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Council for Trade in Goods

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## REQUEST FOR A WAIVER RELATING TO THE TRANSITIONAL PERIOD FOR THE ELIMINATION OF THE EXPORT SUBSIDY PROGRAM OF JORDAN

### *Revision*

The following submission, dated 5 November 2015, is being circulated at the request of the Delegation of Jordan.

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Pursuant to Article IX of the Marrakesh Agreement Establishing the World Trade Organization, Jordan hereby submits a revised request for a waiver to extend after the year 2015 the transitional period for the elimination of the Jordan Export Subsidy Program (Partial or Total Exemption from Income Tax for Profits on Certain Export) which in accordance with Article 27.4 of the Agreement on Subsidies and Countervailing Measures (SCM Agreement) and following the procedures for continuation of extension of this period, as adopted by the General Council Decision (WT/L/691 on 27 July 2007), is subject to an extension of the transition period pursuant to Article 27.4 of the SCM Agreement program until the end of 2015.

Jordan presents this revised request in light of the comments raised by Members at the meetings of the Council for Trade in Goods (CTG) in November 2014, March and June 2015 and extensive consultations with Members.

### **1 PURPOSE AND CIRCUMSTANCES OF THE REQUEST**

#### **Background:**

In compliance with the "procedures for continuation of extensions pursuant to Article 27.4 of the SCM Agreement of the transition period under Article 27.2(b) of the SCM Agreement for certain developing countries" (document WT/L/691), and with reference to document G/SCM/39 Jordan was granted an extension for the elimination of export subsidy program which take the form of partial or total exemption from income tax of profits generated from certain exports.

Jordan was granted an extension for its export subsidy program not later than 31 December 2015, with no requests for extension beyond those foreseen pursuant to the procedures (WT/L/691 on 27 July 2007).

The extensions were granted in recognition that Jordan is a developing country Member, whose share of world merchandise export trade was not greater than 0.10%, and the total Gross National Income for the year 2000 – as published by the World Bank – was at or below US\$20 billion, and was eligible to request an extension pursuant to Article 27.4 of the SCM Agreement.

The main rationale for introducing this export subsidy program in Jordan was to offset the negative effects of the 1991 Gulf war and the loss of Jordan's main trading partner – Iraq, and to stimulate export performance and to promote exports to non-traditional markets. The program contributed to a temporary recovery of Jordan's economic performance.

## Beneficiaries and Trade Effects

Currently, domestic industrial companies exporting local products are entitled to benefit from the program.

In the year 2014, the value of exports entitled for exemption was US\$4,855,876,052 while the approximate calculated value of exemption amounted for US\$87,405,769. The income tax relief in the preceding years amounted to US\$98,238,849 in 2013, US\$86,206,563 in 2012.

These figures indicate that the program supported beneficiaries' efforts to explore more export opportunities. However, the total amount of exemption implies that the income tax relief still has a minimal effect on Jordan's international trade, realizing that Jordan is a developing country with a share not more than 0.1% of world's export trade. Moreover, this exemption amount is negligible compared to Jordan's Net Public Debt (internal and external) which reached to US\$29 billion in 2014 (80.8% of GDP).

## 2 JUSTIFICATION

Jordan's original waiver request was to extend the transition period for the export subsidy program for a further seven years after 2015, i.e., through 31 December 2022.

Taking into account the comments raised by Members at the meetings of the Council for Trade in Goods in November 2014 and March 2015 at which the original waiver request was considered, and after extensive bilateral consultations with Members, Jordan submitted a revised request to reduce the amount of time for which it is seeking a waiver, to only 4 years after 2015, i.e. through 31 December 2019.

Further to an extensive consultation with the interested Members in Geneva, Amman and in the capitals, and after an intensive internal consultation and evaluation of the critical and special circumstances of the Jordanian economy due to the geopolitical situation in the region, Jordan has decided to reduce the amount of time needed to only three years after 2015, i.e., through December 2018 in accordance with the attached time-frame (Table 1) during which there will be an intensive work to replace the current export subsidy program with a new one in compliance with the WTO rules with the technical assistance provided by the interested Members and the WTO Secretariat.

