



Council of the
European Union

Brussels, 4 November 2015
(OR. en)

13078/15

Interinstitutional File:
2015/0240 (NLE)

WTO 223
SERVICES 39
COMER 135

LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DECISION establishing the position to be taken on behalf of the European Union within the Council for Trade in Services of the World Trade Organization to notify the preferential treatment the Union intends to grant to services and service suppliers of least-developed country Members, and to seek approval for preferential treatment going beyond market access

COUNCIL DECISION (EU) 2015/...

of...

**establishing the position to be taken on behalf of the European Union
within the Council for Trade in Services of the World Trade Organization
to notify the preferential treatment the Union intends to grant to services
and service suppliers of least-developed country Members,
and to seek approval for preferential treatment going beyond market access**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 91 and 100 and 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) Article IX of the Marrakesh Agreement establishing the World Trade Organization ("WTO") sets out, *inter alia*, the procedures for waiving obligations imposed on WTO Members by that Agreement or by the Multilateral Trade Agreements in Annexes 1A or 1B or 1C to that Agreement and their annexes.
- (2) In 2011, a waiver was requested enabling WTO Members to grant preferential treatment to services and service suppliers of least-developed country Members ("LDC Members") without according the same treatment to like services and service suppliers of all other WTO Members by exceptionally derogating from the obligation under paragraph 1 of Article II of the General Agreement on Trade in Services ("GATS"). The position of the Union in support of that waiver was adopted by Council Decision 2012/8/EU¹.
- (3) On 17 December 2011, the Ministerial Conference of the WTO adopted a decision authorising WTO Members to grant such preferential treatment to services and service suppliers of LDC Members for a period of 15 years. Pursuant to that decision, WTO Members according preferential treatment are to submit a notification to the Council for Trade in Services ("CTS") and preferential treatment with respect to the application of measures other than those described in Article XVI of the GATS is to be approved by the CTS in accordance with its procedures.

¹ Council Decision 2012/8/EU of 14 December 2011 establishing the position to be taken by the European Union within the Ministerial Conference of the World Trade Organisation as regards a request for granting a waiver in order to give preferential treatment to services and service suppliers of least-developed countries (OJ L 4, 7.1.2012, p. 16).

- (4) In its decision of 7 December 2013, the WTO Ministerial Conference restated the requirement of CTS approval with regard to the application of measures other than those described in Article XVI of the GATS.
- (5) The position of the Union to approve preferential treatment notified by WTO Members, other than the Union and its Member States, as regards services and service suppliers of LDC Members, on the application of measures other than those described in Article XVI of the GATS was adopted by Council Decision (EU) 2015/1570¹.
- (6) In accordance with the decisions of 17 December 2011 and 7 December 2013 of the Ministerial Conference of the WTO, on 30 July 2015 the Union signalled to the CTS its intention to notify, subject to its required internal procedures, the preferential treatment which the Union intends to make available to services and service suppliers of LDC Members.

¹ Council Decision (EU) 2015/1570 of 18 September 2015 establishing the position to be taken on behalf of the European Union within the Council for Trade in Services of the World Trade Organization on the approval of preferential treatment notified by WTO Members, other than the Union and its Member States, as regards services and service suppliers of least-developed country Members, on the application of measures other than those described in Article XVI of the GATS (OJ L 245, 22.9.2015, p. 6).

- (7) It is in the interest of the development objectives of the Union and conducive to the conclusion of a part of the negotiations on services relating to the Doha Development Agenda for the Union to seek approval for the preferential treatment beyond market access that it intends to grant to services and service suppliers of LDC Members, with special consideration for preferences granted with regard to the temporary stay of natural persons for the provision of services in order to create incentives for fulfilling readmission obligations under international law, implementing existing readmission agreements and concluding new ones, provided LDC Members cooperate with the Union on migration management.
- (8) It is appropriate to establish the position to be taken on the Union's behalf within the CTS to notify the preferential treatment the Union intends to grant to services and service suppliers of LDC Members, and to seek approval for preferential treatment going beyond market access,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf within the CTS shall be to notify to the CTS the preferential treatment that the Union intends to grant to services and service suppliers of LDC Members as set out in WTO document [...], in accordance with the decisions of 17 December 2011 and 7 December 2013 of the WTO Ministerial Conference, and to seek approval within the CTS with regard to the preferential treatment going beyond market access.

Article 2

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

Done at...

For the Council
The President
