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PROPOSAL

from:	European Commission
dated:	17 September 2012
No Cion doc.:	COM(2012) 524 final
Subject:	Proposal for a Regulation of the European Parliament and of the Council repealing Council Regulation (EC) No 552/97 temporarily withdrawing access to generalized tariff preferences from Myanmar/Burma

Delegations will find attached a proposal from the Commission, submitted under a covering letter from Mr Jordi AYET PUIGARNAU, Director, to Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union.

Encl.: COM(2012) 524 final



EUROPEAN COMMISSION

Brussels, 17.9.2012
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Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**repealing Council Regulation (EC) No 552/97 temporarily withdrawing access to
generalized tariff preferences from Myanmar/Burma**

EXPLANATORY MEMORANDUM

The Generalised Scheme of Tariff Preferences (GSP scheme) is part of the European Union's common commercial policy, in accordance with the general provisions governing the European Union's external action.

Council Regulation (EC) No 732/2008¹ of 22 July 2008 applying the current GSP scheme ("the current GSP Regulation") provides that the preferential arrangements provided for in this Regulation may be withdrawn temporarily, in respect of all or of certain products originating in a beneficiary country, for the serious and systematic violation of principles laid down in fifteen out of the twenty-seven international conventions listed in its Annex, on the basis of the conclusions of the relevant monitoring bodies. The relevant conventions also cover core labour rights such as forced labour.

Myanmar/Burma's access to the GSP tariff preferences was temporarily withdrawn by Council Regulation (EC) No 552/97² due to routine and widespread practice of forced labour, confirmed by the International Labour Organisation (ILO), in a special procedure of its Commission of Inquiry.

Since 2011, Myanmar/Burma has been undertaking a historic programme of openness and reform as acknowledged by the Council of the EU in its Conclusions of 23 April 2012³. The Council expressed support for *"reinstating the Generalised System of Preferences (GSP) for Myanmar/Burma as soon as possible once the required conditions are fulfilled, following the assessment of the International Labour Organisation"*.

On 13 June 2012, the International Labour Conference (ILC) lifted restrictions, which excluded the Government of Myanmar/Burma from receiving ILO technical cooperation and assistance and suspended for one year the ILO request to its members to review their relationships with Myanmar/Burma to ensure forced labour is not being used in those relationships.

Accordingly, the violations cannot be any longer considered as "serious and systematic" and thus the tariff preferences should be reinstated according to the current GSP Regulation.

In the absence of explicit reinstatement provisions in the current GSP Regulation, and in light of the provisions of the Treaty of Lisbon, the ordinary legislative procedure is applied for the adoption of the reinstatement of preferences for Myanmar. This is a one-off procedure aimed at responding to a clear and present political need as expeditiously as possible. The new GSP Regulation which will apply only as of 1 January 2014 redresses the absence of reinstatement provisions.

The proposed Regulation does not incur costs to the EU budget and its application entails a very limited loss of customs revenue. The actual loss of customs revenue resulting from reintegration of Myanmar/Burma is estimated at less than €5 million, as explained in the statement attached, and due to a structural lack of production and trading capacity in the country.

¹ Council Regulation (EC) No 732/2008 of 22 July 2008 applying a scheme of generalised tariff preferences for the period from 1 January 2009 to 31 December 2011 and amending Regulations (EC) No 552/97, (EC) No 1933/2006 and Commission Regulations (EC) No 1100/2006 and (EC) No 964/2007 (OJ L 211, 6.8.2008, p. 1).

² OJ L 85, 27.3.1997, p. 8.

³ 9008/12, MCL/aa.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**repealing Council Regulation (EC) No 552/97 temporarily withdrawing access to
generalized tariff preferences from Myanmar/Burma**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Article 1 of Regulation (EC) No 552/97⁴, as amended by Article 28(1) of Regulation (EC) 732/2008 applying a scheme of generalised tariff preferences for the period from 1 January 2009⁵, provides that Myanmar/Burma's access to the tariff preferences granted by the Regulation (EC) No 732/2008 is temporarily withdrawn.
- (2) Point (a) of Article 15(1) of Regulation (EC) No 732/2008 provides that the preferential arrangements provided for in this 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 Part A of Annex III, on the basis of the conclusions of the relevant monitoring bodies.
- (3) The International Labour Organization's (ILO) Convention concerning Forced or Compulsory Labour, No. 29, (1930) is listed in Annex III, Part A of Regulation (EC) No 732/2008.
- (4) According to Article 2 of Regulation (EC) No 552/97, as amended by Article 28(2) of Regulation (EC) No 732/2008, the application of Regulation (EC) No 552/97 should be brought to the end in the light of a Commission report on forced labour in Myanmar/Burma, showing that the practices mentioned in point (a) of Article 15(1) of Regulation (EC) No 732/2008 no longer exist.
- (5) On 13 June 2012 the International Labour Conference (ILC) adopted the Resolution 'Concerning the measures on the subject of Myanmar adopted under article 33 of the

⁴ OJ L 085, 27.3.1997, p. 8.

⁵ OJ L 211, 6.8.2008, p. 1.

