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| From: | Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director |
| date of receipt: | 26 November 2019 |
| To: | Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union |
| No. Cion doc.: | C(2019) 8360 final |
| Subject: | COMMISSION DELEGATED REGULATION (EU) .../... of 26.11.2019 amending the vulnerability threshold set out in point 1(b) of Annex VII to Regulation (EU) No 978/2012 of the European Parliament and the Council applying a scheme of generalised tariff preferences |

Delegations will find attached document C(2019) 8360 final.

Encl.: C(2019) 8360 final



EUROPEAN
COMMISSION

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

of 26.11.2019

amending the vulnerability threshold set out in point 1(b) of Annex VII to Regulation (EU) No 978/2012 of the European Parliament and the Council applying a scheme of generalised tariff preferences

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

The European Union has granted trade preferences to developing countries through the Generalised Scheme of Tariff Preferences (GSP scheme) since 1971. It is part of its common commercial policy in accordance with the general provisions governing the EU's external action. The special incentive arrangement for sustainable development and good governance (GSP+) provides additional tariff preferences to developing countries, which are vulnerable when exporting to the EU. The GSP+ scheme supports these countries to assume the special burdens and responsibilities resulting from the ratification of 27 core international conventions on human and labour rights, environmental protection and good governance as well as from their effective implementation

Pursuant to Article 9(1)(a) of the Regulation (EU) No 978/2012 of the European Parliament and of the Council¹ (GSP Regulation), a country is considered vulnerable in case of a lack of diversification and insufficient integration within the international trading system. That vulnerability must be assessed using the methodology and threshold described in Annex VII point 1(b) to the GSP Regulation.

Annex VII point 1(b) lays down that for a country to be considered vulnerable, the total of its imports of products listed in Annex IX into the Union shall represent less than 6.5% in value of the total imports into the Union of products listed in Annex IX and originating in GSP beneficiary countries listed in Annex II to the GSP Regulation as an average during the last three consecutive years.

Article 9(2) of the GSP Regulation lays down that when the list of GSP beneficiaries is amended, the vulnerability threshold can be reviewed by the Commission through a delegated act "so as to maintain proportionally the same weight of the vulnerability threshold as calculated in Annex VII". Such a need arises because the list of GSP beneficiaries in Annex II was substantially amended as twenty-one countries were removed since the last review of the vulnerability threshold took place by Commission Regulation 2015/602.

As a result of all the changes in Annex II between the last review of the vulnerability threshold on 1 January 2015 and 1 January 2019, the average yearly total imports into the EU from GSP beneficiary countries calculated on the basis of the last three consecutive years would fall as follows, based on Eurostat data extracted on 1 July 2019:

On 1 January 2016: from EUR 81 091 581 to EUR 76 583 444 i.e. to 94.44% in 2015 based on 2013-2015 average totals

On 1 January 2017: from EUR 84 297 289 to EUR 83 872 793, i.e. to 99.50% based on 2014–2016 average totals

On 1 January 2018: from 91 928 008 to EUR 87 970 827, i.e. to 95.70% based on 2015–2017 average totals;

On 1 January 2019: from 92 358 584 to EUR 90 281 279, i.e. to 97.75% based on 2016-2018 average totals.

To compensate for these drops, it is proposed to raise the vulnerability threshold defined in Annex VII point 1(b) in the same proportion to the decrease of average GSP imports into the EU for the last three consecutive years. Therefore, the threshold must be multiplied as follows:

¹ OJ L 303, 31.10.2012, p. 1.

($1/0.9444=$) 1,059 on 1 January 2016

($1/0.9950=$) 1,005 on 1 January 2017

($1/0.9570=$) 1,045 on 1 January 2018

($1/0.9775=$) 1,023 on 1 January 2019.

That will result in a vulnerability threshold of

($6.5\% \cdot 1.059 \cdot 1.005 \cdot 1.045 \cdot 1.023=$) 7.4%.

In the interests of simplicity and legal certainty and in line with past practice, a single update of the threshold is proposed of 7.4% applicable as of 1 January 2019.

