

Generalised tariff preferences GSP: exclusion of the Union of Myanmar/Burma of the GSP for agricultural goods

1997/0041(CNS) - 17/09/2012 - Follow-up document

In accordance with Council Regulation (EC) No 552/97, the Commission presents a report with respect to forced labour in Myanmar/Burma. The latter is a beneficiary country of the special arrangement for the least developed countries (Everything but Arms - 'EBA arrangement'), provided for under [Council Regulation \(EC\) No 732/2008](#).

Myanmar/Burma's access to the tariff preferences granted by Regulation (EC) No 3281/94 and Regulation (EC) No 1256/96 was temporarily withdrawn by Council Regulation (EC) No 552/97, as amended by Regulation (EC) 732/2008. The latter is the current legal basis for the application and administration of the Union's generalised scheme of tariff preferences.

The Regulation provides that the application of Regulation (EC) No 552/97 shall be brought to an end in the light of a Commission report on forced labour in Myanmar/Burma, showing that certain practices mentioned in Regulation (EC) No 732/2008 no longer exist.

The relevant provisions state that that the preferential arrangements granted under the Regulation may be withdrawn temporarily, in respect of all or of certain products originating in a beneficiary country, for the serious and systematic violation of principles laid down in the conventions listed in the text, on the basis of the conclusions of the relevant monitoring bodies. The International Labour Organization's (ILO) Convention concerning Forced or Compulsory Labour, No. 29, (1930) is listed in the text.

In this report, the Commission considers the information provided by the ILO and concludes that **the progress made by Myanmar/Burma towards complying with the ILO recommendations justifies that violations of the principles laid down in ILO Convention No 29 should no longer be categorised as 'serious and systematic'**.

Conclusions of ILO monitoring bodies: in 1997, the ILO Commission of Inquiry made certain recommendations in view of the Government's flagrant and persistent failure to comply with the Convention. These include ensuring that in actual practice forced labour is no longer imposed by the authorities, in particular the military, with penalties being imposed for the exaction of forced labour. At its 88th Session (June 2000), the ILC adopted a resolution under its Constitution on measures to secure the compliance of Myanmar/Burma with the recommendations of the Commission of Inquiry.

Observations of the Committee of Experts on the Application of Conventions and Recommendations: in 2012 the Committee of Experts on the Application of Conventions and Recommendations (CEACR) welcomed the positive developments in Myanmar/Burma, such as submission to Parliament of the draft legislation repealing the Towns Act and the Village Act of 1907. However, the Committee observed that, in spite of the efforts made towards the implementation of the recommendations of the Commission of Inquiry, the Government still has

- to ensure that, in actual practice, forced labour is no longer imposed by the authorities, in particular by the military;

- to ensure that penalties for the exaction of forced labour under the Penal Code are strictly enforced against civil and military authorities.

Report of the ILO Liaison Officer: in 2012, the ILO Liaison Officer confirmed that the previous legislation has been repealed and new legislation has been adopted, including legislation confirming the exaction of forced labour as a criminal offence. Perpetrators, and in particular military personnel, accused of the use of forced labour are now prosecuted and punished under the law. Whilst there has been a noticeable reduction in the use of forced labour, the problem persists and complaints continue to be received. This has been recognized by the Government through their initiation of a joint strategy with the ILO for the full elimination of all forms of forced labour by 2015, if not before, and by their agreement to detailed action planning for the implementation of that strategy.

Conclusions of the ILO Committee on Application of Standards: on 4 June 2012, the Committee on the Application of Standards (CAS) welcomed:

- the progress achieved towards complying with the 1998 recommendations of the Commission of Inquiry;
- the elaborate and detailed Action Plan developed between the Government and the ILO; and
- **measures taken to combat forced labour.**

Resolution of the International Labour Conference: on 13 June 2012, the ILC decided:

- to lift with immediate effect the limitation of ILO technical cooperation or assistance to the Government of Myanmar/Burma;
- to lift the measure enunciated in the 1999 resolution to allow the Government of Myanmar/Burma to participate in ILO meetings; and
- to suspend for one year the recommendation contained in the 2000 resolution requesting its members to review their relationships with Myanmar/Burma to ensure forced labour is not being used in those relationships, with immediate effect.

The ILC will review the recommendation again in 2013 in the light of information available to it in respect of the elimination of forced labour in Myanmar/Burma.

Under these circumstances, the Commission **recommends that the [access to generalized tariff preferences should be reinstated to Myanmar/Burma.](#)**

The Commission should continue to monitor the developments in Myanmar/Burma with respect to forced labour and react to them in accordance with the procedures in force, including, if necessary, with renewed withdrawal procedures.