ILO Constitution' ('ILC resolution'). Taking note of the conclusions adopted on 4 June 2012 by the Committee on the Application of Standards (CAS) and considering that maintaining the existing measures would no longer help attaining the desired result, the ILC decided to lift restrictions, which excluded the Government of Myanmar/Burma from receiving ILO technical cooperation and assistance. It also suspended for one year the ILO request of its members to review their relationships with Myanmar/Burma to ensure forced labour is not being used in those relationships.

- (6) On 2012, the Commission approved a report on forced labour in Myanmar/Burma containing its findings (hereinafter 'the Report'). The Report concludes that the progress made by Myanmar/Burma towards complying with the ILO recommendations, which has been acknowledged by the competent ILO monitoring bodies, justifies that violations of the principles laid down in ILO Convention No 29 are no longer considered as 'serious and systematic' and recommends that the access to generalized tariff preferences should be reinstated to Myanmar/Burma.
- (7) In view of these conclusions and pursuant to Article 2 of Regulation (EC) No 552/97 the temporary withdrawal of Myanmar/Burma's access to the tariff preferences granted by Regulation (EC) No 732/2008 should therefore be repealed, as of the date of the adoption of the ILC resolution.
- (8) 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,

HAVE ADOPTED THIS REGULATION:

Article 1

Council Regulation (EC) No 552/97 is hereby repealed.

Article 2

1. This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.
2. It shall apply from 13 June 2012.

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

Done at Brussels,

For the European Parliament
The President

For the Council
The President

**LEGISLATIVE FINANCIAL STATEMENT FOR PROPOSALS HAVING A
BUDGETARY IMPACT EXCLUSIVELY LIMITED TO THE REVENUE SIDE**

1. NAME OF THE PROPOSAL:

Regulation of the European Parliament and of the Council repealing Council Regulation (EC) No 552/97 **temporarily withdrawing access to generalized tariff preferences from Myanmar/Burma.**

2. BUDGET LINES:

Chapter and Article: Chapter 12, Article 120

Amount budgeted for the year concerned: **€ 19 171 200 000 (B 2012);
€ 18 631 800 000 (DB 2013)**

3. FINANCIAL IMPACT

☒ The proposal has no financial impact on expenditure but has a financial impact on revenue – the effect is as follows:

(€ million to one decimal place)

Budget line	Revenue ⁶	6.5 month period, starting 13/06/2012	12 month period (2013)
Article 120	<i>Impact on own resources</i>	-7.3	-14.1

Note: This is a maximum estimate. Taking into account structural constraints which limit export levels and tariff preference use, actual loss is likely to be less than €5 million.

4. ANTI-FRAUD MEASURES

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5. OTHER REMARKS

Myanmar/Burma, potential covered imports in 2011 and loss of revenue were the GSP preferences already reinstated (*€ 1,000)

GSP	<i>Covered Imports</i>	<i>Revenue under MFN⁷ tariff (A)</i>	<i>Revenue under EBA arrangement⁸ (B)</i>	<i>Loss of revenue (A-B)</i>
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⁶ Regarding traditional own resources (agricultural duties, sugar levies, customs duties) the amounts indicated must be net amounts, i.e. gross amounts after deduction of 25 % of collection costs

<i>trade Section</i>				
S-01b	14,283.1	1,174.1	-	1,174.1
S-02a	0.3	0.0	-	0.0
S-02b	10,570.8	3.4	-	3.4
S-02c	24.6	0.0	-	0.0
S-02d	3,500.6	0.1	-	0.1
S-03	0.1	0.0	-	0.0
S-04a	2.9	0.4	-	0.4
S-04b	14.1	-	-	-
S-06b	0.6	0.0	-	0.0
S-07a	131.2	8.5	-	8.5
S-08a	10.6	0.6	-	0.6
S-08b	9.5	0.3	-	0.3
S-09a	17.5	0.0	-	0.0
S-09b	823.4	30.6	-	30.6
S-10	4.0	-	-	-
S-11a	4.0	0.3	-	0.3
S-11b	132,516.6	15,496.5	-	15,496.5
S-12a	3,962.8	380.7	-	380.7
S-12b	22.7	0.9	-	0.9
S-13	34.4	0.8	-	0.8
S-14	131.1	0.0	-	0.0
S-15a	0.1	0.0	-	0.0
S-15b	227.9	6.0	-	6.0

⁷ Most favoured nation status
⁸ Special arrangement for the least-developed countries

S-16	566.4	7.7	-	7.7
S-17b	143.8	3.9	-	3.9
S-18	1.9	0.1	-	0.1
S-20	300.4	12.1	-	12.1
S-21	11.0	-	-	-
<i>Total</i>	167,316.3	17,127.1	-	17,127.1

Loss of revenue is calculated as follows:

(Total of Most Favoured Nation duty calculated on covered imports) – (Total of preferential duty calculated on preferential trade).

The estimated loss of revenue (calculated on the basis of year 2011 trade flows and duty collections) for Myanmar/Burma and with a 5% increase per year is (*€ 1,000):

<i>Year</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>
Total value of imports	167,316.3	175,682.1	184,466.3	193,689.6	203,374.0
Maximum preferential import	N/A	95,161.1	184,466.3	193,689.6	203,374.0
Loss of revenue (after deduction of 25% of collection costs)	N/A	7,305.8	14,162.0	14,870.1	15,613.6

Note: This is a maximum estimate. Taking into account structural constraints which limit export levels and tariff preference use, actual loss is likely to be less than €5 million.