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 meetings held on 17 September and 28 October 2019.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

Article 9(2) of the GSP Regulation empowers the Commission to adopt delegated acts to amend Annex VII in order to review the vulnerability threshold listed in point 1(b) of Annex VII. The proposed delegated act will amend that threshold. The new threshold shall apply as from 1 January 2019, when the most recent of the twenty-one countries were removed from the list of GSP beneficiaries.

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

of 26.11.2019

amending the vulnerability threshold set out in point 1(b) of Annex VII to Regulation (EU) No 978/2012 of the European Parliament and the Council applying a scheme of generalised tariff preferences

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 732/2008¹, and in particular Article 9(2) thereof,

Whereas:

- (1) Pursuant to point (a) of Article 9(1) of Regulation (EU) No 978/2012, a country benefiting from the Generalised Scheme of Preferences ('GSP') may benefit from the tariff preferences provided under the special incentive arrangement for sustainable development and good governance if it is considered vulnerable due to lack of diversification and insufficient integration within the international trading system, as defined in Annex VII to Regulation (EU) No 978/2012.
- (2) Pursuant to point 1(b) of Annex VII to Regulation (EU) No 978/2012, for a country to be considered vulnerable, the imports of products listed in Annex IX into the Union from that country should represent less than the threshold of 6.5 % in value of the total imports from GSP beneficiary countries into the Union, as an average during the last three consecutive years.
- (3) Where the list of GSP beneficiary countries is amended, Regulation (EU) No 978/2012 empowers the Commission to adopt delegated acts to amend Annex VII in order to review the vulnerability threshold defined in point 1(b) of Annex VII so as to maintain proportionally the same weight of the vulnerability threshold in terms of determining whether countries are considered vulnerable, irrespective of amendments of the list of GSP beneficiary countries. In accordance with Annex VII to Regulation (EU) No 978/2012, the weight of the vulnerability threshold is the value of the total imports into the Union of the products listed in Annex IX from all GSP beneficiary countries taken as an average.
- (4) Commission Delegated Regulation (EU) 2015/602² changed the vulnerability threshold from 2 % to 6.5 % applicable as of 1 January 2015.
- (5) The list of GSP beneficiaries in Annex II to Regulation (EU) No 978/2012 has been substantially amended, as twenty-one countries have been removed, between the last review of the vulnerability threshold in 2015 and 1 January 2019. It is therefore

¹ OJ L 303, 31.10.2012, p. 1.

² Commission Delegated Regulation (EU) 2015/602 of 9 February 2015 amending Regulation (EU) No 978/2012 of the European Parliament and the Council as regards the vulnerability threshold defined in point 1(b) of Annex VII to that Regulation (OJ L 100, 17.4.2015, p. 8).

necessary to amend the vulnerability threshold set out in point 1(b) of Annex VII to Regulation (EU) No 978/2012.

- (6) As a result of the amendments to the list of countries in Annex II to Regulation (EU) No 978/2012 between the last amendment of the vulnerability criterion in 2015 and 1 January 2019, the total imports into the Union of the products listed in Annex IX from all GSP beneficiary countries taken as an average would decrease by 12.2 %. Therefore, an increase of the vulnerability threshold from 6.5 % to 7.4 % as from 1 January 2019 would maintain proportionally the same weight of the vulnerability threshold as laid down in Annex VII to Regulation (EU) No 978/2012.
- (7) To take into account the effective dates of the amendments to the list of countries in Annex II to Regulation (EU) No 978/2012 and its impact on the vulnerability of beneficiary countries, this threshold shall be effective from 1 January 2019,

HAS ADOPTED THIS REGULATION:

Article 1

In point 1(b) of Annex VII to Regulation (EU) No 978/2012, the threshold ‘6,5 %’ is replaced by ‘7,4 %’.

Article 2

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

It shall apply from 1 January 2019.

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

Done at Brussels, 26.11.2019

For the Commission
The President
Jean-Claude JUNCKER