



EUROPEAN COMMISSION

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Proposal for a

**COUNCIL DECISION**

**establishing the position to be taken by the European Union within the Ministerial Conference of the World Trade Organization (WTO) as regards a request for granting a waiver in order to give preferential treatment to services and service suppliers of Least-Developed Countries**

## **EXPLANATORY MEMORANDUM**

### **1. OBJECTIVE OF THE PROPOSAL**

The objective of this proposal is to allow the European Union to join a consensus in the World Trade Organization (WTO) on the adoption of a waiver<sup>1</sup> by the WTO Ministerial Conference. The proposal provides that the Council authorises the Commission to take a position on behalf of the European Union within the WTO to join a consensus as regards a request under Article IX of the WTO Agreement for granting preferential treatment to services and service suppliers of Least-Developed Countries.

### **2. LEGAL BASIS OF PROPOSAL**

Article 218(9) of the Treaty on the Functioning of the European Union (TFEU) provides that when a Decision having legal effects 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 falls under this provision as the Decision is taken in a body set up by an international agreement (the WTO Ministerial Conference) affecting the rights and obligations of the EU.

The envisaged waiver relates to obligations under the General Agreement on Trade in Services and concerns all service sectors, including transport services. Therefore, the proposed Decision falls within the scope of Articles 91, 100 and 207(4), first subparagraph, of the TFEU.

### **3. SCOPE OF THE PROPOSAL**

The Commission will be authorised to take a position on behalf of the European Union to support a request for a waiver from Article II:1 of the General Agreement on Trade in Services (GATS) to grant preferential treatment to services and service suppliers of Least-Developed Countries without according the same treatment to like services and service suppliers of all other WTO Members.

Consistent with Article 218(10), the European Parliament will be immediately and fully informed.

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<sup>1</sup> Waivers are permissions granted by the WTO General Council/Ministerial Conference to derogate temporarily from certain WTO obligations which are otherwise applicable.

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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 of Articles 91, 100 and 207(4), first subparagraph, in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Article IX of the Marrakesh Agreement establishing the World Trade Organization (the “WTO Agreement”) sets out the procedures for the granting of waivers concerning the Multilateral Trade Agreements in Annexes 1A or 1B or 1C to the WTO Agreement and their annexes.
- (2) A waiver has been requested whereby WTO Members would be enabled to grant preferential treatment to services and service suppliers of Least-Developed Countries without according the same treatment to like services and service suppliers of all other WTO Members (Cite relevant WTO doc in a footnote) by exceptionally derogating from the obligation under Article II:1 of the General Agreement on Trade in Services.
- (3) It is in the interest of the European Union to give its support to that request for a waiver and thus to conclude a part of the Doha Development Agenda negotiations on services which is of special interest to Least-Developed Country Members.

HAS ADOPTED THIS DECISION:

### *Article 1*

The position of the European Union within the Ministerial Conference of the World Trade Organization shall be to support the request under Article IX:3 of the Marrakesh Agreement establishing the World Trade Organization for a waiver enabling WTO Members to grant preferential treatment to services and service suppliers of Least-Developed Countries.

*Article 2*

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

Done at Brussels,

*For the Council  
The President*