



Council of the  
European Union

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WTO 215  
SERVICES 36  
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#### **LEGISLATIVE ACTS AND OTHER INSTRUMENTS**

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Subject: COUNCIL DECISION establishing the position to be taken on behalf of the European Union within the Ministerial Conference of the World Trade Organization as regards an extension of the moratorium on customs duties on electronic transmissions and the moratorium on non-violation and situation complaints

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**COUNCIL DECISION (EU) 2015/...**

**of ...**

**establishing the position  
to be taken on behalf of the European Union  
within the Ministerial Conference of the World Trade Organization  
as regards an extension of  
the moratorium on customs duties on electronic transmissions  
and the moratorium on non-violation and situation complaints**

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) At the 1998 Ministerial Conference of the World Trade Organization ('WTO'), a moratorium on customs duties on electronic transmissions ('e-commerce moratorium') to the effect that WTO members are to continue their current practice of not imposing customs duties on electronic transmissions was adopted in the form of a declaration. Currently the moratorium takes the form of a WTO Ministerial Conference decision, which has been renewed every two years since 1998.
- (2) A moratorium on non-violation and situation complaints has continuously been extended at the WTO Ministerial Conference after the expiration of the five year period for taking the decision on the scope and modalities of such complaints pursuant to Article 64(3) of the Agreement on Trade-Related Aspects of Intellectual Property Rights ('TRIPS Agreement').

- (3) At the WTO Ministerial Conference in December 2013, those moratoria were last extended until 2015. Both moratoria should be further extended at any forthcoming WTO Ministerial Conference or should be made permanent where a consensus to that effect arises in ongoing or future discussions.
- (4) It is in the interest of the Union to give its support to the extension of the e-commerce moratorium on an indefinite basis. It is also in the Union's interest to extend the moratorium on non-violation and situation complaints until the Ministerial Conference approves the recommendations of the Council for TRIPS with regard to the scope and modalities of non-violation and situation complaints pursuant to Article 64(3) of the TRIPS Agreement,

HAS ADOPTED THIS DECISION:

*Article 1*

The position to be taken on behalf of the European Union within the Ministerial Conference of the World Trade Organization is to support an extension of the moratorium on customs duties on electronic transmissions on an indefinite basis and to support an extension of the moratorium on complaints of the types provided for under subparagraphs 1(b) and 1(c) of Article XXIII of the General Agreement on Tariffs and Trade 1994 ('non-violation and situation complaints'), until the Ministerial Conference takes a decision on the scope and modalities of the non-violation and situation complaints.

*Article 2*

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

Done at ...,

*For the Council*

*The President*

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