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COMMISSION DELEGATED REGULATION (EU) …/...

of 27.9.2017

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.

Paraguay was classified by the World Bank as upper middle-income country in 2015, 2016 and 2017. Accordingly, Paraguay no longer fulfills the criteria to benefit from the general arrangement of GSP and needs to be removed from Annex II as from 1 January 2019.

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 2016: Côte d'Ivoire on 3 September 2016, Swaziland on 10 October 2016 and Ghana on 15 December 2016. Consequently, on this basis, Côte d'Ivoire, Swaziland and Ghana should also cease to benefit from GSP preferences and this needs to be reflected in Annex II.

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 2019.

Paraguay 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 a GSP beneficiary, Paraguay 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 Paraguay from this list. As explained above, in the interest of simplicity and legal certainty and in line with past practice, the exit date from GSP+ should be 1 January 2019.

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 graduated Equatorial Guinea from the least developed country category on 4 June 2017. Accordingly, Equatorial Guinea 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. Equatorial Guinea was also classified by the World Bank as high-income country in 2015 and as upper-middle-income country in 2016 and 2017. In accordance with Article 4(1)(a) of Regulation (EU) No 978/2012, Equatorial Guinea no longer fulfills the criteria to benefit from the general GSP arrangement and should be also removed from Annex II of the same Regulation.

As explained above, in the interest of simplicity and legal certainty, the exit date from Annex II and IV should be 1 January 2021.

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 meeting held on 15 June 2017.

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.

Côte d'Ivoire, Ghana, Paraguay and Swaziland should be removed from Annex II of Regulation (EU) No 978/2012 with application from 1 January 2019.

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.

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

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.

Equatorial Guinea should be removed from Annexes II and IV of Regulation (EU) No 978/2012 with application from 1 January 2021.

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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 Article 5(3), Article 10(5) and Article 17(2) thereof,

Whereas:

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

(2) Points (a) and (b) of Article 4(1) of Regulation (EU) No 978/2012 provide, respectively, 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, or 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 benefit from GSP.

(3) 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(2) of Regulation (EU) No 978/2012 provides that Annex II is to be reviewed by 1 January of each year. The review should take into account changes in the economic, development or trade conditions of beneficiary countries in relation to the criteria laid down in Article 4.

(4) Pursuant to Article 5(2) of Regulation (EU) No 978/2012, a GSP beneficiary country and economic operators are to be given sufficient time for an orderly adaptation to the country's GSP status revision. Therefore, the GSP arrangement is to continue for one year after the date of entry into force of a change in a country's status as referred to in Article 4(1)(a) and for two years after the date of application of a preferential market access arrangement, as referred to in Article 4(1)(b).

(5) Paraguay has been classified by the World Bank as upper-middle income country in 2015, 2016 and 2017. Therefore, Paraguay no longer qualifies for GSP beneficiary country status in accordance with Article 4(1)(a) of Regulation (EU) No 978/2012 and should be removed from the list of GSP beneficiary countries in Annex II to that Regulation, with application from 1 January 2019.

(6) Preferential market access arrangements started to apply to Côte d'Ivoire on 3 September 2016, to Swaziland on 10 October 2016, and to Ghana on 15 December

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

2016. Therefore, in accordance with Article 4(1)(b), Côte d'Ivoire, Swaziland and Ghana should also be removed from Annex II to Regulation (EU) No 978/2012 with application from 1 January 2019.

(7) Article 9(1) of Regulation (EU) No 978/2012 sets out specific eligibility criteria for granting tariff preferences under the special incentive arrangement for sustainable development and good governance ('GSP+') to GSP beneficiary countries. The list of GSP+ beneficiary countries is established in Annex III to Regulation (EU) No 978/2012.

(8) As a consequence of its ceasing to be a GSP beneficiary country as from 1 January 2019, Paraguay also ceases to be a GSP+ beneficiary country under Article 9(1) of Regulation (EU) No 978/2012. Paraguay should therefore be also removed from Annex III to that Regulation with application from 1 January 2019.

(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 provided 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 graduated Equatorial Guinea from the least-developed country category on 4 June 2017. Therefore, Equatorial Guinea no longer qualifies for EBA beneficiary status under Article 17(1) of Regulation (EU) No 978/2012 and should be removed from Annex IV to that Regulation. In accordance with Article 17(2) to Regulation (EU) No 978/2012, the removal of Equatorial Guinea from the list of EBA beneficiary countries should apply following a transitional period of three years from the date on which this Regulation enters into force, namely from 1 January 2021.

(11) Furthermore, Equatorial Guinea has been classified by the World Bank as high income country in 2015 and as upper-middle income country in 2016 and 2017. Therefore, Equatorial Guinea no longer qualifies for GSP beneficiary country status in accordance with Article 4(1)(a) of Regulation (EU) No 978/2012 and should also be removed from the list of GSP beneficiary countries in Annex II to that Regulation with application from 1 January 2021,

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 alphabetical codes and the corresponding countries are deleted from columns A and B, respectively:

CI	Côte d'Ivoire
GH	Ghana
PY	Paraguay
SZ	Swaziland

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

PY	Paraguay

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

GQ	Equatorial Guinea

Article 2

Entry into force and application

This Regulation shall enter into force on 1 January 2018.

Article 1(1) and (2) shall apply from 1 January 2019.

Article 1(3) shall apply from 1 January 2021.

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

Done at Brussels, 27.9.2017

For the Commission
The President
Jean-Claude JUNCKER