

WORLD TRADE ORGANIZATION

G/L/885
16 April 2009

(09-1829)

Original: Spanish

INTRODUCTION OF HARMONIZED SYSTEM 1996 CHANGES INTO WTO SCHEDULES OF TARIFF CONCESSIONS

Panama - Schedule CXLI

Request for a Waiver

The following communication, dated 6 March 2009, is being circulated at the request of the delegation of Panama.

The Government of Panama hereby requests a waiver of its obligations under Article II of the General Agreement on Tariffs and Trade 1994 (GATT 1994) and General Council Decision WT/L/734 of 6 August 2008 in order to implement the Harmonized System 1996 (HS96) nomenclature and adopt the changes that this entails for Panama's Schedule CXLI.

Attached to this request are the following documents for consideration by the Committee on Market Access:

1. Waiver Decision of 31 July 2008 in which it is agreed to suspend the application by Panama of the provisions of Article II of the GATT 1994 for the purpose of introducing the HS96 changes into Panama's Schedule of Concessions.
2. Factual information¹ concerning the request for a waiver for the purpose of introducing the HS96 changes into Panama's Schedule of Concessions.

¹ Revised factual information was submitted on 15 April 2009.

WORLD TRADE ORGANIZATION

WT/L/734
6 August 2008
(08-3733)

INTRODUCTION OF HARMONIZED SYSTEM 1996 CHANGES INTO WTO SCHEDULES OF TARIFF CONCESSIONS

Panama – Schedule CXLI

*Decision of 31 July 2008**

The General Council,

Considering that the Members of the WTO, by their Decisions of 13 December 1995, 18 July 1996, 24 April 1997, 22 October 1997, 24 April 1998, 14 October 1998, 15 June 1999, 4 November 1999, 3 May 2000, 8 December 2000 and 8 May 2001¹, acting pursuant to the provisions of paragraph 3 of Article IX of the WTO Agreement, suspended the application of the provisions of Article II of the GATT 1994 until 30 April 2002, for the purpose of enabling the Members listed in the Annex, including Panama, to implement the recommended amendments to the Harmonized System nomenclature;

Considering that by Decision WT/L/400 of 8 May 2001 the Members of the WTO also decided not to grant, on a collective basis, any further extensions of waivers for the application of the provisions of Article II of the GATT 1994 to implement the recommended amendments to the Harmonized System nomenclature, but that this would not preclude Members from requesting waivers on an individual basis;

Considering that the Members of the WTO, by Decisions of 13 May 2002, 24 July 2003, 17 May 2004, 27 July 2005, 28 July 2006 and 27 July 2007², acting pursuant to the provisions of paragraph 3 of Article IX of the WTO Agreement, suspended the application of the provisions of Article II of the GATT 1994 until 30 April 2008 to allow Panama to implement the recommended amendments to the Harmonized System nomenclature;

Noting that Panama has requested a waiver extension for the reasons set out in its request³;

Acting pursuant to the provisions of paragraph 3 of Article IX of the WTO Agreement;

* Secretariat note: Adopted in accordance with the Decision-Making Procedures under Articles IX and XII of the WTO Agreement agreed by the General Council in November 1995 (WT/L/93).

¹ WT/L/124 + Corr.1, WT/L/173, WT/L/216, WT/L/243, WT/L/268, WT/L/281, WT/L/303, WT/L/338 + Corr.1, WT/L/351, WT/L/379 and WT/L/400.

² WT/L/458, WT/L/524, WT/L/570, WT/L/620, WT/L/652 and WT/L/693.

³ G/L/849.

Decides, in view of the exceptional circumstances, to suspend the application of the provisions of Article II of the GATT 1994 until 30 April 2009, for the purpose of enabling Panama to implement the recommended amendments to the Harmonized System 1996 nomenclature, subject to the following conditions:

1. Panama shall, where necessary, promptly enter into negotiations and consultations with interested Members pursuant to paragraphs 1-3 of Article XXVIII of the GATT 1994;
2. the negotiations and consultations mentioned above shall be completed not later than 30 April 2009;
3. pending the entry into force of the results of the negotiations or consultations mentioned, the other Members will be free to suspend concessions initially negotiated with Panama to the extent that they consider that adequate compensation has not been offered for the introduction of the recommended amendments to the Harmonized System 1996 into Panama's Schedule of Concessions.

**REQUEST FOR A WAIVER FOR THE PURPOSE OF INTRODUCING
HS96 CHANGES INTO PANAMA'S SCHEDULE OF CONCESSIONS**

Factual Information

1. Date of original waiver

24 April 1998

2. Date of submission of documents relevant to HS96 implementation

21 February 2002. Furthermore, on 6 February 2004, Panama sent the delegation of the United States of America copies of its foreign trade statistics for 2002, as requested by this delegation.

3. Number of extensions and dates granted

Panama has been granted 14 extensions, the dates of which are as follows:

WT/L/268 - 24 April 1998
WT/L/281 - 14 October 1998
WT/L/303 - 15 June 1999
WT/L/338 - 4 November 1999
WT/L/351 - 3 May 2000
WT/L/379 - 8 December 2000
WT/L/400 - 8 May 2001
WT/L/458 - 13 May 2002
WT/L/524 - 24 July 2003
WT/L/570 - 17 May 2004
WT/L/620 - 27 July 2005
WT/L/652 - 28 July 2006
WT/L/693 - 27 July 2007
WT/L/734 - 31 July 2008

4. Number of countries with which Article XXVIII negotiations have been entered into (initiated, concluded, and ongoing)

- (a) Canada - Further to clarification of and corrections to the documents submitted by Panama to the Secretariat, on 9 September 2002 Canada gave formal notice that it had withdrawn its reservation.
- (b) Australia - Further to clarification of and corrections to the documents submitted by Panama to the Secretariat, on 23 August 2003 Australia gave formal notice that it had withdrawn its reservation.
- (c) European Communities and United States - These two delegations are verifying document G/SECRET/HS96/48/Rev.2 of 23 March 2009 provided by Panama, which supersedes the preceding versions circulated as G/SECRET/HS96/48 of 4 April 2001, G/SECRET/HS96/48/Add.1 and Rev.1 of 18 March 2002 and 4 June 2002 respectively, and G/SECRET/HS96/48/Rev.1/Corr.2 of 14 August 2003.

5. Outlook for concluding the process

On 20 November 2006, Panama submitted notes to the US and EU delegations requesting their comments on, or confirmation of their acceptance of, its documents in order to conclude this process by the deadline established by the Secretariat. However, and as reported to the Secretariat, these delegations have requested that the documentation provided by Panama be reviewed by the Secretariat prior to the submission of their comments.

Work has been carried out in close cooperation with the Secretariat on the various clarifications requested from Panama with regard to a number of points in the document submitted. These have already been sent to the Secretariat, and the process is now complete with the circulation of document G/SECRET/HS96/48/Rev.2. We are waiting for the end of the 90-day review period to formally finalize the implementation of the HS96 nomenclature changes.

In the light of the above considerations and taking into account the fact that Panama will have to conclude these consultations or possibly conduct negotiations under Article XXVIII, particularly in view of the general reservations made by other Members, we expect that a period of 12 months as from the date of application of the waiver will be needed to complete the implementation of these amendments.
