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COMMISSION DELEGATED REGULATION (EU) …/...

of 28.8.2015

amending Annexes II, III and IV to Regulation (EU) No 978/2012 of the European Parliament and of the Council applying a scheme of generalised tariff preferences

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

The EU Generalised Scheme of Preferences has assisted, since 1971, developing countries in their efforts to reduce poverty, promote good governance and sustainable development by providing preferential access to the Union market and, consequently, helping them to generate additional revenues through international trade. Regulation (EU) No 978/2012 of the European Parliament and the Council[1] provides the legal framework for the implementation of the Generalised Scheme of Preferences ('GSP'). It was designed to concentrate GSP on the developing countries most in need: the least developed countries and other low and lower-middle income countries, as a reflection of the current global economic and trade landscape.

The list of GSP beneficiaries is established by Annex II to Regulation (EU) No 978/2012. According to Article 5(2) of Regulation (EU) No 978/2012, the Commission has to review Annex II by 1 January of each year. The overall aim of this provision is to ensure that GSP is granted to all developing countries which are in a similar stage of economic development and share a common development need. The review should take into account changes in the economic, development or trade conditions of beneficiary countries. When implementing the change, the Commission should also provide for a specific time period for the beneficiary country and economic operators to adapt to the revised country's status under the GSP.

The criteria to be granted GSP beneficiary status are laid down in Article 4 of the Regulation (EU) No 978/2012.

Article 4(1)(a) of Regulation (EU) No 978/2012 provides that a country which has been classified by the World Bank as a high or an upper middle-income country for three consecutive years should not benefit from GSP under the general arrangement. According to Article 5(2)(a) of Regulation (EU) No 978/2012, the decision to remove a beneficiary country from the list of GSP beneficiary countries should apply as from one year after the date of entry into force of that decision. Fiji, Iraq, Marshall Islands and Tonga were classified by the World Bank as upper middle-income countries in 2013, 2014 and 2015. Accordingly, those countries no longer fulfill the criteria to benefit from the GSP arrangement and needs to be removed from Annex II as from 1 January 2017.

Article 4(1)(b) of Regulation (EU) No 978/2012 sets out that GSP should not be extended to developing countries which are benefiting from a preferential market access arrangement with the Union, which provides the same level of tariff preferences as GSP, or better, for substantially all trade.

Furthermore, Article 5(2)(b) of Regulation (EU) No 978/2012 states that if a country started to apply a preferential market access arrangement, then GSP should continue to be granted for two years as from the date of application of that preferential market access arrangement.

Preferential market access arrangements with the following countries started to apply in 2014: Georgia on 1 September 2014, Cameroon on 4 August 2014 and Fiji on 28 July 2014. Consequently, on this basis, Georgia, Cameroon and Fiji should also cease to benefit from GSP preferences and this needs to be reflected in Annex II. As detailed above, Fiji would have lost GSP preferences also on the basis of becoming an upper middle-income country.

Setting the effective exit date for 1 January, in line with past practice, is simple and ensures legal certainty for stakeholders. Moreover, as the calculation of the graduation (Annex VI) and the vulnerability (Annex VII) thresholds are linked to the list of GSP beneficiaries

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

(Annex II); amending this list several times in one year would mean repeated recalculations of the thresholds. This would cause administrative burden and could lead to legal uncertainty for the remaining beneficiaries. Therefore, in the interests of simplicity and legal certainty and in line with past practice, a single exit date from GSP is proposed for the countries concerned: 1 January 2017.

Georgia benefits from enhanced market access to the Union through the special arrangement for sustainable development and good governance under Article 9 of Regulation (EU) No 978/2012(GSP+). By ceasing to be GSP beneficiary, Georgia also ceases to be a GSP+ beneficiary. Consequently, the list of GSP+ beneficiaries (Annex III to Regulation (EU) No 978/2012) will need to be amended by removing Georgia from this list. As explained above, in the interests of simplicity and legal certainty and in line with past practice, the exit date from GSP+ should be 1 January 2017.

Finally, Article 17(1) of Regulation (EU) No 978/2012 provides that a country, which is identified by the United Nations as a least-developed country should benefit from the tariff preferences under the special arrangement for the least-developed countries (Everything But Arms (EBA)). The list of EBA beneficiary countries is established in Annex IV to that Regulation.

The UN removed Samoa from least developed country status on 1 January 2014. Accordingly, Samoa no longer qualifies for EBA beneficiary status under Article 17(1) and should be removed from Annex IV of Regulation (EU) No 978/2012. The decision to remove a beneficiary country from the list of EBA beneficiary countries should apply following a transitional period of three years as from the date on which this Regulation enters into force. Samoa should therefore be removed from Annex IV. As explained above, in the interests of simplicity and legal certainty and in line with past practice, the exit date from EBA should be 1 January 2019.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

In line with paragraph 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 the meetings held on 2 March and 2 June 2015.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

Article 5(3) of Regulation (EU) No 978/2012 empowers the Commission to adopt delegated acts in order to amend Annex II to that Regulation.

Cameroon, Fiji, Georgia, Iraq, Marshall Islands and Tonga should be removed from Annex II of Regulation (EU) No 978/2012 with application from 1 January 2017.