The purpose of the requested waiver is to allow Jordan to continue to provide benefits under the program to the existing beneficiaries while providing Jordan with the necessary time to design and implement an entirely new, WTO-consistent subsidy program to benefit small- and medium-sized enterprises.

When Jordan initially was granted the extension for its export subsidy program pursuant to the 2007 procedures adopted by the General Council, it fully intended and expected to bring the program into compliance with its WTO obligations by the date foreseen in those procedures, as demonstrated by the program's expiry date of 31 December 2015.

Major intervening events since then, however, in Jordan and the region, have impeded the program's beneficiaries (all of which are small and medium enterprises) from achieving a level of competitiveness and market diversification that would allow them to survive without government support. It thus became clear to the government that it would need to continue to provide support to its SMEs post-2015, but the major challenges and crises facing the country have so dominated the government's agenda, that Jordan requires more time to design and implement a WTO-compliant replacement program.

Jordan's only feasible option at this point therefore is to extend the existing legislation in its current form for a modest period while it establishes the new program.

Jordan commits, that throughout the extension period it will report to the General Council on its activities and progress in implementing the new program.

Jordan's initial request, for an additional seven years after 2015, was to help the country in reducing the implications of regional and international circumstances, to stimulate private sector

investments, and to maximize the capabilities of the industrial sector to adjust with current and future challenges. In light of the reform measures taken by the government and infrastructure projects including alternative gas supplies, it is foreseen that the situation may ease optimistically only from 2018 onwards. For these same reasons, it is critical that Jordan find a sustainable WTO-compliant incentive program to replace the export subsidy program.

The industrial sector is a main pillar of the Jordanian economy contributing to almost a quarter of the GDP, in addition to its connection with many other economic sectors such as services and agriculture, absorbing a significant part of the labour force, providing them also opportunities for education and training. Industrial exports constitute around 90% of the total goods exports of the country.

Jordan has to deal with major economic, financial, and political challenges as well as development needs that can be summarized as follows:

1. The unprecedented regional volatility, continuing negative consequences of the global financial crisis and the accompanying crisis in the Eurozone greatly affected the Jordanian economy. The GDP has recorded a growth rate of 3.1% in 2014 compared to a growth rate of 2.8% in 2013; nevertheless, this registered growth rate is still modest compared to its levels during the period (2000-2008), which amounted to an average of about 6.6% per annum.
2. In a bid to finance its increasing expenses and budget deficit, the government adopted austerity measures in terms of cutting back fuel subsidies and freezing public recruitment. Nonetheless, the Net Public debt (internal and external) has increased to US\$29 billion (80.8% of GDP) in 2015 compared with US\$27 billion in 2014.
3. The unemployment rate has increased during the 1<sup>st</sup> nine months of 2015 to record 12.9% compared with 11.7% during the same period of 2014. This unemployment rate comes in light of the structural imbalances in the labour market on the one hand, and low-paid foreign workers spreading in large number of jobs created in economy on the other hand.
4. In the past few years, Jordan hosted several influxes of refugees from neighbouring countries, mainly from Iraq and Syria, which had a negative impact on the national budget and infrastructure. With Syrian citizens residing in the country exceeding 1.4 million, including refugees, the financial burden on the economy is expected to hit around US\$2 billion in 2015. The burden strained the infrastructure, education, health, water, food and other sectors. Syrian labour force is also pushing into the job market traditionally reserved to Jordanians and thus reduces job opportunities for locals.
5. Jordan's trade with Arab countries constitutes more than 50% of its total external trade. Jordan's Exports to Arab countries represented around 52% in 2014 and 54% in 2013 relative to the total domestic exports.
6. Jordan is suffering from the drawbacks of several crises in the region; the most important one is the recent closure of Jordanian-Syrian borders and Jordanian-Iraqi borders, which negatively affect Jordanian trade with these countries and the world, and forced Jordan to look for other alternative routes for its exports with a double freight cost.
7. To this effect, the instability in the region as a result of the political situation in many Arab countries had severe impacts on the trade performance of Jordan while threatening the loss of traditional markets for Jordanian exports as well as of losing other significant markets. The trade deficit has significantly increased from US\$9.2 billion in 2008 to reach US\$11.8 billion in 2014.
8. From the bilateral perspective, the Jordanian-Syrian trade amounts to around 10% of Jordan's total trade with Arab countries. The partial closing of the northern border since 2011 had a significant negative impact on the Jordanian economy by virtue of geographical location. The Jordanian national exports to Syria during the 1<sup>st</sup>

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seven months of 2015 decreased by 40.7% compared with the same period of 2014. Noting that the border was closed completely since April 2015.

