



Brussels, 22.9.2016
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2016/0294 (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 United States' request for a WTO waiver to permit the US to provide preferential treatment to eligible products originating in Nepal

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) on the United States' request for a WTO waiver and thus allow the European Union to support this waiver request.

The granting of the US' request for a WTO waiver would allow the US to provide preferential treatment to eligible products originating in Nepal and imported into the customs territory of the United States until 31 December 2025.

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

N.a.

- **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 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 European Union's behalf. The granting of a waiver to allow the United States to accord preferential treatment to eligible products originating in Nepal 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

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 preferential treatment to eligible products originating in Nepal until 31 December 2025.

The United States is seeking to waive 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 it to provide preferential tariff treatment and a preferential administration of quantitative restrictions on certain products originating in Nepal that meet specific eligibility criteria.

According to the United States, these preferences are provided to assist Nepal in its recovery from a devastating earthquake and aftershocks in April 2015. The US explain that this measure builds on an existing framework of programs intended to assist Nepal's economic development and will complement the efforts to promote growth and development in Nepal.

This new waiver request submitted by the US does not pose any economic concerns to the European Union since the preferential treatment is not expected to adversely impact the EU trade with the beneficiary country.

In light of these considerations, the European Union should join the emerging 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 waiving an obligation imposed on a Member by the WTO Agreement or any of the Multilateral Trade Agreements.
- (2) Pursuant to paragraph 3 of Article IX of the WTO Agreement, the United States submitted a request to waive until 31 December 2025 its obligations under paragraph 1 of Article I and paragraphs 1 and 2 of Article XIII of the General Agreement on Tariffs and Trade 1994 to the extent necessary to permit the United States to provide preferential treatment to eligible products originating in Nepal imported into the customs territory of the United States.
- (3) 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 beneficiary of the waiver.
- (4) 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 its 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 31 December 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 date of its adoption.

Done at Brussels,

*For the Council
The President*