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### COVER NOTE

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From: Secretary-General of the European Commission,  
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 22 July 2014

To: Mr Uwe CORSEPIUS, Secretary-General of the Council of the European  
Union

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Subject: COMMISSION DELEGATED REGULATION (EU) No .../.. of 22.7.2014  
amending Annexes II and III to Regulation (EU) No 978/2012 of the  
European Parliament and of the Council applying a scheme of generalised  
tariff preferences, and repealing Commission Delegated Regulation (EU)  
No 154/2013

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Delegations will find attached document C(2014) 5086 final.

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Encl.: C(2014) 5086 final



Brussels, 22.7.2014  
C(2014) 5086 final

**COMMISSION DELEGATED REGULATION (EU) No .../..**

**of 22.7.2014**

**amending Annexes II and III to Regulation (EU) No 978/2012 of the European Parliament and of the Council applying a scheme of generalised tariff preferences, and repealing Commission Delegated Regulation (EU) No 154/2013**

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE DELEGATED ACT

The EU Generalised Scheme of Preferences ('GSP') has assisted, since 1971, developing countries in their efforts to reduce poverty, promote good governance and sustainable development by providing preferential access to the EU market and, consequently, helping them generate additional revenues through international trade. Regulation (EU) No 978/2012 of the European Parliament and the Council<sup>1</sup> ('the GSP Regulation') provides the legal framework for the GSP implementation. It was designed to concentrate GSP preferences on those developing countries most in need: the least developed countries (LDCs) 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 the GSP Regulation. Annex II was last amended by Regulation (EU) No 1421/2013<sup>2</sup>, which replaced Regulation (EU) No 154/2013<sup>3</sup>. Under Article 5(2) of the GSP Regulation, the Commission has to review Annex II by 1 January of each year. The overall aim 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 scheme.

The criteria to be granted GSP beneficiary status are laid down in Article 4 of the GSP Regulation.

Article 4(1)(a) of the GSP Regulation 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 the GSP general arrangement. Under Article 5(2)(a) of the GSP Regulation, 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. Turkmenistan was classified by the World Bank as an upper middle-income country in 2012, 2013 and 2014. Accordingly, Turkmenistan no longer fulfills the criteria to benefit from the GSP arrangement and needs to be removed from Annex II as from 1 January 2016.

Article 4(1)(b) of the GSP Regulation sets out that GSP preferences 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 the GSP, or better, for substantially all trade.

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

<sup>2</sup> OJ L 355, 31.12.2013, p. 1.

<sup>3</sup> OJ L 48, 21.2.2013, p. 1.

Furthermore, Article 5(2)(b) of the GSP Regulation states that if a country started to apply a preferential market access arrangement, then the 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 as follows: Peru on 1 March 2013, Colombia, Honduras, Nicaragua and Panama on 1 August 2013, Costa Rica and El Salvador on 1 October 2013 and Guatemala on 1 December 2013. Consequently, these countries should cease to benefit from GSP preferences and this needs to be reflected in Annex II.

In order to ensure a uniform application of the GSP status change throughout the region, a single exit date from GSP is proposed for the eight countries: 1 January 2016. A single exit date will facilitate a more coherent adjustment to the new trade regime for the eight countries concerned, which are highly-integrated in terms of trade flows. Furthermore, 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 be administratively burdensome and may lead to legal uncertainty for the remaining beneficiaries.

Some of the countries, namely Costa-Rica, Guatemala, El Salvador, Panama and Peru benefit from enhanced market access to the EU through the special arrangement for sustainable development and good governance under Article 9 of the GSP Regulation (GSP+). By ceasing to be GSP beneficiaries, these countries also cease to be GSP+ beneficiaries. Consequently, the list of GSP+ beneficiaries (Annex III to the GSP Regulation) will need to be amended by removing Costa-Rica, Guatemala, El Salvador, Panama and Peru from this list as from 1 January 2016.