9. Furthermore, the northern border was the privileged gateway for Jordan's exports to other strategic markets such as the EU and Turkey. Because of the ongoing crisis in Syria, transportation costs drastically increased on Jordan's industry for both imports and exports due to longer alternatives or different transportation routes. In many cases, no more viable transportation alternatives exist apart from sea and air freight.
10. Bilateral trade with Iraq has been negatively affected due to the security conditions in the country, and because Jordan's eastern borders are being completely closed since July 2015, the Jordanian exports are negatively affected. The Jordanian national exports to Iraq during the 1<sup>st</sup> eight months of 2015 decreased by 36.5% compared with the same period of 2014.
11. Moreover, the disruption of the Egyptian gas supplies that was used by industries and for energy generation has very negative impacts on Jordan economy as a whole. Jordan's trade deficit rose unprecedentedly due to the rise in the bill of energy imported from global markets. Consequently, the government was forced to use more expensive diesel and heavy fuel for electricity generation instead of the cheaper gas, which drastically raised the price of electricity.
12. The persistent rising of world commodity prices, especially oil and food has had consequential impact on production cost of Jordan's industry and depressingly affected Jordan's exports competitiveness. The drastic increase in oil prices and its persistent fluctuations afterward have in addition led to a slower activity for small and medium size enterprises that also suffered from trade liberalization and the incident of the financial crisis. On the other hand, the energy pricing policy in some producing and exporting countries in addition to the volatility of the price of raw materials in global markets had led to the inability of domestic industry, specifically small and medium sized enterprises, to compete fairly, and caused some industries to shut down their factories, and for others to move abroad. As from January 2013, 1080 factories were shut down; and almost 14 thousand employees were left jobless.
13. Given Jordan's budgetary constraints, it is imperative that the new program be carefully designed to generate the maximum impact from limited sources. Establishing such a program will require time and contributions from a broad group of stakeholders.

### **3 BENEFITS FROM THE EXTENSION OF THE PROGRAM AFTER 2015:**

1. Allowing continuity of benefits to the industries while the new program is being implemented, in furtherance of the following important economic goals.
2. Supporting small and medium sized enterprises (SMEs), noting that large industries such as phosphate, potash, and cement are excluded from the benefits of the program.
3. Enabling and reinforcing the domestic industry to respond positively to the current difficult situations and multitude of challenges of political and economic nature in the region.
4. Complementing the government efforts in helping productive sectors, specifically SMEs, to integrate with the global economy.
5. Expanding opportunities and prospects for Jordanian goods in diversified markets.
6. Maintaining the program's positive effects for SMEs by enabling the beneficiaries to regain a certain competitive ground and to find new markets while maintaining the existing ones.

7. Attracting investments in the industrial SME sector by maintaining these investment incentives to enable producers and investors to open new markets and promote job creation and specifically the SMEs, to play a key role in the economic development process and to attain more resilience at the exposure to global markets.

#### 4 SCOPE OF THE REQUEST

The requested waiver is limited in scope to extending the transitional period for three years after 2015, so that the beneficiaries, all of which are SMEs – large industries are not eligible – can continue to receive assistance to deal with the unprecedented difficult situation and challenges of political and economic nature in the region.

#### 5 CONCLUSION

In light of the exceptional circumstances explained above and the expiry of the Jordan's Partial or Total Exemption from Income Tax for Profits on Certain Export on 31 December 2015, Jordan requests a waiver on the basis of Article IX.3 of the WTO Agreement from its obligations of the transition period under Article 27.2(b) of the SCM Agreement and continuation of extensions pursuant to Article 27.4 of the SCM Agreement, so that the current legislation can be extended in its present form, in accordance with Annex A of the Draft Waiver Decision attached hereto, until 31 December 2018, and in accordance with the attached action plan and the time-frame (Table 1).

