



25 June 2021

(21-5157)

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Council for Trade in Goods

Original: English

**REQUEST FOR AN EXTENSION OF THE WAIVER (WT/L/380, WT/L/654, WT/L/836,  
WT/L/1002) FOR THE APPLICATION OF AUTONOMOUS PREFERENTIAL  
TREATMENT TO THE WESTERN BALKANS**

**COMMUNICATION FROM THE EUROPEAN UNION**

The following communication, dated 22 June 2021, is being circulated at the request of the delegation of the European Union.

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Pursuant to Article IX(3) of the Marrakesh Agreement Establishing the World Trade Organization ('WTO Agreement'), the European Union ('EU') hereby submits to the consideration of the Council for Trade in Goods a request for an extension of the waiver from its obligations under Article I(1) of the General Agreement on Tariffs and Trade 1994 ('GATT 1994'), as well as an extension of the waiver to Article XIII of the GATT 1994, concerning autonomous preferential treatment to the Western Balkans, the text of which is enclosed herewith (Annex).

**1 PURPOSE OF THE REQUEST**

1.1. On 8 December 2000, the EU was granted a waiver (WT/L/380) from its obligations under Article I(1) of the GATT 1994 to the extent necessary to permit the EU to afford duty-free or preferential treatment to products originating in the Western Balkans. This waiver was granted by the WTO General Council for the period through 31 December 2006.

1.2. On 4 May 2006, the EU submitted a request to the WTO General Council to extend the period of application of the existing preferential regime for a further period of five years (G/C/W/552). On 28 July 2006, the WTO General Council adopted a decision to extend the waiver until 31 December 2011 (WT/L/654).

1.3. On 26 October 2011, the EU submitted a request to the WTO General Council to extend the period of application of the existing preferential regime for a further period of five years (G/C/W/658). On 5 December 2011, the WTO General Council adopted a decision to extend the waiver until 31 December 2016 (WT/L/836).

1.4. On 1 September 2016, the EU submitted a request to the WTO General Council to extend the period of application of the existing preferential regime for a further period of five years (G/C/W/731). On 12 December 2016, the WTO General Council adopted a decision to extend the waiver until 31 December 2021 (WT/L/1002).

1.5. The EU requests the extension of the existing waiver for an additional time-period of five years because the reasons justifying the waiver continue to exist. The EU has adopted a Regulation<sup>1</sup> that

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<sup>1</sup> Regulation (EU) 2020/2172 of the European Parliament and of the Council of 16 December 2020 amending Council Regulation (EC) No. 1215/2009 introducing exceptional trade measures for countries and territories participating in or linked to the European Union's Stabilisation and Association process (OJ L 432, 21.12.2020, p. 7).

renews the autonomous preferential regime for the Western Balkans (Albania, Bosnia and Herzegovina, Kosovo\*, Montenegro, North Macedonia, and Serbia) until 31 December 2025.

1.6. In order to permit the EU to continue providing preferential treatment for the application of autonomous preferential regime to the Western Balkans, without being required to extend the same preferential treatment to the like products of any other Member of the WTO, the EU presents this request for the extension of the waiver from the provisions of Article I(1) and Article XIII of the GATT 1994 until 31 December 2026.

## **2 DESCRIPTION OF THE MEASURES FOR WHICH AN EXTENSION OF THE WAIVER IS REQUESTED**

2.1. The preferential treatment was initially granted on the basis of Council Regulation (EC) No 1215/2009<sup>2</sup>, amended and extended several times thereafter. As a rule, most products originating in the Western Balkans continue to be admitted into the EU duty-free, without quantitative restrictions or measures having equivalent effect and with exemption from customs duties and charges having equivalent effect.

2.2. The following exceptions apply:

- For certain wine products (heading 2204) from the Western Balkans the customs duties applicable to imports into the EU shall be suspended during the periods of validity of the measures in question, within the limits of the EU tariff quotas and under specific conditions indicated for each product and origin in Council Regulation (EC) No 1215/2009.

