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Council for Trade in Goods

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ARTICLE XXVIII:5 NEGOTIATIONS**WITHDRAWAL OF THE UNITED KINGDOM FROM THE EUROPEAN UNION***Communication from the European Union*

The following communication, dated 17 March 2021, is being circulated at the request of the Delegation of the European Union.

In connection with the ongoing negotiations under Article XXVIII of GATT 1994 on the apportionment of the European Union's tariff-rate quota concessions following the withdrawal of the United Kingdom from the European Union¹, the European Union refers to WTO document G/SECRET/42/Add.3, of 22 December 2020. That communication highlighted that the European Union strives for the rapid and successful conclusion of the ongoing negotiations and consultations and that these should not be impeded by the six-month timelines of Article XXVIII:3(a) and (b), in the event that, for substantive or procedural reasons including domestic procedural requirements for the formal conclusion of agreements under Article XXVIII of GATT 1994, it were to take more time than will be available until 1 July 2021 for concluding all these negotiations through agreements. The above referred communication also foreshadowed that, should it become necessary, the European Union would take action in good time, in the first semester of 2021, in order to effectively extend the six-month timelines of Article XXVIII:3. Thirdly, the communication recalled that such extension is in line with established practice that has served the European Union's and other Members' interests well on numerous occasions within the framework of Article XXVIII negotiations, which sometimes took place based also on Article XXIV:6 of GATT 1994, and where the withdrawal of concessions took place before the conclusion of negotiations and consultations.²

Accordingly, the European Union believes that it is desirable to extend the timelines of Article XXVIII:3 of GATT 1994 by six months, i.e. until 1 January 2022, without prejudice to the question of whether there are any rights to withdraw concessions pursuant to Article XXVIII:3(a) and (b). The European Union therefore wishes to inform the Membership that the European Union will not assert that the WTO Members who submitted a valid claim in this process are precluded from withdrawing substantially equivalent concessions under Article XXVIII:3 of GATT 1994 because this withdrawal occurs later than six months after the EU's modification of its concessions, which occurred on 1 January 2021, provided that the WTO Member in question withdraws concessions no later than 12 months after the EU's modification of concessions. On this basis, the European Union and other Members currently engaged in these Article XXVIII procedures can continue to concentrate on bringing these negotiations and consultations to a successful conclusion in the coming months.

¹ Cf. WTO document G/SECRET/42, dated 19 July 2018, in which the European Union notified its intention to modify its current concessions on all tariff-rate quotas as they are reflected in Schedule CLXXV of the European Union, in its Part I Section I-B (agricultural products) and in its Part II Section II-B (other products), and document G/SECRET/42/Add.2 of 19 October 2018.

² See, for instance, the communications from the EU contained in WTO documents G/L/1051 and addenda, G/L/821 and addenda, G/L/695 and addenda, as well as minutes of the Council for Trade in Goods where these communications were on the agenda (e.g. minutes of the meetings of the Council for Trade in Goods, 23 and 26 March 2018 (G/C/M/131), 27 November 2013 (G/C/M/117) and 25 March 2013 (G/C/M/113)).

The European Union proposes that, in line with the established practice pointed out above², the Council for Trade in Goods takes note of this communication and that it agrees on the extension of the deadline as indicated in this communication, until 1 January 2022.
