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2015/0023 (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 United States' request for a WTO waiver to extend and expand the scope of the US Caribbean Basin Economic Recovery Act (CBERA)

EXPLANATORY MEMORANDUM

1. CONTEXT 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 United States' request for a WTO waiver to extend and expand the scope of the United States Caribbean Basin Economic Recovery Act (CBERA) from 1 January 2015 until 31 December 2019 and thus allow the European Union to support this waiver request.

2. LEGAL ELEMENTS 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 United States to extend and expand the scope of the existing waiver granting preferential tariff treatment to the eligible products originating in beneficiary Central American and Caribbean countries and territories designated pursuant to the provisions of the Caribbean Basin Economic Recovery Act as lastly amended 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. OPTIONAL ELEMENTS

The Commission will be authorised to take a position on behalf of the EU to support the United States' request for a WTO waiver to extend and expand the scope of the existing waiver to the extent necessary to permit the United States to provide duty-free treatment to eligible products originating in beneficiary Central American and Caribbean countries and territories from 1 January 2015 until 31 December 2019.

The United States justifies its request with the exceptional circumstances of the economic situation in the Caribbean Basin countries. The objective of the amended CBERA is to assist the trade and economic development and recovery of these countries by encouraging the expansion of their productive capacity in response to more liberal access and to new trading opportunities.

According to the United States, the duty-free treatment provided under CBERA should not prejudice the interests of other Members not benefiting from such treatment, and it is expected that the extension of such duty-free treatment will not cause a significant diversion of United States imports of products eligible under CBERA originating in Members who are not beneficiary countries.

The waiver request would be the fourth extension of the preferential tariff-treatment, currently valid until 31 December 2014. The United States was granted a waiver of obligations under paragraph 1 of Article I on 15 February 1985, for the period from 1 January 1984 through 30 September 1995. On 15 November 1995 the US was granted a renewal of the waiver in respect of paragraph 1 of Article I of the GATT 1994 through 30 September 2005, and again on 29 May 2009 through 31 December 2014, to the extent necessary for the United States to provide duty-free treatment for imports of eligible products originating in beneficiary countries designated pursuant to the provisions of the CBERA.

For the EU, the waiver request does not pose economic concerns since the duty-free treatment does not have an impact on the EU trade with the beneficiaries countries.

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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 3 of Article IX of the WTO Agreement, the United States submitted a request to extend the existing waiver through 31 December 2019 and expand the scope of the existing waiver of its obligations under paragraph 1 of Article I of the General Agreement on Tariffs and Trade 1994 (GATT 1994), to the extent necessary to permit the United States to provide duty-free treatment to eligible products originating in beneficiary Central American and Caribbean countries and territories ("beneficiary countries") designated pursuant to the provisions of the Caribbean Basin Economic Recovery Act of 1983, as amended by the Caribbean Basin Economic Recovery Expansion Act of 1990 and by the United States-Caribbean Basin Trade Partnership Act, the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006, the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2008, and the Haitian Economic Lift Program Act of 2010 (collectively, "CBERA as amended").
- (2) The United States was granted a waiver of obligations under paragraph 1 of Article I on 15 February 1985, for the period from 1 January 1984 through 30 September 1995. On 15 November 1995 the United States was granted a renewal of the waiver in respect of paragraph 1 of Article I of the GATT 1994 through 30 September 2005, and again on 29 May 2009 through 31 December 2014, to the extent necessary for the United States to provide duty-free treatment for imports of eligible products originating in beneficiary countries designated pursuant to the provisions of the CBERA.
- (3) 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.
- (4) The granting of this waiver would not affect negatively neither the economy of the Union nor the trade relations with the beneficiaries of this waiver. Moreover, the Union generally supports actions to combat poverty and promote stability in the beneficiaries' countries.

- (5) It is appropriate, therefore, to establish the position to be taken by the Union within the WTO General Council to support the waiver request by the United States,

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 United States' waiver request to extend and expand the scope of the United States Caribbean Basin Economic Recovery Act (CBERA) as lastly amended from 1 January 2015 until 31 December 2019 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*