

Scheme of generalised tariff preferences (GSP)

2011/0117(COD) - 25/10/2012 - Final act

PURPOSE: to put in place new rules on applying a scheme of generalised tariff preferences (GSP).

LEGISLATIVE ACT: Regulation No 978/2012 of the European Parliament and of the Council applying a scheme of generalised tariff preferences and repealing Council Regulation (EC) No 732/2008.

CONTENT: following agreement in first reading, the European Parliament and the Council adopted this Regulation reforming the EU's scheme of generalised tariff preferences (GSP) for developing countries. The EU's GSP has been in force since 1971. Trade preferences granted to developing countries contribute to their integration into the global trade system and to their sustainable development, whilst those provided under the EU's "GSP+" arrangement are used as an incentive to improving governance, the quality of life and the protection of human rights.

This reform is aimed at **adapting the EU's GSP to the changed global landscape and making it more transparent and predictable, and more generous to the countries in greatest need.** Preferences will now be concentrated on least developed, low income and lower middle-income countries, taking account of changing economic and trade patterns and acknowledging that the economic crisis and preference erosion have hit the poorest countries hard. The selection of beneficiaries will henceforth be largely income-based.

The main points are as follows:

Scope: countries that already enjoy preferences under **free trade agreements with the EU**, or under autonomous arrangements, will be excluded from the scheme. To provide a beneficiary country and economic operators with time for an orderly adaptation, the general arrangement should continue to be granted for **two years** as from the date of application of a preferential market access arrangement and this date should be specified in the list of beneficiary countries of the general arrangement.

The EU GSP: the Regulation provides for the following tariff preferences under the scheme:

- **a general arrangement:** this provides for tariff reductions or suspensions for goods imported from developing countries unless (a) it has been classified by the World Bank as a high-income or an upper-middle income country during three consecutive years immediately preceding the update of the list of beneficiary countries; (b) it benefits from a preferential market access arrangement which provides the same tariff preferences as the scheme, or better, for substantially all trade. The special arrangement for the least-developed countries (LDCs) will continue to be applied without any expiry date as long as they are classified as LDCs in accordance with the criteria established in the Regulation;
- **a special incentive arrangement for sustainable development and good governance (GSP+):** this provides for further tariff reductions for developing countries joining the "flagship" for promoting human rights that sign, ratify and effectively implement a set of 27 core UN and International Labour Organisation conventions on human and labour rights, environmental protection and good governance;
- **a special arrangement for the least-developed countries (Everything But Arms (EBA)):** this provides for full duty-free and quota-free imports of all goods from the least developed countries with the exception of arms. Under this new Regulation, the EBA arrangement is not changed.

Change of status of an EBA country and application of GSP to EBAs: the Commission shall continuously review the list of EBA beneficiary countries on the basis of the most recent available data. Where an EBA beneficiary country changes its status, the Commission shall be empowered to adopt delegated acts to amend Annex IV in order to remove the country from the list of EBA beneficiary countries following a transitional period of three years as from the date on which the delegated act entered into force.

Pending the identification by the UN of a **newly independent country** as a least-developed country, the Commission shall be empowered to adopt delegated acts to amend Annex IV as an interim measure so as to include such a country in the list of EBA beneficiary countries. The Commission shall notify the EBA beneficiary country concerned of any changes in its status under the scheme.

Application and withdrawal of GSP +: as of the date of the granting of the tariff preferences provided under GSP+, the Commission shall **keep under review the status of ratification of the relevant conventions** and shall monitor their effective implementation, as well as cooperation with the relevant monitoring bodies, by examining the conclusions and recommendations of those monitoring bodies. A GSP+ beneficiary country shall cooperate with the Commission and provide all information necessary to assess its respect of binding undertakings.

By 1 January 2016, and every two years thereafter, the Commission shall present to the European Parliament and to the Council a report on the status of ratification of the relevant conventions, the compliance of the GSP+ beneficiary countries with any reporting obligations under those conventions and the status of the effective implementation thereof.

