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COVER NOTE

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
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To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	C(2019) 8368 final
Subject:	COMMISSION DELEGATED REGULATION (EU) .../... of 25.11.2019 amending Annex II to Regulation (EU) No 978/2012 of the European Parliament and of the Council applying a scheme of generalised tariff preferences

Delegations will find attached document C(2019) 8368 final.

Encl.: C(2019) 8368 final



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

of 25.11.2019

amending Annex II to Regulation (EU) No 978/2012 of the European Parliament and of the Council applying a scheme of generalised tariff preferences

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 Council¹ 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 beneficiaries is established by Annex II to Regulation (EU) No 978/2012. According to Article 5(2) of Regulation (EU) No 978/2012, the Commission has to review Annex II by 1 January of each year. The overall aim of this provision 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.

The criteria for an eligible country to benefit from GSP beneficiary status are laid down in Article 4 of the 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.

Nauru, Samoa and Tonga were classified by the World Bank as upper middle-income country in 2017, 2018 and 2019. Accordingly, they no longer fulfill the criteria to benefit from the GSP arrangement and need to be removed from Annex II as from 1 January 2021.

Setting the effective exit date for 1 January, in line with past practice, is simple 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 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, a single exit date from GSP is proposed for the countries concerned: 1 January 2021.

¹ OJ L 303 of 31.10.2012, p. 1.

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 meeting held on 17 September and 28 October 2019.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

Article 5(3), in accordance with Article 36, of Regulation (EU) No 978/2012 empowers the Commission to adopt delegated acts in order to amend Annex II to that Regulation.

Nauru, Samoa and Tonga should be removed from Annex II of Regulation (EU) No 978/2012 with application from 1 January 2021.

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

of 25.11.2019

amending Annex II to Regulation (EU) No 978/2012 of the European Parliament and of 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 5(3) thereof,

Whereas:

- (1) Article 4 of the Regulation (EU) No 978/2012 of the European Parliament and of the Council establishes the criteria for granting tariff preferences under the general arrangement of the Generalised Scheme of Preferences ('GSP').
- (2) Article 4(1)(a) of 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 for three consecutive years immediately prior to the updating of list of beneficiary countries should no longer benefit from GSP.
- (3) The list of beneficiary countries under the GSP referred to in point (a) of Article 1(2) of Regulation (EU) No 978/2012 is established in Annex II to that Regulation. Pursuant to Article 5(2) of Regulation (EU) No 978/2012, the Commission should review Annex II by 1 January each year in order to amend the status of the listed countries in accordance with the criteria laid down in Article 4.
- (4) Pursuant to point (a) of Article 5(2) of Regulation (EU) No 978/2012 a GSP beneficiary country and economic operators should be given sufficient time for an orderly change to the country's GSP status. Accordingly, the GSP arrangement should continue for one year after the date of entry into force of a change in a country's status pursuant to Article 4(1)(a) of Regulation (EU) No 978/2012.
- (5) Nauru, Samoa and Tonga have been classified by the World Bank as upper-middle income countries in 2017, 2018 and 2019. Accordingly, they no longer qualify for GSP beneficiary status under Article 4(1)(a) and should be removed from Annex II of Regulation (EU) No 978/2012. The GSP arrangement for those countries should continue for one year after the date of entry into force of the decision to remove those countries from Annex II of Regulation (EU) No 978/2012. Therefore, in the interest of

¹ 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).

simplicity and legal certainty, Nauru, Samoa and Tonga should be removed from Annex II with application from 1 January 2021,

HAS ADOPTED THIS REGULATION:

Article 1

In Annex II to Regulation (EU) No 978/2012, the following countries and the corresponding alphabetical codes are removed from columns A and B, respectively:

‘NR	Nauru
WS	Samoa
TO	Tonga’

Article 2

This Regulation shall enter into force on 1 January 2020.

Article 1 shall apply from 1 January 2021.

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

Done at Brussels, 25.11.2019

For the Commission
The President
Jean-Claude JUNCKER