Commission Delegated Regulation (EU) No 1083/2013 of 28 August 2013 establishing rules related to the procedure for temporary withdrawal of tariff preferences and adoption of general safeguard measures under Regulation (EU) No 978/2012 of the European Parliament and the Council applying a scheme of generalised tariff preferences

COMMISSION DELEGATED REGULATION (EU) No 1083/2013

of 28 August 2013

establishing rules related to the procedure for temporary withdrawal of tariff preferences and adoption of general safeguard measures under 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, and in particular Article 207 thereof,

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[(1)], and in particular Articles 15(12), 19(14), and 22(4) thereof,

Whereas:

To ensure the transparency and predictability of the temporary withdrawal of preferences and of the adoption of general safeguards, the Commission has been empowered by the European Parliament and the Council to adopt a delegated act to establish rules, in particular, with respect to deadlines, rights of parties, confidentiality and review,

HAS ADOPTED THIS REGULATION:

CHAPTER I

RULES RELATED TO THE PROCEDURE FOR TEMPORARY WITHDRAWAL OF TARIFF PREFERENCES

Article 1

Examination of information

1 The Commission shall seek all information it considers necessary, including, inter alia, the conclusions and recommendations of the relevant monitoring bodies. In drawing its conclusions, the Commission shall assess all relevant information

2 The Commission shall provide a reasonable period of time within which third parties may make their views known in writing by sending the relevant information to the Commission. This period shall be specified in the notice announcing the initiation of the procedure for

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) No 1083/2013. (See end of Document for details)*

temporary withdrawal. The Commission shall take into account the views submitted by those third parties where they are backed by sufficient evidence.

3 Where the Commission finds that the beneficiary country concerned or any third party which has come forward in accordance with paragraph 2 has supplied it with false or misleading information, it shall disregard that information.

Article 2

Constituted file

1 Where the Commission has initiated the procedure for the temporary withdrawal of the tariff preferences it shall establish a constituted file. A constituted file shall contain the documents which are relevant for drawing conclusions, including, information provided by the concerned GSP beneficiary country, GSP + beneficiary country or EBA beneficiary country (the 'beneficiary country'), information submitted by third parties which have come forward in accordance with Article 1(2) and any relevant information obtained by the Commission.

2 The beneficiary country and the third parties which have submitted information supported by sufficient evidence in accordance with Article 1(2) have the right of access to the constituted file upon written request. They may inspect all information contained in the constituted file except internal documents prepared by the Union institutions or Member States authorities and with due regard to the confidentiality obligations contained in Article 38 of Regulation (EU) No 978/2012 (GSP Regulation).

3 The content of a constituted file shall comply with provisions of confidentiality in accordance with Article 38 of the GSP Regulation

Article 3

Obligation to cooperate for GSP + beneficiary countries

1 Where the Commission has initiated the procedure for the temporary withdrawal of the tariff preferences provided under the special incentive arrangement for sustainable development and good governance (GSP+), the GSP + beneficiary country concerned shall submit all necessary information providing proof of compliance with obligations resulting from its binding undertakings within a period provided in the Commission's notice.

2 Lack of cooperation of the GSP + beneficiary country concerned shall not impede the right of the access to the constituted file.

3 If the GSP + beneficiary country concerned refuses to cooperate, or does not provide the necessary information within the relevant time limit or significantly impedes the procedure, the Commission findings, affirmative or negative, may be made on the basis of the facts available.

Article 4

General hearing

1 The beneficiary country concerned and third parties which have submitted information supported by sufficient evidence in accordance with Article 1(2) have the right to be heard by the Commission.

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2 They shall submit a written request specifying the reasons for them to be heard orally. Such a request shall be received by the Commission at the latest one month after the date of initiation of a temporary withdrawal procedure.

Article 5

Involvement of the Hearing Officer

1 The beneficiary country concerned and third parties which have submitted information supported by sufficient evidence in accordance with Article 1(2) may also request the intervention of the Hearing Officer. The Hearing Officer shall review requests for access to the constituted file, disputes on the confidentiality of documents, requests for extension of time limits and requests to be heard.

2 Third parties which have submitted information supported by sufficient evidence in accordance with Article 1(2) may request the intervention of the Hearing Officer to verify whether their observations have been considered by the Commission. The written request shall be submitted no later than 10 days after expiry of the period provided to make their views known.

3 If the beneficiary country concerned or third parties which have submitted information supported by sufficient evidence in accordance with Article 1(2)) have an oral hearing with the Hearing Officer the relevant Commission service shall participate in it.