During the extension period, the program will be operated while the replacement program is created and implemented, and Jordan will provide full transparency to the CTG during the period of extension in respect of its progress.

Jordan requests that the General Council give this application for a waiver expeditious and favourable consideration.

**Table (1): Timetable for implementing a new subsidy program:**

No.	Period	Action	Note
1.	1/1/2016 - 30/6/2016	Data Collection and exploring alternative programs	In cooperation with the USAID and any of the interested Members
2.	1/7/2016- 31/12/2016	Revision of the data and designing the new program according to the WTO rules	In cooperation with the USAID and any of the interested Members
3.	1/1/2017- 30/6/2017	Finalizing drafting the new legislation and consulting with the stakeholders and Members who expressed interest in Jordan's request	With the interested Members, the Secretariat, and stakeholders in Jordan. (To see if there are comments or other requests including amendments)
4.	1/7 2017- 31/12/2018	Legislative process	Government and parliament
5.	31/12/2018	Terminating the current export subsidy program and implementing the new program	Refining alternative program in case of delay at the legislative level, including terminating the export subsidy program at the end of 2018

**ANNEX 1****DRAFT DECISION ON WAIVER CONCERNING THE EXTENSIONS PROVIDED FOR IN ARTICLE 27.4 AND ARTICLE 27.2(B) OF THE AGREEMENT ON SUBSIDIES AND COUNTERVAILING MEASURES OF THE TRANSITION PERIOD FOR THE ELIMINATION OF EXPORT SUBSIDIES OF JORDAN**DRAFT WAIVER DECISION OF [...] 2015<sup>1</sup>

The General Council,

*Conducting* the function of the Ministerial Conference in the interval between meetings pursuant to paragraph 2 of Article IV in accordance with Article IV: 1 of the Marrakesh Agreement Establishing the World Trade Organization (the "WTO Agreement");

*Having* regard to paragraphs 3 and 4 of Article IX of the WTO Agreement, the Guiding Principles to be followed in considering applications for Waivers adopted on 1 November 1956, and the Understanding in Respect of Waivers of Obligations under the General Agreement on Tariffs and Trade 1994;

*Recalling* that the Members of the Committee on Subsidies and Countervailing Measures ("SCM Committee" or "Committee"), as directed by the Ministerial Conference<sup>2</sup> have granted, pursuant to the procedures set forth in document G/SCM/39, extensions pursuant to Article 27.4 of the SCM Agreement of the transition period under Article 27.2(b) of the SCM Agreement for the elimination of export subsidies, in respect of certain programs of certain developing country Members;

*Recalling* that, in recognition of the economic, financial and development needs, as well as the capacity and administrative constraints, of certain Developing Country Members in implementing their commitments pursuant to the SCM Agreement in respect of the elimination of export subsidies, the General Council has adopted, as set forth in document WT/L/691 on 27 July 2007, procedures for continuation of extensions pursuant to Article 27.4 of the SCM Agreement of the transition period under Article 27.2(b) of the SCM Agreement for certain Developing Country Members up to 31 December 2013 with a final two-year phase-out period which shall end not later than 31 December 2015;

*Recalling* that Jordan has received extensions under the procedures set forth in G/SCM/39 and WT/L/691 in respect of its program "Partial or Total Exemption from Income Tax for Profits on Certain Export";

*Noting* that Jordan has been fulfilling its obligations and commitments in respect to the General Council decision contained in document WT/L/691 submitted to the SCM Committee annual notifications regarding its export subsidy program<sup>3</sup>;

*Noting* the proposal submitted by Jordan to further extend the procedures contained in G/SCM/39<sup>4</sup>; and WT/L/691 for Jordan uniquely;

*Recognizing* Jordan's continuing needs to mitigate the challenges arising from the global financial crisis and the recent political and economic instabilities in the region, which have severe impacts on the industrial sector and the trade performance of Jordan while threatening the loss of traditional markets of Jordanian exports as well as of losing other significant markets.

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<sup>1</sup> Adopted in accordance with the Decision Making Procedures under Articles IX and XII of the WTO Agreement agreed by the General Council on 15 November 1995 (WT/L/93).

<sup>2</sup> Ministerial Decision on Implementation Related Issues and Concerns, (WT/MIN(01)/17), paragraph 10.6.

