



13 March 2013

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Council for Trade in Services

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NOTIFICATION PURSUANT TO ARTICLE III:3 OF THE GENERAL AGREEMENT ON TRADE IN SERVICES

The following notification from the delegation of the European Union, dated 12 March 2013, is being circulated to the Members of the Council for Trade in Services.

The following notification is made pursuant to GATS Article III:3 and relates to measures adopted by the European Union in 2012. Given that there is no common understanding among WTO Members on when a measure "significantly affects trade in services" within the meaning of GATS Article III:3 and that the European Union cannot make a positive determination on this issue, it is therefore notifying measures that may be relevant to trade in services without prejudice to the interpretation of the phrase "significantly affect trade in services" in Article III:3.

1 MEMBER NOTIFYING

EU

2 NOTIFICATION UNDER ARTICLE

Article III, paragraph 3, of the General Agreement on Trade in Services

3 DATE OF ENTRY INTO FORCE

15/09/2012

4 AGENCY RESPONSIBLE FOR ENFORCEMENT OF THE MEASURE

Member States of the EU

5 DESCRIPTION OF THE MEASURE

- a. Directive 2012/23/EU of the European Parliament and of the Council of 12/09/2012 amending Directive 2009/138/EC (Solvency II) as regards the date for its transposition and the date of its application, and the date of repeal of certain Directives
- b. Brief summary of the content with a focus on potential effect on services trade

The Directive postpones the entry into force of Directive 2009/138/EC of the European Parliament and of the Council of 25/11/2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II, published in the Official Journal of the EU, L 335, 17.12.2009, p. 1.). Solvency II provides for a modern, risk-based system for the regulation and supervision of insurance and reinsurance undertakings of the Union. That system is essential in order to ensure a safe and solid insurance sector that can provide sustainable insurance products and support the real economy by encouraging long-term investments and additional stability. It sets 31 October 2012 as the date for transposition and 1 November 2012 as the date of application.

On 19/01/2011, the Commission adopted a proposal (the 'Omnibus II proposal') to amend, inter alia, Directive 2009/138/EC in order to take into account the new supervisory architecture for

insurance, namely the setting-up of the European Supervisory Authority (European Insurance and Occupational Pensions Authority). The Omnibus II proposal also included provisions to postpone the date for transposition and the date of application of Directive 2009/138/EC, and the date of repeal of Solvency I. Given the complexity of the Omnibus II proposal, there was a risk that it would not have entered into force before the date for transposition and the date of application of Solvency II. Leaving those dates unchanged would have resulted in Solvency II having been implemented before the entry into force of the transitional rules and relevant adaptations provided for by the Omnibus II proposal. In order to avoid overly burdensome legislative obligations for Member States of the EU under Solvency II and later under the new architecture envisaged by the Omnibus II proposal, it was therefore appropriate to postpone the date for transposition of Directive 2009/138/EC. In order to allow for supervisors and insurance and reinsurance undertakings to prepare for the application of the new supervisory architecture, it was appropriate to provide for a later date of application of Solvency II. For reasons of legal certainty, the date of repeal of Solvency I was postponed accordingly.

6 MEMBERS SPECIFICALLY AFFECTED, IF ANY

None

7 TEXT AVAILABLE FROM

- Enquiry point
- WTO Secretariat
- Other sources (address, fax and telephone of other body)

Official Journal of the EU L 249, 14/09/2012; <http://eur-lex.europa.eu>
