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Council for Trade in Goods

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ARTICLE XXVIII:5 NEGOTIATIONS

WITHDRAWAL OF THE UNITED KINGDOM FROM THE EUROPEAN UNION

Communication from the European Union

Addendum

The following communication, dated 20 October 2021, is being circulated at the request of the Delegation of the European Union.

In connection with the ongoing negotiations under Article XXVIII of GATT 1994 on the apportionment of the European Union's tariff-rate quota concessions following the withdrawal of the United Kingdom from the European Union¹, the European Union refers to WTO document G/L/1385.²

In that communication, the European Union extended the timelines of Article XXVIII:3 of GATT 1994 by six months, i.e. until 1 January 2022, without prejudice to the question of whether there are any rights to withdraw concessions pursuant to Article XXVIII:3(a) and (b). The above-referenced Communication also outlined the established practice in this regard. The Council for Trade in Goods approved this proposal for extension at its meeting of 31 March-1 April 2021.³

Considering that the conclusion of the ongoing negotiations and consultations should not be impeded by the timelines of Article XXVIII:3(a) and (b), in the event that, for substantive or procedural reasons including domestic procedural requirements for the formal conclusion of agreements under Article XXVIII of GATT 1994, it were to take more time than will be available until 1 January 2022, the European Union believes that it is desirable to further extend the timelines of Article XXVIII:3 of GATT 1994 by six months, i.e. until 1 July 2022, without prejudice to the question of whether there are any rights to withdraw concessions pursuant to Article XXVIII:3(a) and (b).

Accordingly, the European Union wishes to inform the Membership that the European Union will not assert that the WTO Members who submitted a valid claim in this process are precluded from withdrawing substantially equivalent concessions under Article XXVIII:3 of GATT 1994 because this withdrawal occurs later than six months after the EU's modification of its concessions, which occurred on 1 January 2021, provided that the WTO Member in question withdraws concessions no later than 18 months after the EU's modification of concessions. On this basis, the European Union and other Members currently engaged in these Article XXVIII procedures can continue to concentrate on bringing these negotiations and consultations to a successful conclusion in the coming months.

¹ Cf. WTO document G/SECRET/42, dated 19 July 2018, in which the European Union notified its intention to modify its current concessions on all tariff-rate quotas as they are reflected in Schedule CLXXV of the European Union, in its Part I Section I-B (agricultural products) and in its Part II Section II-B (other products), and document G/SECRET/42/Add.2 of 19 October 2018.

² Cf. WTO document G/L/1385, dated 19 March 2021, titled Article XXVIII:5 Negotiations – Withdrawal of the United Kingdom from the European Union – Communication from the European Union.

³ Council for Trade in Goods, Minutes of the Meeting of 31 March-1 April 2021, G/C/M/139, dated 16 June 2021, para. 4.6.

The European Union proposes that the Council for Trade in Goods once more takes note of this communication and that it agrees on the extension of the deadline as indicated in this communication, until 1 July 2022.
