



21 December 2022

(22-9655)

Page: 1/3

**INTRODUCTION OF HARMONIZED SYSTEM 2002 CHANGES INTO
WTO SCHEDULES OF TARIFF CONCESSIONS**

WAIVER DECISION

Adopted on 20 December 2022

The General Council,

Having regard to Articles IV:2 and IX:3 of the Marrakesh Agreement establishing the World Trade Organization (the "WTO Agreement");

Considering that the General Council, by its Decisions of 13 May 2002¹ and 8 July 2002², acting pursuant to the provisions of Articles IV:2 and IX:3 of the WTO Agreement, suspended the application of the provisions of Article II of GATT 1994 for certain Members for periods up to one year for each respective Member to the extent necessary to implement domestically the "HS2002 changes"³ pending incorporation of such changes into their Schedules of Concessions, subject to certain conditions;

Considering that the General Council, by its Decisions of 12 December 2002⁴, 11 February 2004⁵, 13 December 2004⁶, 1 December 2005⁷, 15 December 2006⁸, 18 December 2007⁹, 18 December 2008¹⁰, 17 December 2009¹¹, 14 December 2010¹², 30 November 2011¹³, 11 December 2012¹⁴, 26 November 2013¹⁵, 11 December 2014¹⁶, 30 November 2015¹⁷, 7 December 2016¹⁸, 1 December 2017¹⁹, 13 December 2018²⁰, 10 December 2019²¹, 18 December 2020²², and 23 November 2021²³ acting pursuant to the provisions of Articles IV:2 and IX:3 of the WTO Agreement, suspended the application of the provisions of Article II of GATT 1994 for further periods until 31 December 2022 for certain Members, to the extent necessary to implement domestically the

¹ WT/L/469 in respect of 23 Members.

² WT/L/477 in respect of Romania.

³ "HS2002 changes" are defined as the amendments to the Harmonized Commodity Description and Coding System recommended by the Council of the World Customs Organization in its Recommendation adopted on 25 June 1999 which came into force on 1 January 2002. "Harmonized System" refers to Harmonized Commodity Description and Coding System.

⁴ WT/L/511.

⁵ WT/L/562.

⁶ WT/L/598.

⁷ WT/L/638.

⁸ WT/L/674.

⁹ WT/L/712.

¹⁰ WT/L/744.

¹¹ WT/L/786.

¹² WT/L/808.

¹³ WT/L/832.

¹⁴ WT/L/873.

¹⁵ WT/L/900.

¹⁶ WT/L/945.

¹⁷ WT/L/967.

¹⁸ WT/L/996.

¹⁹ WT/L/1026.

²⁰ WT/L/1048.

²¹ WT/L/1082.

²² WT/L/1104.

²³ WT/L/1124.

HS2002 changes pending incorporation of such changes into their Schedules of Concessions, subject to certain conditions;

Noting that the same Members, who are listed in the Annex to the present Decision, have requested an extension of their respective waivers;

Considering that these Members listed in the Annex to the present Decision would need more time to proceed with consultations and/or possible Article XXVIII negotiations;

Considering that other Members not listed in the Annex to this Decision may already have implemented domestically the HS2002 changes, or may intend to do so, pending incorporation of such changes into their Schedules of Concessions, and may also desire to be covered by this waiver;

Considering that the General Council, by its decision of 15 February 2005²⁴, set forth a procedure by which those Members not currently covered by this waiver could be included;

Decides, in view of the exceptional circumstances, to suspend the application of the provisions of Article II of GATT 1994:

- (a) for the Member listed in the Annex for a further year until 31 December 2023; and
- (b) for any other Member not listed in the Annex, that has approved its draft HS02 file and whose draft HS02 file has been released for multilateral review and that notifies the Committee on Market Access of its wish to be included in the waiver decision, for the period from the date of implementation of the HS2002 changes for that Member until 31 December 2023;

to the extent necessary for the purpose of enabling such Member to implement domestically the recommended amendments to the Harmonized System nomenclature pending incorporation of such changes into its Schedules of Concessions, subject to the following conditions:

- i. Members covered by paragraphs (a) and (b) of this Decision shall, where necessary, promptly enter into negotiations and/or consultations with interested Members pursuant to paragraphs 1-3 of Article XXVIII of GATT 1994;
- ii. The negotiations and/or consultations mentioned above shall, to the extent possible, be completed by 31 December 2023; and
- iii. In accordance with the provisions of Article XXVIII:3 of GATT 1994, applied *mutatis mutandis* to the present waiver, pending the entry into force of the results of the negotiations and/or consultations mentioned above, the other Members will be free to suspend concessions initially negotiated with the Member concerned to the extent that they consider that adequate compensation is not offered by the Member concerned.

²⁴ WT/L/605, paragraph 17.

ANNEX

Member which has requested to be covered by the waiver granted under this Decision

1. China
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