



Brussels, 22.9.2015  
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2015/0215 (NLE)

Proposal for a

## **COUNCIL DECISION**

**establishing the position to be taken on behalf of the European Union within the General Council of the WTO on the United States' request for a WTO waiver to extend the AGOA program (AGOA)**

## **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 renewal of its WTO waiver and thus allow the European Union to support this waiver request.

The granting of the US request for a renewal of the WTO waiver would allow the US to continue providing duty-free treatment to eligible products originating in beneficiary sub-Saharan African countries designated pursuant to the African Growth and Opportunity Act (AGOA) through 30 September 2025.

### **2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

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 European Union's behalf. The granting of a waiver to allow the United States providing preferential tariff treatment to the eligible products originating in beneficiary sub-Saharan African countries designated pursuant to AGOA, 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.

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

N.a.

### **4. BUDGETARY IMPLICATIONS**

N.a.

### **5. OTHER ELEMENTS**

The Commission will be authorised to take a position on behalf of the European Union to support the United States' request for a WTO waiver to the extent necessary to permit the United States to provide duty-free treatment to eligible products originating in beneficiary sub-Saharan countries until 30 September 2025.

AGOA's objective is to alleviate poverty and promote stability and sustainable economic development in sub-Saharan Africa by fostering increased trade and investment between the US and the beneficiary countries. AGOA is also intended to encourage regional economic integration and help beneficiary countries participate more fully in the global economy.

According to the United States, the duty-free treatment provided since 2000 under AGOA complements the efforts by other WTO Members to promote growth and development in the region.

The waiver request would be the second extension of the preferential tariff-treatment. On 27 May 2009, the United States was granted a waiver of its obligations under paragraph 1 of Article I and paragraphs 1 and 2 of Article XIII, covering the period until 30 September 2015.

For the European Union, the waiver request does not pose economic concerns since the duty-free treatment does not have a direct impact on the EU trade with the beneficiary countries.

In light of these considerations, the European Union should join the consensus in favour of the waiver request in the WTO General Council.

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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 the granting of waivers concerning the Multilateral Trade Agreements in Annex 1A or 1B or 1C to the WTO Agreement and their annexes.
- (2) The United States was granted a waiver of obligations under paragraph 1 of Article I and paragraphs 1 and 2 of Article XIII of the General Agreement on Tariffs and Trade 1994 ('GATT 1994') on 27 May 2009 covering the period through 30 September 2015.
- (3) Pursuant to paragraph 3 of Article IX of the WTO Agreement, the United States submitted a request to waive until 30 September 2025 its obligations under paragraph 1 of Article I and paragraphs 1 and 2 of Article XIII of the GATT 1994 to the extent necessary to permit the United States to continue providing duty-free treatment to eligible products originating in beneficiary sub-Saharan African countries designated pursuant to the African Growth and Opportunity Act (AGOA).
- (4) The granting of the United States request for a WTO waiver would not affect negatively either the economy of the European Union or the trade relations with the beneficiaries of the waiver. Moreover, the European Union generally supports actions to alleviate poverty and promote stability and sustainable economic development in the beneficiaries' countries.
- (5) It is appropriate, therefore, to establish the position to be taken on behalf of the European 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 on behalf of the European Union within the General Council of the World Trade Organization shall be to support the United States' request to waive obligations under paragraph 1 of Article I and paragraphs 1 and 2 of Article XIII of the General

Agreement on Tariffs and Trade 1994 until 30 September 2025 in accordance with the terms of the United States' 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*