EUROPEAN
COMMISSION

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2026/0367 (NLE)

Proposal for a

COUNCIL DECISION

on the position to be taken on behalf of the European Union within the General Council of the World Trade Organization on the United States' request for an extension of the WTO waiver for the preferential treatment granted to the Former Trust Territory of the Pacific Islands

EXPLANATORY MEMORANDUM

1. SUBJECT MATTER OF THE PROPOSAL

This proposal concerns the decision establishing the position to be taken on the Union's behalf within the General Council of the World Trade Organization in connection with the envisaged adoption of a decision concerning the United States' request for the extension of the WTO waiver related to the system of preferential treatment granted to the Former Trust Territory of the Pacific Islands.

2. CONTEXT OF THE PROPOSAL

2.1. The Marrakesh Agreement establishing the World Trade Organization

The Marrakesh Agreement establishing the World Trade Organization ('WTO Agreement') entered into force on 1 January 1995.

The European Union is a party to the Agreement.

2.2. Ministerial Conference and General Council of the WTO

Pursuant to Article IV(1) of the WTO Agreement, the Ministerial Conference has the authority to take decisions on all matters under any of the Multilateral Trade Agreements.

Pursuant to Article IV(2) of the WTO Agreement, in the intervals between meetings of the Ministerial Conference, its functions are conducted by the General Council.

Pursuant to Article IX(1) of the WTO Agreement, the WTO usually takes decisions by consensus.

2.3. The envisaged act of the General Council of the WTO

On 11-14 December 2026, during its meeting, the General Council is to adopt a decision regarding the extension of the United States' waiver on the preferential treatment for eligible imports into the United States from the Marshall, Caroline and Mariana Islands (other than Guam) ('the envisaged act').

The existing waiver[1] expires on 31 December 2026. Therefore, the purpose of the envisaged act is to extend the waiver until 31 December 2036.

The envisaged act will become binding on the Members of the WTO in accordance with Article IX(3), as well as Article II(2) of the WTO Agreement.

3. POSITION TO BE TAKEN ON THE UNION'S BEHALF

On 7 December 2016[2], the General Council of the WTO adopted the decision of a WTO waiver to permit the United States Government to accord preferential treatment to eligible products of the Republic of the Marshall Islands, the Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau imported into the customs territory of the United States. This waiver was granted until 31 December 2026.

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1 WT/L/1000, General Council, Decision of 7 December 2016, UNITED STATES – FORMER TRUST TERRITORY OF THE PACIFIC ISLANDS.

2 Idem.

On 30 October 2026[3], the United States submitted a request to the Council for Trade in Goods seeking an extension of its waiver from paragraph 1 of Article I of GATT 1994 in order to continue to accord historical preferences to the former Trust Territory of the Pacific Islands.

The United States is requesting the extension of the waiver until 31 December 2036, in order to continue granting preferential treatment to eligible products of the Republic of the Marshall Islands, the Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau imported into the customs territory of the United States.

The reason for the initial waiver and the extensions thereof is ensuring that the economies of the islands were not destabilized as a result of the change in administering authority from Japan to the United States. Over the longer term, the primary purpose of the system has been to promote the expansion of trade and the economic development of the beneficiaries in a manner consistent with the objectives of the GATT and with the trade, financial and development needs of the beneficiary countries. The beneficiaries also maintain long-standing historical and economic ties with the United States.

The granting of the waiver would not affect negatively either the economy of the Union or the trade relations with the beneficiaries of this waiver. Moreover, the Union is supportive of actions for stability. Therefore, the position to be taken by the Union within the General Council should be to support the waiver request.

4. LEGAL BASIS

4.1. Procedural legal basis

The General Council of the WTO is a body set up by an agreement, namely the WTO Agreement.

The act which the General Council would be called upon to adopt has legal effects. The envisaged act would be binding under international law in accordance with Article II(2) and Article IX(3) of the WTO Agreement.

The envisaged act does not supplement or amend the institutional framework of the Agreement.

Therefore, the procedural legal basis for the proposed decision is Article 218(9) TFEU.

