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COUNCIL DECISION

of 2 December 2013

establishing the position to be taken by 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

(2013/728/EU)

(OJ L 332, 11.12.2013, p. 17)

Corrected by:

► **C1** Corrigendum, OJ L 290, 6.11.2015, p. 18 (2013/728/EU)



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(2013/728/EU)

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) 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 at the 1998 Ministerial conference of the World Trade Organization (WTO).
- (2) Currently the moratorium takes the form of a WTO Ministerial Conference decision, which has been renewed every two years since 1998. The moratorium was last extended at the WTO Ministerial Conference in December 2011 till 2013.
- (3) No consensus on banning or allowing non-violation or situation complaints under the TRIPS Agreement has been possible up to now. The Declaration adopted at the WTO Ministerial Conference in Hong Kong in 2005 states: 'We take note of the work done by the Council for Trade-Related Aspects of Intellectual Property Rights pursuant to paragraph 11.1 of the Doha Decision on Implementation-Related Issues and Concerns and paragraph 1.h of the Decision adopted by the General Council on 1 August 2004, and direct it to continue its examination of the scope and modalities for complaints of the types provided for under subparagraphs 1(b) and 1(c) of Article XXIII of GATT 1994 and make recommendations to our next Session. It is agreed that, in the meantime, Members will not initiate such complaints under the TRIPS Agreement.'
- (4) The procedure for the successive extensions of the moratorium on non-violation and situation complaints has so far been the adoption of a decision by the WTO Ministerial Conference following a recommendation from the Council for Trade Related Aspects of Intellectual Property Rights.
- (5) It is in the interest of the Union to give its support to the extension of the e-commerce moratorium and the moratorium on non-violation and situation complaints.

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- (6) It is appropriate, therefore, to establish the position to be taken by the Union within the Ministerial conference of the WTO concerning the extension of the e-commerce moratorium and the moratorium on non-violation and situation complaints,

HAS ADOPTED THIS DECISION:

Article 1

The position of the Union within the Ministerial Conference of the World Trade Organisation shall be to support the extension until the next Ministerial conference of the WTO of the moratorium on customs duties on electronic transmissions ('e-commerce moratorium') and of the moratorium on non-violation and situation complaints, as set out in the following draft WTO decisions:

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- TRIPS non-violation and situation complaints WT/MIN(13)/W/2,
- e-commerce WT/MIN(13)/W/3.

▼B*Article 2*

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