WORLD TRADE ORGANIZATION

G/C/W/684

23 September 2013

(13-5071)

Council for Trade in Goods

INTRODUCTION OF HARMONIZED SYSTEM 2012 CHANGES INTO WTO SCHEDULES OF TARIFF CONCESSIONS

DRAFT WAIVER DECISION

The General Council,

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

Recognizing that the adoption of the Harmonized Commodity Description and Coding System (hereinafter referred to as the "Harmonized System") has, in addition to facilitating international trade and the analysis of trade statistics, ensured greater uniformity in countries' customs classification, thus enabling them to monitor and protect the value of tariff concessions;

Noting that, in accordance with Article 16 of the Harmonized System Convention, the Council of the World Customs Organization adopted a Recommendation on 26 June 2009 concerning amendments to the Harmonized System which came into force on 1 January 2012 (hereinafter referred to as "HS2012 changes");

Considering that the General Council by its decisions of 30 November 2011[1] and 11 December 2012[2] 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, from the date of implementation of HS2012 changes for those Members until 31 December 2013, to the extent necessary to implement domestically the HS2012 changes pending incorporation of such changes into their Schedules of Concessions, subject to certain conditions;

Noting the procedure adopted by the General Council to introduce HS2012 changes, to Schedules of Concessions[3], which in certain cases may require negotiations and/or consultations under Article XXVIII of GATT 1994;

Considering that the Members listed in the Annex[4] to this decision concerned would need more time to proceed with consultations or possible Article XXVIII negotiations;

Considering that other Members not listed in the Annex to this Decision may already have implemented domestically the HS2012 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;

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

a) for those Members listed in the Annex, for a further year until 31 December 2014; and

[1] WT/L/834.
[2] WT/L/875 and Add.1.
[3] WT/L/831.
[4] Column one of the Annex lists the Members and column two indicates the Member's date of implementation of HS2012 changes.

b) for any other Member not listed in the Annex that notifies the Committee on Market Access of its wish to be included in the waiver decision from the date of implementation of the HS2012 changes for that Member until 31 December 2014;

to the extent necessary for the purpose of enabling such Members to implement domestically the recommended amendments to the Harmonized System nomenclature pending incorporation of such changes into their 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 2014; 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.

ANNEX

MEMBERS WHICH HAVE REQUESTED TO BE COVERED BY THE WAIVER
UNDER THE ABOVE DECISION

Members	**Date of Implementation of HS2012 changes**
Australia	1 January 2012
Brazil	1 January 2012
Canada	1 January 2012
China	1 January 2012
Costa Rica	1 January 2012
Dominican Republic	1 January 2012
El Salvador	1 January 2012
European Union	1 January 2012
Guatemala	1 January 2012
Honduras	1 January 2012
Hong Kong, China	1 January 2012
India	1 January 2012
Israel	1 January 2012
Korea, Republic of	1 January 2012
Macao, China	1 January 2012
Malaysia	1 January 2012
Mexico	1 January 2012
New Zealand	1 January 2012
Norway	1 January 2012
Pakistan	1 January 2012
Philippines	18 September 2012
Russian Federation[5]	3 January 2012
Singapore	1 January 2012
Switzerland	1 January 2012
Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu	1 January 2012
Thailand	1 January 2012
United States	1 January 2012

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[5] As the Russian Federation became a WTO Member on 22 August 2012 and assumed WTO rights and obligations on that date, the suspension of the application of the provisions of Article II for the Russian Federation will begin as of that date and not from the date of implementation of the HS2012 changes for the Russian Federation.