The special incentive arrangement for sustainable development and good governance shall be **withdrawn temporarily**, in respect of all or of certain products originating in a GSP+ beneficiary country, where in practice that country **does not respect its binding undertakings**, or the GSP+ beneficiary country has **formulated a reservation** which is prohibited by any of the relevant conventions or which is incompatible with the object and purpose of that convention. The **burden of proof** for compliance with its obligations resulting from binding undertakings shall be on the GSP+ beneficiary country.

Duties: Common Customs Tariff duties on non-sensitive products will be suspended, while duties on sensitive products will enjoy a tariff reduction, in order to ensure a satisfactory utilisation rate while at the same time taking account of the situation of the corresponding Union industries. Such a tariff reduction should be sufficiently attractive, in order to motivate traders to make use of the opportunities offered by the scheme. Therefore, the ad valorem duties are generally reduced by a flat rate of 3.5% from the 'most favoured nation' duty rate, while such duties for textiles and textile goods are reduced by 20%. Specific duties are reduced by 30%. Where a minimum duty is specified, that minimum duty will not apply.

Graduation: the Regulation contains provisions on graduation based on criteria related to sections and chapters of the Common Customs Tariff. **Graduation will not apply to the GSP+ beneficiary countries and EBA countries** as they share a very similar economic profile rendering them vulnerable because of a low, non-diversified export base.

Safeguard measures: the Regulation contains a series of safeguard and surveillance measures to protect European producers. Where a product originating in a beneficiary country of any of the preferential arrangements above is imported in volumes and/or at prices which cause, or threaten to cause, serious difficulties to Union producers of like or directly competing products, normal Common Customs Tariff duties on that product may be reintroduced. If an investigation concludes that there are no such difficulties, the decision to reintroduce the CCT shall end and any customs duty collected as a result of those provisional measures shall be refunded.

Safeguards in the textile, agriculture and fisheries sectors: special safeguard measures exist for certain sectors such as textile, agriculture and fisheries. The Regulation states that the scope of special safeguard measures for textiles will cover all textiles and not only clothing. There must be an increase by at least **13.5%** in quantity (by volume), as compared with the previous calendar year for safeguard measures to take effect. This shall not apply to EBA beneficiary countries, nor shall it apply to countries with a share for the relevant products not exceeding **6%** of total European Union imports.

Report: five years after its entry into force, the Commission should report to the European Parliament and to the Council on the application of the Regulation and assess the need to review the scheme, including the special incentive arrangement for sustainable development and good governance and temporary withdrawal provisions of tariff preferences, taking into consideration the fight against terrorism and the field of international standards on transparency and exchange of information in tax matters.

In reporting, the Commission should take into account the implications for development, trade and financial needs of beneficiaries. The report should also include a detailed analysis of the impact of the Regulation on trade and on the Union's tariff income, with particular attention to the effects on beneficiary countries. Where applicable, compliance with Union sanitary and phytosanitary legislation should also be assessed. The report should also include an analysis of the effects of the scheme with regard to imports of biofuels and sustainability aspects.

ENTRY INTO FORCE: 20/11/2012. **Regulation (EC) No 732/2008 is repealed with effect from 1 January 2014.**

APPLICATION: from 20 November 2012. However, the tariff preferences provided under the preferential arrangements described above shall apply from **1 January 2014.**

The scheme shall apply until 31 December 2023. However, the expiry date shall neither apply to the special arrangement for the least-developed countries, nor, to the extent that they are applied in conjunction with that arrangement, to any other provisions of the Regulation.

DELEGATED ACTS: in order to achieve a balance between the need for better targeting, greater coherence and transparency on the one hand, and better promoting sustainable development and good governance through a unilateral trade preference scheme on the other hand, the power to adopt acts in accordance with Article 290 TFEU is delegated to the Commission in respect of:

- amendments to the Annexes;
- temporary withdrawals of tariff preferences due to failure to adhere to the principles of sustainable development and good governance;
- procedural rules regarding the submission of applications for the tariff preferences granted under the special incentive arrangement for sustainable development and good governance,
- the conduct of a temporary withdrawal and safeguard investigations in order to establish uniform and detailed technical arrangements;
- repealing a decision on temporary withdrawal under the urgency procedure before the decision to temporarily withdraw tariff preferences takes effect, where the reasons justifying temporary withdrawal no longer apply.