EUROPEAN
COMMISSION

Brussels, 6.8.2013
COM(2013) 575 final

2013/0276 (NLE)

Proposal for a

COUNCIL DECISION

establishing the position to be taken by the European Union within the General Council of the World Trade Organization on the request for extending the WTO waiver on additional autonomous trade preferences granted by the European Union to the Republic of Moldova

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). The Council is hereby requested to grant authorisation to the Commission to request an extension of the WTO waiver on autonomous trade preferences granted by the European Union to Moldova and thus allow the European Union to join a consensus on this waiver request in accordance with Article IX of the WTO Agreement.

On 21 January 2008, the Council adopted the Regulation (EC) No 55/2008 *introducing Autonomous Trade Preferences for the Republic of Moldova.* With this Regulation, the EU fulfilled its commitment in the context of the European Neighbourhood Policy Action Plan (ENP Action Plan) for Moldova. The Plan, agreed in 2005, called on the EU to consider granting Moldova improved access to the EU market which would support the development of Moldovan economy through increased export performance, provided that Moldova substantially improves its system of controls and certification of origin of goods.

To permit the EU to provide preferential treatment for imports originating in the Republic of Moldova without being required to extend the same preferential treatment to the like products of any other WTO Member, a waiver was granted by the WTO General Council to the European Union, temporarily suspending certain WTO commitments to the extent necessary to fulfil the above objective.

On 15 May 2008, in accordance with the Decision-Making Procedures under Articles IX and XII of the WTO Agreement, the WTO General Council decided, in document WT/L/722 to waive the provisions of paragraph 1 of Article I and the provisions of Article XIII of the GATT 1994 from 1 March 2008 until 31 December 2013 to the extent necessary to permit the European Union to accord duty-free or preferential treatment to products originating in Moldova, including certain agricultural products for which limited concessions are given as defined in the Annex to this Decision, without being required to extend the same duty-free or preferential treatment to like products of any other WTO Member.

The Council Regulation (EC) No 55/2008 was amended by the Regulation (EU) No 581/2011 of the European Parliament and of the Council extending the application of the autonomous trade preferences granted to the Republic of Moldova until 31 December 2015. Such an extension proved necessary as an advanced preferential trade relationship between the EU and Moldova in the context of the European Partnership has not yet been effectively established. Considering the above, the Commission requests the Council's authorisation to submit to the WTO, on behalf of the European Union, a request to extend the current waiver until 31 December 2015.

2. LEGAL ELEMENTS OF THE PROPOSAL

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, should adopt a Decision establishing the position to be adopted on the Union's behalf. The granting of a waiver on additional autonomous trade preferences granted by the European Union to the Republic of Moldova 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 EU.

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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 Article 207(4), in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) Article IX of the Marrakesh Agreement establishing the World Trade Organisation (the "WTO" Agreement") sets out the procedures for the granting of waivers concerning the Multilateral Trade Agreements in WTO Agreement Annexes 1A or 1B or 1C and their annexes.

(2) Council Regulation (EC) No 55/2008 of 21 January 2008 introducing autonomous trade preferences for the Republic of Moldova[1] was amended by the Regulation (EU) 581/2011 of the European Parliament and of the Council *inter alia* to extend the autonomous trade preferences granted to the Republic of Moldova until 31 December 2015[2]. The Regulation provides free access to the Union market of all products originating in the Republic of Moldova, except certain agricultural products listed in Annex I of the Regulation. The products listed in Annex I of the Regulation benefit from limited concessions in the form of exemption from customs duties within the limit of tariff quotas or reduction of customs duties.

(3) In the absence of a waiver from the European Union's obligations under paragraph 1 of Article I of the General Agreement on Tariffs and Trade 1994 (GATT 1994) and Article XIII GATT 1994, to the extent necessary, the treatment provided by the autonomous trade preferences would need to be extended to all other Members of the World Trade Organization (WTO).

(4) It is in the interest of the European Union to request an extension of the WTO waiver on autonomous trade preferences granted by the European Union to the Republic of Moldova pursuant to paragraph 3 of Article IX of the Marrakesh Agreement establishing the World Trade Organization.

(5) The European Union will submit such a request to the WTO. The WTO General Council is to deliberate on 9 October 2013.

(6) It is appropriate, therefore, to establish the position to be taken by the European Union within the WTO General Council concerning this request,

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1 OJ L 20, 24.1.2008, p. 1.

2 OJ L 165, 24.6.2011, p. 5.

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken by the European Union within the General Council of the World Trade Organization is to ask for an extension of the WTO waiver on autonomous trade preferences granted by the European Union to the Republic of Moldova until 31 December 2015.

This position shall be expressed by the European Commission.

Article 2

This Decision shall enter into force on the day of its adoption.

Done at Brussels,

For the Council
The President