In the same way, as prescribed by Regulation (EU) No 1421/2013, Ecuador ceases to be a GSP beneficiary as from 1 January 2015. Consequently, Ecuador also ceases to be GSP+ beneficiary as from the same date and this should be clarified by amending Annex III to the GSP Regulation.

Lastly, Regulation (EU) No 1421/2013, which entered into force on 1 January 2014, replaced Regulation (EU) No 154/2013 which provided for a consolidated version of Annex II and also for the removal of Iran and Azerbaijan from Annex II by 22 February 2014. For reasons of legal certainty, the situation of Iran and Azerbaijan needs to be clarified in order to confirm that both countries maintained GSP beneficiary status from 1 January to 22 February 2014. Moreover, in order to preserve the legal clarity as to which Annex II is applicable as of 23 February 2014, Regulation (EU) No 154/2013 should be repealed as from 1 January 2014. However, in derogation of this effective date of repeal, Regulation (EU) No 154/2013 should still apply until 22 February 2014 as regards Azerbaijan and Iran.

## **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 meetings held on and 7 February 2014 and on 21 May 2014.

## **3. LEGAL ELEMENTS OF THE DELEGATED ACT**

Article 5(3) of the GSP Regulation empowers the Commission to adopt delegated acts to amend Annex II to that Regulation. The proposed amendments to Annex II are as follows.

Turkmenistan should be removed from Annex II of the GSP Regulation with application from 1 January 2016.

Peru, Colombia, Honduras, Nicaragua, Panama, Costa Rica, El Salvador and Guatemala should be removed from Annex II of the GSP Regulation with application from 1 January 2016.

Article 10(5) of the GSP Regulation empowers the Commission to adopt delegated acts to amend Annex III to that Regulation. The proposed amendments to Annex III are as follows.

Costa-Rica, Guatemala, El Salvador, Panama and Peru should be removed from Annex III of the GSP Regulation with application from 1 January 2016. Ecuador should be removed from Annex III of the GSP Regulation with application from 1 January 2015.

The delegated act also clarifies that Iran and Azerbaijan enjoyed GSP beneficiary status from 1 January 2014 until 22 February 2014.

**COMMISSION DELEGATED REGULATION (EU) No .../..**

**of 22.7.2014**

**amending Annexes II and III to Regulation (EU) No 978/2012 of the European Parliament and of the Council applying a scheme of generalised tariff preferences, and repealing Commission Delegated Regulation (EU) No 154/2013**

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 ('the GSP Regulation') establishes the criteria for granting tariff preferences under the general arrangement of the Generalised Scheme of Preferences ('GSP').
- (2) Article 4(1)(a) of the GSP Regulation provides 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 should not benefit from GSP preferences.
- (3) Article 4(1)(b) of the GSP Regulation provides that 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 enjoy GSP preferences.
- (4) The list of beneficiary countries of the general GSP is established by Annex II to the GSP Regulation. Article 5 of the GSP Regulation lays down that Annex II is to be reviewed by 1 January of each year to reflect changes in relation to the criteria laid down in Article 4. Furthermore, it provides for a GSP beneficiary country and economic operators to be given sufficient time for an orderly adaptation to the country's GSP status revision. Accordingly, the GSP arrangement is to continue for one year after the date of entry into force of a change in a country's status on the basis of Article 4(1)(a) and for two years from the date of application of a preferential market access arrangement, as provided by Article 4(1)(b).