<sup>3</sup> See documents: G/SCM/N/275/JOR, G/SCM/N/253/JOR, G/SCM/N/243/JOR, G/SCM/N/220/JOR, G/SCM/N/226/JOR, G/SCM/N/211/JOR, G/SCM/N/186/JOR, G/SCM/N/192/JOR, G/SCM/N/155/JOR/Suppl.1, G/SCM/N/177/JOR, G/SCM/N/155/JOR, G/SCM/N/160/JOR, G/SCM/N/146/JOR, G/SCM/N/123/JOR, G/SCM/N/128/JOR, G/SCM/N/114/JOR, G/SCM/N/95/JOR/Suppl.1, G/SCM/N/99/JOR, G/SCM/N/71/JOR.

<sup>4</sup> See documents G/SCM/W/535 and G/SCM/W/537 and addenda.

*Taking into account* the unprecedented ongoing situations in the region, and the complete closure of northern borders with Syria and Iraq recently in 2015 that greatly affected the Jordanian economy;

*Noting* that the industrial sector has also been significantly affected by the sharp increase of energy prices as well as imported raw materials, which led to a decrease in the overall value added of the sector, a slowdown in its growth rates and a reduction of the size of its workforce;

*Noting* the financial burden of hosting 1.4 million Syrian citizens residing in the country which is expected to hit US\$2 billion in 2015. The burden strained the infrastructure, education, health, water, food and labour market;

*Realizing* that the extension of the existing program is expected to support Jordan's efforts and policies to address unemployment and poverty which both registered constant increases, while a WTO-consistent replacement program is established and implemented;

*Noting* that, in light of the reform measures taken by Jordan and infrastructure projects including alternative gas supplies, that foreseen the situation may ease optimistically only from 2018 onwards;

*Considering* that Jordan requests this waiver of extending the transitional period of the export subsidy program for additional three years after 2015 in order to extend the period of application of the existing legislation so that Jordan can continue to provide benefits under the program while the WTO-consistent replacement program is being established and implemented which requires amendments to relevant legislations and securing financial resources; and that Jordan commits to making no further requests for extension beyond that foreseen in this waiver;

*Taking into account* Jordan's commitments, during the extended transition period, to provide full transparency to the General Council throughout the extended transition period as to its activities and progress in developing and implementing the WTO-consistent replacement program;

*Noting* that obtaining this waiver to extend the transition period will allow Jordan to avoid a break in continuity of incentives to the industries, and thus help the country to reduce the implications of regional and international circumstances, to stimulate private sector investments, and to maximize the capabilities of the industrial sector to adjust with current and future challenges;

*Decides,*

1. Jordan is granted a waiver from its phase out obligation set out in Article 27.4 of the Agreement on Subsidies and Countervailing Measures, in respect of its export subsidy program Partial or Total Exemption from Income Tax for Profits on Certain Export until 31 December 2018 and in accordance with the attached action plan and time-frame (Table 1);
2. Jordan shall use the extended transition period to establish and implement a WTO-consistent replacement program, and shall provide an annual report to the General Council concerning its progress in respect of the replacement program;
3. There shall be an annual review of this waiver by the General Council to determine whether the exceptional circumstances justifying this waiver still exist and whether the terms and conditions herein have been met. On the basis of this annual review, the General Council may modify or terminate this waiver;
4. Jordan shall make no requests for further extension of the transition period for its export subsidy program;
5. Jordan shall provide, for transparency purposes, a yearly notification to the Committee on Subsidies and Countervailing Measures regarding its program subject to this waiver;

6. This decision does not affect Members' rights as set out in the understanding in respect of Waivers Obligations under the General Agreement on Tariffs and Trade 1994.

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3.	1/1/2017- 30/6/2017	Finalizing drafting the new legislation and consulting with the stakeholders and Members who expressed interest in Jordan's request	With the interested Members, the Secretariat, and stakeholders in Jordan. (To see if there are comments or other requests including amendments)
4.	1/7 2017- 31/12/2018	Legislative process	Government and parliament
5.	31/12/2018	Terminating the current export subsidy program and implementing the new program	Refining alternative program in case of delay at the legislative level, including terminating the export subsidy program at the end of 2018