Article 10(5) of Regulation (EU) No 978/2012 empowers the Commission to adopt delegated acts in order to amend Annex III to that Regulation.

Georgia should be removed from Annex III of the Regulation (EU) No 978/2012 with application from 1 January 2017.

Article 17(2) of Regulation (EU) No 978/2012 empowers the Commission to adopt delegated acts in order to amend Annex IV to that Regulation.

Samoa should be removed from Annex IV of Regulation (EU) No 978/2012 with application from 1 January 2019.

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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[2], and in particular Articles 5(3), 10(5) and 17(2) thereof,

Whereas:

(1) Article 4 of the Regulation (EU) No 978/2012 of the European Parliament and of the Council[3] establishes the criteria for granting tariff preferences under the general arrangement of the Generalised Scheme of Preferences ('GSP').

(2) Article 4(1)(a) of Regulation (EU) No 978/2012 provides that a country that has been classified by the World Bank as a high-income or an upper-middle income country for three consecutive years should not benefit from GSP.

(3) Article 4(1)(b) of Regulation (EU) No 978/2012 provides that a country that benefits from a preferential market access arrangement which provides the same tariff preferences as the GSP, or better, for substantially all trade, should not enjoy GSP.

(4) The list of beneficiary countries of the general GSP referred to in point (a) of Article 1(2) of Regulation (EU) No 978/2012 is established in Annex II to that Regulation. Article 5 of Regulation (EU) No 978/2012 lays down that Annex II is to be reviewed by 1 January of each year in order to reflect changes in relation to the criteria laid down in Article 4. Furthermore, it provides that a GSP beneficiary country and economic operators are to be given sufficient time for an orderly adaptation to the country's GSP status revision. Accordingly, the GSP arrangement is to continue for one year after the date of entry into force of a change in a country's status on the basis of Article 4(1)(a) and for two years from the date of application of a preferential market access arrangement, as provided in Article 4(1)(b).

(5) Fiji, Iraq, Marshall Islands and Tonga have been classified by the World Bank as upper-middle income countries in 2013, 2014 and 2015. Accordingly, those countries no longer qualify for GSP beneficiary status under Article 4(1)(a) and should be removed from Annex II of Regulation (EU) No 978/2012. The Regulation to remove a beneficiary country from the list of GSP beneficiary countries should apply as from one year after the date of entry into force of that Regulation. In the interests of

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

[3] 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 (OJ L 303 of 31.10.2012, p.1.).

simplicity and legal certainty, Fiji, Iraq, Marshall Islands and Tonga should be removed from Annex II with application from 1 January 2017.

(6) Preferential market access arrangements with the following countries started to apply at various dates in 2014: Georgia on 1 September 2014, Cameroon on 4 August 2014, and Fiji on 28 July 2014. In the interests of simplicity and legal certainty, Georgia and Cameroon should also be removed from Annex II with application from 1 January 2017. As explained in recital (5), Fiji would already be removed from Annex II on the basis of becoming an upper-middle income country.

(7) Article 9(1) of Regulation (EU) No 978/2012 establishes specific eligibility criteria for granting tariff preferences under the special incentive arrangement for sustainable development and good governance ('GSP+'). One key condition is that the country must be a GSP beneficiary. The list of GSP+ beneficiaries is established in Annex III to Regulation (EU) No 978/2012.

(8) As a consequence of its ceasing to be GSP beneficiary as from 1 January 2017, Georgia also ceases to be a GSP+ beneficiary under Article 9(1) of Regulation (EU) No 978/2012. Georgia should therefore be also removedfrom Annex III to Regulation (EU) No 978/2012 with application from 1 January 2017.

(9) Article 17(1) of Regulation (EU) No 978/2012 provides that a country, which is identified by the United Nations ('UN') as a least-developed country should benefit from the tariff preferences under the special arrangement for the least-developed countries (Everything But Arms ('EBA'). The list of EBA beneficiary countries is established in Annex IV to that Regulation.

(10) The UN removed Samoa from least developed country status on 1 January 2014. Accordingly, Samoa no longer qualifies for EBA beneficiary status under Article 17(1) and should be removed from Annex IV of Regulation (EU) No 978/2012. The Regulation to remove a beneficiary country from the list of EBA beneficiary countries should apply following a transitional period of three years as from the date on which that Regulation enters into force. Samoa should therefore be removed from Annex IV, with application from 1 January 2019,

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EU) No 978/2012

Regulation (EU) No 978/2012 is amended as follows:

(1) In Annex II, the following countries and the corresponding alphabetical codes are removed from columns A and B, respectively:

CM	Cameroon
FJ	Fiji
GE	Georgia
IQ	Iraq
MH	Marshall Islands
TO	Tonga

(2) In Annex III the following country and the corresponding alphabetical code is removed from columns A and B, respectively:

GE	Georgia

(3) In Annex IV the following country and the corresponding alphabetical code is removed from columns A and B, respectively:

WS	Samoa

Article 2

Entry into force and application

This Regulation shall enter into force on 1 January 2016.

Articles 1(1) and (2) shall apply from 1 January 2017.

Article 1(3) shall apply from 1 January 2019.

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