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

- (5) Turkmenistan has been classified by the World Bank as an upper-middle income country in 2012, 2013 and 2014. Accordingly, Turkmenistan no longer qualifies for GSP beneficiary status under Article 4(1)(a) and should be removed from Annex II of the GSP Regulation. 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. In the interests of a uniform application, Turkmenistan should be removed from Annex II with effect from 1 January 2016.
- (6) Preferential market access arrangements with the following countries started to apply at various dates in 2013: Peru on 1 March 2013, Colombia, Honduras, Nicaragua and Panama on 1 August 2013, Costa Rica and El Salvador on 1 October 2013 and Guatemala on 1 December 2013. In order to ensure a uniform application of the change to their GSP status and in line with the GSP Regulation, Peru, Colombia, Honduras, Nicaragua, Panama, Costa Rica, El Salvador and Guatemala should be removed from Annex II with effect from 1 January 2016.
- (7) Article 9(1) of the GSP Regulation establishes specific eligibility criteria for granting tariff preferences under the special incentive arrangement for sustainable development and good governance ('GSP+'). One key condition is that the country must be a GSP beneficiary. The list of GSP+ beneficiaries is established in Annex III to the GSP Regulation.
- (8) As a consequence of their ceasing to be GSP beneficiaries, Costa-Rica, Guatemala, El Salvador, Panama and Peru also cease to be GSP+ beneficiaries under Article 9(1) of the GSP Regulation. Those countries should therefore be removed from Annex III to the GSP Regulation with effect from 1 January 2016.
- (9) Pursuant to Commission Delegated Regulation (EU) No 1421/2013<sup>2</sup>, Ecuador ceases to be a GSP beneficiary as from 1 January 2015. Consequently, in line with Article 9 of the GSP Regulation, Ecuador will cease to be GSP+ beneficiary and should be removed from Annex III to the GSP Regulation with effect from the same date.
- (10) Following the entry into force of Regulation (EU) No 1421/2013 on 1 January 2014, Commission Delegated Regulation (EU) No 154/2013<sup>3</sup> which provided a consolidated version of Annex II and also for the removal of Iran and Azerbaijan from the list of GSP beneficiary countries no longer applies. Therefore, for the sake of legal clarity, Regulation (EU) No 154/2013 should be repealed. However, in derogation from Regulation (EU) No 1421/2013, Regulation (EU) No 154/2013 should still apply until 22 February 2014 as regards Azerbaijan and Iran. Consequently, it needs to be clarified that Iran and Azerbaijan maintained GSP beneficiary status from 1 January 2014 to 22 February 2014,

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<sup>2</sup> Commission Delegated Regulation (EU) No 1421/2013 of 30 October 2013 amending Annexes I, II and IV to Regulation (EU) No 978/2012 of the European Parliament and of the Council applying a scheme of generalised tariff preferences (OJ L 355, 31.12.2013, p. 1).

<sup>3</sup> Commission Delegated Regulation (EU) No 154/2013 of 18 December 2012 amending Annex II to Regulation (EU) No 978/2012 of the European Parliament and of the Council applying a scheme of generalised tariff preferences (OJ L 48, 21/02/2013, p. 1).

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

CO	Colombia
CR	Costa Rica
GT	Guatemala
SV	El Salvador
HN	Honduras
NI	Nicaragua
PA	Panama
PE	Peru
TM	Turkmenistan

2. Annex III is amended as follows:

- (a) the following country and the corresponding alphabetical code is removed from columns A and B, respectively:

EC	Ecuador
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- (b) the following countries and the corresponding alphabetical codes are removed from columns A and B, respectively:

CR	Costa Rica
GT	Guatemala
SV	El Salvador
PA	Panama
PE	Peru

#### *Article 2*

#### **Repeal**

Regulation (EU) No 154/2013 is repealed with effect from 1 January 2014.

In derogation from Regulation (EU) No 1421/2013, the repeal shall take effect on 23 February 2014 as regards Azerbaijan and Iran.

#### *Article 3*

#### **Entry into force and application**

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

Article 1(1) shall apply from 1 January 2016.

Article 1(2)(a) shall apply from 1 January 2015.

Article 1(2)(b) shall apply from 1 January 2016.

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

Done at Brussels, 22.7.2014

*For the Commission*  
*The President*  
*José Manuel BARROSO*