The entitlement to benefit from the preferential arrangements is subject to the following conditions:

- (a) compliance with the definition of the concept of "originating products" provided for in provided for in Title II, Chapter 1, Section 2, Subsections 4 and 5 of Commission Delegated Regulation (EU) 2015/2446<sup>3</sup>, and Title II, Chapter 2, Section 2, Subsections 10 and 11 of Commission Implementing Regulation (EU) 2015/2447<sup>4</sup>;
- (b) abstention of the beneficiaries from introducing new duties or charges having equivalent effect and new quantitative restrictions or measures having equivalent effect from imports originating in the EU or from increasing existing levels of duties or charges or from introducing any other restrictions from the day of the entry into force of the preferential regime;
- (c) involvement of the beneficiaries in effective administrative cooperation with the EU in order to prevent any risk of fraud; and
- (d) abstention of the beneficiaries from engaging in serious and systematic violations of human rights, including core labour rights, of fundamental principles of democracy and of the rule of law.

2.3. In addition, the entitlement to the preferential arrangement is subject to the readiness of the beneficiaries to engage in effective economic reforms and in regional cooperation with other parties concerned by the EU's Stabilisation and Association process, in particular through the establishment

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

<sup>2</sup> OJ L 240, 23.9.2000, p. 1. Regulation as last amended by Regulation (EC) No. 530/2007 (OJ L 125, 15.5.2007, p. 1), as codified by Council Regulation (EC) No. 1215/2009 of 30 November 2009 (OJ L 328, 15.12.2009, p. 1).

<sup>3</sup> Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No. 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code (OJ L 343, 29.12.2015, p. 1).

<sup>4</sup> Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No. 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ L 343, 29.12.2015, p. 558).

of free trade areas in conformity with Article XXIV of the GATT 1994 and other relevant WTO provisions.

### **3 CIRCUMSTANCES JUSTIFYING THE WAIVER**

3.1. The request to extend the WTO waiver permitting autonomous trade preferences to the Western Balkans is justified considering the persistent difficult economic situation in the region and that the preferential treatment to eligible products the Union affords to these countries is intended to promote economic development in a manner consistent with the objectives of GATT 1994 and not to create barriers for the trade of other WTO Members. Therefore, the exceptional circumstances justifying the extension of the waiver from Article I(1) and from Article XIII of GATT 1994 still applies.

3.2. Fully liberalised access to the markets of the EU is foreseen as part of the process put in place by the Stabilization and Association Agreements ("SAAs"). The SAAs, which the EU has progressively concluded with the countries and territories of the Western Balkans, establish a free trade area with the concerned country or territory, in line with the obligations foreseen in Article XXIV of the GATT 1994. Their aim is to boost the economic development and the political stabilization of the region, while establishing a close, long-term association between the EU and the Western Balkans, much as the Europe Agreements did for the candidate countries in Central Europe.

3.3. At the same time, the SAAs allow the continuation of the autonomous preferences where these provide more favourable conditions for the export of the goods originating in the Western Balkans.

3.4. The EU has now concluded six SAAs. The SAA with North Macedonia entered into force on 1 April 2004, the one with Albania on 1 April 2009, with Montenegro on 1 May 2010, with the Republic of Serbia on 1 September 2013, with Bosnia and Herzegovina on 1 June 2015 and with Kosovo on 1 April 2016.

3.5. This approach has proven to offer concrete and significant support to the economic development efforts undertaken by the Western Balkans, thereby fostering deeper trade integration of the region.

3.6. The EU is by far the first trading partner of the Western Balkans, accounting for, overall, some 70% of their total trade. At the same time, the level of imports from the region into the EU remains very low, around 1.4% of the total EU imports and it is concentrated primarily on machinery and transport equipment, miscellaneous manufactured articles and manufactured goods. Detailed statistics on trade between the EU and the Western Balkans have been provided annually to the General Council under the reports required by the current waiver.<sup>5</sup>

### **4 CONCLUSIONS**

4.1. The EU requests on the basis of Article IX(3) of the WTO Agreement the extension of the waiver of its obligations under Article I(1) and Article XIII of the GATT 1994 to the extent necessary to permit the EU to afford preferential treatment to products originating in Western Balkans until 31 December 2026, without being required to extend the same preferential treatment to like products of any other WTO Member. A draft waiver Decision is attached (Annex) for consideration.

4.2. The EU requests that the Council for Trade in Goods give its application for a waiver expeditious and favourable consideration. In the meantime, the EU is prepared to give full consideration to representations made to it by other WTO Members and to engage in consultations with them as may be necessary.