Article 6

Disclosure for investigations under Article 15 of the GSP Regulation

1 The Commission shall disclose to the GSP + beneficiary country concerned the details underlying the essential facts and considerations on the basis of which the Commission intends to take decisions pursuant to article 15(8) and 15(9) of the GSP Regulation.

2 Disclosure shall be given in writing. It shall contain the Commission's findings and shall reflect its provisional intention whether to terminate the temporary withdrawal procedure or to temporarily withdraw the tariff preferences.

3 Disclosure shall be made, with due regard to the protection of confidential information in accordance with Article 38 of the GSP Regulation, as soon as possible and, normally, not later than 45 days prior to a definitive decision by the Commission of any proposal for final action. Where the Commission is not in a position to disclose certain facts or considerations at that time, these shall be disclosed as soon as possible thereafter.

4 Disclosure shall not prejudice any subsequent decision which may be taken but where such a decision is based on any different facts and considerations, these shall be disclosed as soon as possible.

5 Submissions made after disclosure shall be taken into consideration only if received within a period to be set by the Commission in each case, which shall be at least 14 days after disclosure, due consideration being given to the urgency of the matter.

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Article 7

Review

1 Where the tariff preferences have been temporarily withdrawn from a beneficiary country, the beneficiary country concerned may submit a written request for reinstatement of the tariff preferences if it considers that the reasons justifying temporary withdrawal no longer apply.

2 The Commission may review the need for the temporary withdrawal of preferences wherever it considers that the conditions for such withdrawal are no longer met.

3 The provisions of this chapter shall apply *mutatis mutandis* to the review of temporary withdrawal of tariff preferences.

CHAPTER II

RULES RELATED TO THE PROCEDURE FOR ADOPTING THE GENERAL SAFEGUARD MEASURES

Article 8

Initiation of investigation on request

1 A request for the initiation of a safeguard investigation shall be submitted in writing, in confidential and non-confidential form. It shall contain such information as is reasonably available to the requesting party on the following:

a the identity of the complaining Union producers and a description of the volume and value of their Union production of the like product or directly competing product. Where a written complaint is made on their behalf, the complaint shall identify the Union producers on behalf of which the complaint is made. The complaint shall also list other known producers (or associations of Union producers of the like product) in the Union which are not complaining, and describe the volume and value of their Union production;

b a complete description of the like product, the name of the beneficiary country concerned, the identity of each known exporter or foreign producer and a list of known persons importing the product in question;

c information on levels and trends of volumes and prices of the imports of the like product originating in the beneficiary country concerned. This information shall distinguish amongst preferential imports under the GSP Regulation, other preferential imports, and imports not enjoying preferences;

d information on the situation of the complaining Union producers, on the basis of the factors listed in Article 23 of the GSP Regulation;

e information on the effect the imports as described under (c) have had on the complaining Union producers, due account being taken of other additional factors affecting the situation of Union producers.

2 The request together with the accompanying documents shall be submitted to the Commission’s mail reception service:

Central mail service (Courrier central)

Bâtiment DAV1

Avenue du Bourget 1/Bourgetlaan 1

1140 Bruxelles/Brussel

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The request shall be deemed to have been lodged on the first working day following its delivery to the Commission by registered mail or the issuing of an acknowledgement of receipt by the Commission.

The Commission shall send to the Member States a copy of the request once it has been received.

3 In addition to the formal written submission, the request and the accompanying documents shall also be submitted in electronic format. Any request submitted exclusively in electronic format will not be considered valid for the purposes of this Regulation.

4 The authorities shall avoid, unless a decision has been made to initiate an investigation, any publicising of the request seeking the initiation of an investigation. However, after receipt of a properly documented request and before proceeding to initiate an investigation, the government of the exporting country concerned shall be notified.

5 The request may be withdrawn prior to initiation, in which case it shall be considered not to have been lodged.

Article 9

Ex officio initiation of investigation

Commission can initiate an investigation without request on the basis of sufficient *prima facie* evidence that the conditions for imposing the safeguard measure set out in Article 22(1) of GSP Regulation are met.

Article 10

Information on initiation of investigation

1 The notice of initiation published in the *Official Journal of the European Union* shall:

a give a summary of the information received, and require that all relevant information is to be communicated to the Commission;

b state the period within which interested parties may make known their views in writing and submit information, in order for such views and information to be taken into account during the investigation;

c state the period of investigation, which shall normally, cover a period of no less than 3 years immediately prior to the initiation of the investigation proceeding. Information relating to a period subsequent to the investigation period shall, normally, not be taken into account;

d state the period within which interested parties may apply to be heard orally by the Commission;