EUROPEAN
COMMISSION

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COMMISSION DELEGATED REGULATION (EU) No …/..

of 28.8.2015

amending Regulation (EU) No 978/2012 of the European Parliament and the Council as regards the modalities for the application of Article 8 listed in Annex VI to that Regulation

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

The European Union has granted trade preferences to developing countries through the Generalised Scheme of Tariff Preferences since 1971. It is part of its common commercial policy in accordance with the general provisions governing the EU's external action.

The products included in the general arrangement of the Generalised Scheme of Tariff Preferences ('GSP') are listed in Annex V to Regulation (EU) No 978/2012 of the European Parliament and of the Council.[1] However, pursuant to Article 8(1) of that Regulation, the tariff preferences of the general arrangement of GSP should be suspended, in respect of products of a GSP section originating in a GSP beneficiary country, when the average value of Union imports of such products over three consecutive years from that GSP beneficiary country exceeds the thresholds listed in Annex VI. These graduation thresholds are currently 14.5% for textiles and articles of apparel and clothing accessories ("textiles") and 17.5% for all other sections. The thresholds shall be calculated as a percentage of the total value of Union imports of the same products from all GSP beneficiary countries.

Article 8(6) of Regulation (EU) No 978/2012 lays down that when the list of GSP beneficiaries is amended, the Commission may adjust the modalities listed in Annex VI through a delegated act "*so as to maintain proportionally the same weight of the graduated product sections as defined in paragraph 1 of this Article*". Such a need arises because the list of GSP beneficiaries in Annex II was substantially amended by Commission Regulation (EU) No 1421/2013, which removed China, Thailand, Maldives and Ecuador from 1 January 2015.

As a result of all the amendments to the list of countries in Annex II to Regulation (EU) No 978/2012 between the entry into force of that Regulation and 1 January 2015, the total imports into the Union from all GSP beneficiary countries taken as an average during 2012-2014 would decrease from EUR 252 263 620 430 to EUR 77 477 630 830 i.e. to 30,71%. Therefore, in order to maintain proportionally the same weight of the graduated product sections, the two thresholds currently listed in Annex VI should be multiplied by (1/0,3071=) 3,26 and would become 47,2% for textiles and 57,0% for all other sectors. Sections S-2a, S-3 and S-5 of Annex V are outliers in the sense that for these sections the total imports into the Union from all GSP beneficiary countries would drop by less than 10% indicating that the departure of the four abovementioned countries from GSP has only had a very limited impact on these sections. For sections S-2a, S-3 and S-5 of Annex V, the threshold should, therefore, remain 17,5%.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

In line with point 4 of the Common Understanding on delegated acts between the European Parliament, the Council and the European Commission, appropriate and transparent consultations, including at expert level, have been carried out on this delegated act. The Commission Expert Group on the Generalised Scheme of Preferences was consulted in meetings held on 2 March, 3 June and 9 July 2015.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

Article 8(6) of Regulation (EU) No 978/2012 empowers the Commission to adopt delegated acts to adjust the modalities listed in Annex VI. The proposed delegated act will amend that

[1] OJ L 303, 31.10.2012, p. 1.

annex. The new modalities should apply as from 1 January 2015, when China, Thailand, Maldives and Ecuador are removed from the list of GSP beneficiaries.

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 978/2012 of the European Parliament and of the Council of 25 October 2012 applying a scheme of generalised tariff preferences and repealing Council Regulation (EC) No 732/2008[1], and in particular Article 8(6) thereof,

Whereas:

(1) Pursuant to Article 8(1) of Regulation (EU) No 978/2012, the tariff preferences under the general arrangement of a generalised scheme of tariff preferences ('GSP') shall be suspended, in respect of products of a GSP section originating in a GSP beneficiary country, when the average value of Union imports of such products over three consecutive years from that GSP beneficiary country exceeds the thresholds listed in Annex VI. The thresholds shall be calculated as a percentage of the total value of Union imports of the same products from all GSP beneficiary countries.

(2) Where the list of GSP beneficiary countries is amended, Regulation (EU) No 978/2012 empowers the Commission to adopt delegated acts to amend Annex VI in order to adjust the modalities listed in that Annex so as to maintain proportionally the same weight of the graduated product sections as defined in Article 8(1).

(3) With effect from 1 January 2015, Commission Delegated Regulation (EU) No 1421/2013[2] removed China, Ecuador, the Maldives and Thailand from the list of GSP beneficiary countries listed in Annex II to Regulation (EU) No 978/2012. Due to the substantial share of GSP imports represented by those countries, their removal from the list of beneficiaries necessitates the amendment of the modalities listed in Annex VI to Regulation (EU) No 978/2012.

(4) As a result of all the amendments to the list of countries in Annex II to Regulation (EU) No 978/2012 between the entry into force of that Regulation and 1 January 2015, the total imports into the Union from all GSP beneficiary countries taken as an average during the last three consecutive years (2012-2014) would decrease to 30,71%. Sections S-2a, S-3 and S-5 of Annex V are outliers in the sense that for these sections the total imports into the Union from all GSP beneficiary countries would drop insignificantly (less than 10%). Therefore, in order to maintain proportionally the same weight of the graduated product sections, the two thresholds listed in Annex VI should be increased to 47,2% and 57,0% respectively, except for sections S-2a, S-3 and S-5 of Annex V, for which the threshold should remain at its present level.

1 OJ L 303, 31.10.2012, p. 1.

2 Commission Delegated Regulation (EU) No 1421/2013 of 30 October 2013 amending Annexes I, II and IV to Regulation (EU) No 978/2012 of the European Parliament and of the Council applying a scheme of generalised tariff preferences (OJ L 355, 31.12.2013, p. 1).

(5) As Commission Delegated Regulation (EU) No 1421/2013 removed China, Ecuador, the Maldives and Thailand from the list of GSP beneficiary countries with effect from 1 January 2015, for the sake of coherence and legal certainty this Regulation should apply retroactively from 1 January 2015,

HAS ADOPTED THIS REGULATION:

Article 1

Annex VI to Regulation (EU) No 978/2012 is replaced by the following:

'Annex VI

Modalities for the application of Article 8

1. Article 8 shall apply when the percentage share referred to in paragraph 1 of that Article exceeds 57,0 %.

2. Article 8 shall apply for each of the GSP sections S-2a, S-3 and S-5 of Annex V, when the percentage share referred to in paragraph 1 of that Article exceeds 17,5 %.

3. Article 8 shall apply for each of the GSP sections S-11a and S-11b of Annex V, when the percentage share referred to in paragraph 1 of that Article exceeds 47,2 %.'

Article 2

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2015.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 28.8.2015

For the Commission
The President
Jean-Claude JUNCKER