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<sup>5</sup> WT/L/435, WT/L/503, WT/L/551, WT/L/596, WT/L/635 WT/L/668, WT/L/731, WT/L/763, WT/L/799, WT/L/814, WT/L/870, WT/L/896, WT/L/935 and WT/L/962, WT/L/1019, WT/L/1044, WT/L/1077, WT/L/1103.

**ANNEX****EUROPEAN UNION REQUEST FOR AN EXTENSION OF THE WAIVER  
FOR THE APPLICATION OF AUTONOMOUS PREFERENTIAL  
TREATMENT TO THE WESTERN BALKANS***Decision of ... 2021<sup>1</sup>*

The General Council,

*Having regard* to paragraphs 1 and 3 of Article IX of the WTO Agreement, the Guiding Principles to be followed in considering applications for waivers adopted on 1 November 1956, and the Understanding in respect of Obligations under the General Agreement of Tariffs and Trade 1994 (the "GATT 1994");

*Taking into account* the Decision of the General Council of 8 December 2000<sup>2</sup> by which WTO Members granted the European Communities a waiver of obligations under paragraph 1 Article I of the GATT 1994 for the period through 31 December 2006, the Decision of the General Council of 28 July 2006<sup>3</sup>, extending this waiver until 31 December 2011, the Decision of the General Council of 5 December 2011<sup>4</sup>, extending this waiver until 31 December 2016, and the Decision of the General Council of 7 December 2016<sup>5</sup>, extending this waiver until 31 December 2021;

*Noting* that the existing waiver is due to expire on 31 December 2021;

*Taking note* of the request of the European Union, pursuant to paragraph 3 of Article IX of the WTO Agreement, for an extension of the waiver from its obligations under paragraph 1 of Article I and Article XIII of the GATT 1994 to the extent necessary to permit the European Union to afford preferential treatment to eligible products originating in the Western Balkans, without being required to extend the same preferential treatment to like products of any other WTO Member;

*Considering* the persistent difficult economic situation in the region and the efforts being made by WTO Members to foster economic transition and development in the Western Balkans;

*Considering* that the preferential treatment to eligible products the European Union affords to these countries is intended to promote economic development in a manner consistent with the objectives of the GATT 1994 and not to create barriers for the trade of other WTO Members;

*Noting* that, in light of the foregoing, the exceptional circumstances justifying the extension of the waiver from paragraph 1 of Article I and from Article XIII of the GATT 1994 exist;

*Decides* as follows:

1. Subject to the conditions set out in this Decision, the provisions of paragraph 1 of Article I and of Article XIII of the GATT 1994 shall be waived until 31 December 2026 to the extent necessary to permit the European Union to afford preferential treatment to eligible products originating in the Western Balkans (Albania, Bosnia and Herzegovina, North Macedonia, Kosovo\*, Montenegro and Serbia) without being required to extend the same preferential treatment to like products of any other WTO Member.
2. Such preferential treatment shall not raise new barriers for the trade of other Members.

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<sup>1</sup> Adopted in accordance with the Procedures on WTO Decision-Making under Articles IX and XII of the WTO Agreement agreed by the General Council (WT/L/93).

<sup>2</sup> WT/L/380.

<sup>3</sup> WT/L/654.

<sup>4</sup> WT/L/836.

<sup>5</sup> WT/L/1002.

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

3. The European Union shall consult promptly with any Member on the operation of its preferential or duty-free concessions in respect of the beneficiaries listed in paragraph 1 of this Decision, or on any other matter arising in respect of this Decision. Where a Member considers that its benefits under the GATT 1994 are or may be impaired unduly as a result of measures put in place by the European Union and covered by this Decision, the European Union shall examine the possibility of a satisfactory adjustment of the matter.

4. This Decision does not affect Members' rights as set out in the Understanding in respect of Waivers of Obligations under the GATT 1994.

5. The European Union shall report annually to the General Council on the preferences afforded to products from the beneficiaries listed in paragraph 1, including the extent to which such preferences are different from the European Union's Most Favoured Nation and Generalized System of Preferences concessions, with a view to facilitating the annual review provided for in paragraph 4 of Article IX of the WTO Agreement.

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