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From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	25 September 2020
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

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Subject:	COMMISSION DELEGATED REGULATION (EU) .../... of 25.9.2020 amending Annexes II and III to Regulation (EU) No 978/2012 of the European Parliament and of the Council as regards Armenia and Vietnam

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Delegations will find attached document C(2020) 6474 final.

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Encl.: C(2020) 6474 final



Brussels, 25.9.2020  
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**COMMISSION DELEGATED REGULATION (EU) .../...**

**of 25.9.2020**

**amending Annexes II and III to Regulation (EU) No 978/2012 of the European Parliament and of the Council as regards Armenia and Vietnam**

## 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<sup>1</sup> 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, that is to say, 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 beneficiary countries is established by Annex II to Regulation (EU) No 978/2012. According to Article 5(2) of Regulation (EU) No 978/2012, the Commission should review Annex II by 1st January of each year. The overall aim of this provision is to ensure that GSP is granted to all developing countries in a similar stage of economic development and with 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 for an eligible country to benefit from GSP beneficiary status are laid down in Article 4 of 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.

**Armenia** was classified by the World Bank as upper middle-income country in 2018, 2019 and 2020. Accordingly, Armenia no longer fulfils the criteria to benefit from the GSP and needs to be removed from Annex II as of 1 January 2022.

Armenia 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, Armenia 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 Armenia from this list. Accordingly, Armenia needs to be removed from Annex III as of 1 January 2022.

Article 4(1)(b) of Regulation (EU) No 978/2012 sets out that GSP should not be extended to countries which benefit 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 the decision to remove a beneficiary country from the list of GSP beneficiaries, on the basis of point (b) of

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<sup>1</sup> OJ L 303 of 31.10.2012, p. 1.

Article 4(1), shall apply as from two years after the date of application of that preferential market access arrangement.

The European Union and **Vietnam** signed a Trade Agreement and an Investment Protection Agreement on 30 June 2019. The EU Vietnam Free Trade Agreement started to apply from 1<sup>st</sup> August 2020. It is appropriate in this case that Vietnam cease to benefit from the GSP preferences as of 1<sup>st</sup> January 2023.

Setting the effective exit date on 1<sup>st</sup> January is in line with past practice 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 (Annex II), amending this list several times in one year would mean repeated recalculations of the thresholds. This would cause unnecessary 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, 1<sup>st</sup> January is proposed as exit date from GSP for both Armenia (1<sup>st</sup> January 2022) and Vietnam (1<sup>st</sup> January 2023).

## **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 consulted the Expert Group on the Generalised Scheme of Preferences on 9 June 2020.

## **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, in accordance with Article 36 of that Regulation.

Armenia should be removed from Annex II and III of Regulation (EU) No 978/2012 with application from 1<sup>st</sup> January 2022.

Vietnam should be removed from Annex II of Regulation (EU) No 978/2012 with application from 1<sup>st</sup> January 2023.

**COMMISSION DELEGATED REGULATION (EU) .../...**

**of 25.9.2020**

**amending Annexes II and III to Regulation (EU) No 978/2012 of the European Parliament and of the Council as regards Armenia and Vietnam**

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<sup>1</sup>, and in particular Articles 5(3) and 10(5) 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) 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 during 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, is not to benefit from GSP.
- (3) The list of beneficiary countries under the GSP is established in Annex II to Regulation (EU) No 978/2012. Pursuant to that Regulation, the Commission is to review Annex II by 1<sup>st</sup> January each year in order to amend the status of the listed countries in accordance with the criteria laid down in Article 4 of that Regulation.
- (4) Pursuant to 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 should continue for one year after the date of entry into force of the decision to remove a beneficiary country from the list of GSP beneficiary countries on the basis of point (a) of Article 4(1) and for two years after the date of application of a preferential market access arrangement on the basis of point (b) of Article 4(1).
- (5) Armenia was classified by the World Bank as upper-middle income country in 2018, 2019 and 2020. Armenia 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 2022.
- (6) 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

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<sup>1</sup> 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, 31.10.2012, p. 1).

GSP+ beneficiary countries is established in Annex III to Regulation (EU) No 978/2012.

- (7) As a consequence of its ceasing to be a GSP beneficiary country as from 1 January 2022, Armenia should also cease to be a GSP+ beneficiary country under Article 9(1) of Regulation (EU) No 978/2012. Armenia should therefore be removed from Annex III to that Regulation with application from 1<sup>st</sup> January 2022.
- (8) A preferential market access arrangement started to apply to Vietnam on 1 August 2020. In accordance with Article 4(1)(b) of Regulation (EU) No 978/2012, Vietnam should also be removed from Annex II to that Regulation. In line with precedents in comparable cases and in order to ensure legal certainty and avoid undue administrative burden, the removal of Vietnam from Annex II should apply from 1 January 2023,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

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

1. In Annex II, under the heading “Beneficiary countries of the general arrangement referred to in point (a) of Article 1(2)”, the following alphabetical codes and corresponding countries are removed from columns A and B, respectively:
  - (a) AM Armenia;
  - (b) VN Vietnam.
2. In Annex III, the following alphabetical code and the corresponding country is deleted from columns A and B, respectively:

AM Armenia

#### *Article 2*

This Regulation shall enter into force on 1 January 2021.

Article 1(1), point (a) and Article 1(2) shall apply from 1 January 2022.

Article 1(1), point (b) shall apply from 1 January 2023.

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

Done at Brussels, 25.9.2020

*For the Commission*  
*The President*  
*Ursula VON DER LEYEN*