1.

¹⁰ OJ L 158, 10.6.2013, p. 1.

- (4) It is in the interest of the European Union to request an extension of the WTO waiver on autonomous trade preferences granted by the European Union to the Western Balkans pursuant to paragraph 3 of Article IX of the WTO Agreement.
- (5) The European Union is required to submit such a request to the WTO.
- (6) It is appropriate, therefore, to establish the position to be taken by the European Union within the WTO General Council concerning this request,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on behalf of the European Union within the General Council of the World Trade Organization shall be to request an extension of the existing WTO waiver on the autonomous trade preferences granted by the European Union to the Western Balkans until 31 December 2021, and to support the adoption of that request.

This position shall be expressed by the Commission.

Article 2

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

Done at Brussels,

*For the Council
The President*