Council Regulation (EC) No 1933/2006 of 21 December 2006 temporarily withdrawing access to the generalised tariff preferences from the Republic of Belarus

[[X1]COUNCIL REGULATION (EC) No 1933/2006

of 21 December 2006

temporarily withdrawing access to the generalised tariff preferences from the Republic of Belarus**]**

[[X1]THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof,

Having regard to the proposal from the Commission,

Having regard to Council Regulation (EC) No 980/2005 of 27 June 2005 applying a scheme of generalised tariff preferences[(1)], and in particular Article 20(4) thereof,

Whereas:

(1) Pursuant to Regulation (EC) No 980/2005, the Republic of Belarus (hereinafter referred to as Belarus) is a beneficiary country of the Community's scheme of generalised tariff preferences.

(2) On 29 January 2003, the International Confederation of Free Trade Unions (ICFTU), the European Trade Union Confederation (ETUC) and the World Confederation of Labour (WCL) made a joint request to the Commission for an investigation to be made under Article 27 of Council Regulation (EC) No 2501/2001 of 10 December 2001 applying a scheme of generalised tariff preferences for the period from 1 January 2002 to 31 December 2004[(2)] — Statements on a Council Regulation applying a scheme of generalised tariff preferences for the period from 1 January 2002 to 31 December 2004 into alleged violations of the freedom of association and of the right to collective bargaining in Belarus.

(3) The Commission examined the request in consultation with the Generalised Preferences Committee and decided, by Decision of 29 December 2003[(3)], to initiate an investigation. Information from interested parties was sought, by means of a published notice[(4)].

(4) The Belarussian authorities were formally notified of the opening of the investigation. They denied any violations of International Labour Organisation (ILO) Conventions No 87 (concerning Freedom of Association and Protection of the Right to Organise) and No 98 (concerning the Application of the Principles of the Right to Organise and to Bargain Collectively).

(5) The information collected by the Commission during the course of the investigation conducted in consultation with the Generalised Preferences Committee, however, corroborated the existence of serious and systematic violations of the freedom of

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EC) No 1933/2006. (See end of Document for details)*

association and of the right to collective bargaining under ILO Conventions No 87 and No 98. Among other things, the Commission learned that ILO examined the situation in Belarus with respect to the two conventions and had started its own respective investigation in November 2003. The resulting ILO Commission of Inquiry report of July 2004 contained 12 recommendations to undertake specific steps to improve the situation in Belarus. Belarus was urged to implement these recommendations by 1 June 2005, but no implementation took place. Based on this information and its own review, the Commission considered that a temporary withdrawal of the preferential arrangement was justified.

(6) On 17 August 2005, the Commission decided to monitor and evaluate the labour rights situation in Belarus[(5)]. The announcement of the start of the six-month period of monitoring and evaluation[(6)] included a statement of the Commission's intention to submit a proposal to the Council for the temporary withdrawal of the trade preferences, unless, before the end of the period, Belarus had made a commitment to take the measures necessary to conform with the principles referred to in the 1998 ILO Declaration on Fundamental Principles and Rights at Work, as expressed in the twelve recommendations in the ILO Commission of Inquiry report of July 2004. The Belarussian authorities were notified officially of the decision and of the announcement.

(7) Belarus did not make the requisite commitment within the six-month period of monitoring and evaluation, nor, as described below, during the months which followed. Instead, on 30 March 2006, Belarussian authorities presented to the Commission a submission on the situation of freedom of association rights in Belarus. The Commission analysed that submission, but concluded that it did not provide sufficient evidence of commitment.

(8) In the meantime, the ILO Governing Body adopted the Committee on Freedom of Association (CFA) follow-up report in March 2006, in which the CFA pointed to the actual worsening of the situation of trade unions' rights in Belarus and urged the Belarussian authorities to take concrete measures immediately.

(9) Further, the Commission received a communication, dated 16 May 2006, from the Belarussian authorities on the situation of freedom of association rights in Belarus. Just as with the submission of 30 March 2006, after a careful analysis, the Commission came to the conclusion that that submission did not provide any sign of commitment or a convincing indication that the situation had improved. This assessment of the situation in Belarus was shared by the ILO Committee on the Application of Standards of the International Labour Conference in its June 2006 report, where it deplored the continued failure by the Belarussian Government to implement the recommendations and stressed the necessity of rapid actions so that real and tangible progress could be noted. Also the June 2006 International Labour Conference, organised under the auspices of ILO, classified the lack of implementation of the 12 recommendations, which Belarus continued to ignore since July 2004, as a case of continued failure. This exceptional classification is only used for very serious and systematic cases of non compliance with a ratified convention.

(10) The Commission has carefully analysed recent developments in Belarus, including a letter from Belarus dated 14 October 2006 and submitted to the Commission on 17 October 2006. Instead of producing any effective commitment or clear evidence that the situation has improved, that letter, once again, puts forward possible intentions, but contains no indication of effective implementation of the principles of ILO Conventions No 87 and No 98. The violations of principles laid down in the ILO Conventions No 87 and No 98 continue to exist.

(11) In the light of the foregoing the preferential arrangement for products originating in Belarus should be withdrawn temporarily, until it is decided that the reasons justifying the temporary withdrawal no longer prevail.

(12) This Regulation should enter into force six months after its adoption, unless it is decided before then that the reasons justifying it no longer prevail,

HAS ADOPTED THIS REGULATION:

Editorial Information

X1 Substituted by Corrigendum to Council Regulation (EC) No 1933/2006 of 21 December 2006 temporarily withdrawing access to the generalised tariff preferences from the Republic of Belarus (Official Journal of the European Union L 405 of 30 December 2006).

Article 1

The preferential arrangement for products originating in Belarus provided for in **[**[F1]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**]**[(7)] shall be withdrawn temporarily.

Editorial Information

X1 Substituted by Corrigendum to Council Regulation (EC) No 1933/2006 of 21 December 2006 temporarily withdrawing access to the generalised tariff preferences from the Republic of Belarus (Official Journal of the European Union L 405 of 30 December 2006).

Textual Amendments

F1 Substituted by 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.

Article 2

The Council, acting by qualified majority, on a proposal from the Commission, shall re-establish the preferential arrangement for products originating in Belarus, if the violations of the freedom of association and of the right to collective bargaining in Belarus no longer exist.