4.2. Substantive legal basis

The main objective and content of the envisaged act relate to the common commercial policy.

Therefore, the substantive legal basis of the proposed decision is the first subparagraph of Article 207(4).

4.3. Conclusion

The legal basis of the proposed decision should be the first subparagraph of Article 207(4), in conjunction with Article 218(9) TFEU.

5. PUBLICATION OF THE ENVISAGED ACT

As the act of the General Council of the WTO will implement the WTO Agreement provisions with respect to waivers, it is appropriate to publish it in the Official Journal of the European Union after its adoption.

[3] G/C/W/908, Council for Trade in Goods, REQUEST FOR EXTENSION OF A WAIVER, UNITED STATES - FORMER TRUST TERRITORY OF THE PACIFIC ISLANDS.

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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 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) The Agreement establishing the World Trade Organization ('WTO Agreement') was concluded by the Union by Council Decision 94/800/EC[4] and entered into force on 1 January 1995.

(2) Pursuant to Article II(2) of the WTO Agreement, 'the agreements and associated legal instruments included in Annexes 1, 2 and 3 ('Multilateral Trade Agreements'), including the General Agreement on Tariffs and Trade 1994 ('GATT 1994'), are integral parts of this Agreement, binding on all Members.'

(3) Pursuant to Article IV(1) of the WTO Agreement, the Ministerial Conference may adopt decisions on all matters under any of the Multilateral Trade Agreements. The Ministerial Conference is composed of representatives of all the Members and it meets at least once every two years. Pursuant to Article IV(2) of the WTO Agreement, during the intervals between meetings of the Ministerial Conference, the General Council is to conduct its functions. Pursuant to Article IX(1) of that Agreement, the WTO usually adopts decisions by consensus.

(4) In accordance with Article IX(3) of the WTO Agreement, in exceptional circumstances, the Ministerial Conference may decide to waive an obligation imposed on a Member by the WTO Agreement or any of the Multilateral Trade Agreements.

(5) The General Council, during its meeting on 11 and 14 December 2026, is scheduled to adopt a decision regarding the extension of the United States' waiver on the preferential treatment for eligible imports into the United States from the Marshall, Caroline and Mariana Islands (other than Guam) ('the envisaged act').

(6) On 30 October 2026[5], the United States submitted a request to the Council for Trade in Goods seeking an extension of its waiver from paragraph 1 of Article I of GATT 1994

[4] Council Decision 94/800/EC of 22 December 1994 concerning the conclusion on behalf of the European Community, as regards matters within its competence, of the agreements reached in the Uruguay Round multilateral negotiations (1986-1994) (OJ L 336, 23.12.1994, p. 1).

in order to continue to accord historical preferences to the former Trust Territory of the Pacific Islands.

(7) The reason for the initial waiver and the extensions thereof is ensuring that the economies of the islands are not destabilized following the change in administering authority from Japan to the United States. Over the longer term, the primary purpose of the system has been to promote the expansion of trade and the economic development of the beneficiaries in a manner consistent with the objectives of the GATT and with the trade, financial and development needs of the beneficiary countries. The beneficiaries also maintain long-standing historical and economic ties with the United States.

(8) The envisaged act will not affect negatively either the economy of the Union or the Union's trade relations with the beneficiaries of this waiver.

(9) It is therefore appropriate to establish the position to be taken within the General Council on the request of the United States for a WTO waiver to extend the preferential treatment granted to the Former Trust Territory of the Pacific Islands,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf within the General Council of the WTO shall be support the United States' request to waive obligations under paragraph 1 of Article I of the General Agreement on Tariffs and Trade 1994 until 31 December 2036, to the extent necessary to permit the United States Government to accord preferential treatment to eligible products of the Republic of the Marshall Islands, the Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau imported into the customs territory of the United States, in accordance with the terms of the United States' waiver request.

Article 2

This Decision is addressed to the Commission.

Done at Brussels,

For the Council
The President

[5] G/C/W/908, Council for Trade in Goods, REQUEST FOR EXTENSION OF A WAIVER, UNITED STATES - FORMER TRUST TERRITORY OF THE PACIFIC ISLANDS.