Council Regulation (EC) No 980/2005 of 27 June 2005 applying a scheme of generalised tariff preferences

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applying a scheme of generalised tariff preferences

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 the Opinion of the European Parliament[(1)],

Having regard to the Opinion of the European Economic and Social Committee[(2)],

Whereas:

(1) Since 1971, the Community has granted trade preferences to developing countries, in the framework of its scheme of generalised tariff preferences.

(2) The Community's common commercial policy is to be consistent with and consolidate the objectives of development policy, in particular the eradication of poverty and the promotion of sustainable development and good governance in the developing countries. It is to comply with the WTO requirements, and in particular with the GATT Enabling clause of 1979[(3)].

(3) A communication from the Commission to the Council, the European Parliament and the European Economic and Social Committee of 7 July 2004 entitled ‘Developing countries, international trade and sustainable development: the function of the Community's generalised system of preferences (GSP) for the ten-year period from 2006 to 2015’ sets out the guidelines for the application of the scheme of generalised tariff preferences for the period 2006 to 2015.

(4) This Regulation is the first Regulation implementing those guidelines. It should apply until 31 December 2008.

(5) The scheme of generalised tariff preferences (hereinafter referred to as ‘the scheme’) should consist of a general arrangement granted to all the beneficiary countries and territories and two special arrangements taking into account the various development needs of similar-situated developing countries.

(6) The general arrangement should be granted to all beneficiary countries unless they are classified by the World Bank as a high-income country and where they are not sufficiently diversified in their exports.

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EC) No 980/2005. (See end of Document for details)*

(7) The special incentive arrangement for sustainable development and good governance is based on an integral concept of sustainable development as recognized by international conventions and instruments such as the UN Declaration on the Right to Development of 1986, the Rio Declaration on Environment and Development of 1992, the ILO Declaration on Fundamental Principles and Rights at Work of 1998, the UN Millennium Declaration of 2000 and the Johannesburg Declaration on Sustainable Development of 2002. Consequently, developing countries which due to a lack of diversification and insufficient integration into the international trading system are vulnerable while assuming special burdens and responsibilities due to the ratification and effective implementation of core international conventions on human and labour rights, environmental protection and good governance should benefit from additional tariff preferences. These preferences are designed to promote further economic growth and thereby to respond positively to the need for sustainable development. Under this arrangement ad valorem tariffs are therefore suspended for the beneficiary countries, as well as specific duties (unless combined with an ad valorem duty). The special incentive arrangement for sustainable development and good governance should exceptionally apply before the entry into force of the whole Regulation to conform with the WTO ruling on the special arrangements to combat drug production and trafficking.

(8) Developing countries which already fulfil the criteria under the special arrangement for sustainable development and good governance at the time of entry into force of this Regulation should benefit from this arrangement as quickly as possible. They should therefore be provisionally listed as beneficiary countries. They should continue to benefit from the preferences if upon their application the Commission confirms their qualification by 15 December 2005.

(9) The Commission should monitor the effective implementation of the international conventions in accordance with the respective mechanisms thereunder and should assess the relationship between additional tariff preferences and the promotion of sustainable development.

(10) The special arrangement for the least developed countries should continue to grant duty-free access to products originating in the least developed countries, as recognised and classified by the United Nations. For a country no longer classified by the United Nations as a least developed country a transitional period should be established to alleviate any adverse effects caused by removal of the tariff preferences granted under this arrangement.

(11) Preferences should continue to be differentiated according to the sensitivity of products, differentiating between non-sensitive and sensitive products, to take into account the situation of the sectors manufacturing the same products in the Community.

(12) Tariff duties on non-sensitive products should continue to be suspended, while duties on sensitive products should enjoy a tariff reduction to ensure a satisfactory utilisation rate while at the same time taking into account the situation of the respective Community industries.

(13) Such reduction should be sufficiently attractive in order to motivate traders to use the opportunities offered by the scheme. As far as ad valorem duties are concerned, the reduction should therefore be a flat rate of 3,5 percentage points of the most favoured nation (MFN) duty rate. Specific duties should be reduced by 30 %. Where duties specify a minimum duty, that minimum duty should not apply.

(14) Duties should be totally suspended where preferential treatment for an individual import declaration results in ad valorem duties of 1 % or less or in specific duties of EUR 2 or less as the cost of collecting such duties might be higher than the revenue gained.

(15) For the sake of coherence of the Community commercial policy, a beneficiary country should not benefit from both the Community's scheme and a free trade agreement, if that agreement covers at least all the preferences provided by the present scheme for that country.

(16) Graduation should be based on criteria related to sections of the Common Customs Tariff. The graduation of a section for a beneficiary country should be applied when the section meets the criteria for graduation during three consecutive years, to increase predictability and fairness of graduation by eliminating the effect of large and exceptional variations in the import statistics.

(17) The rules of origin, concerning the definition of the concept of originating products, the procedures and the methods of administrative cooperation related thereto, laid down in Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code[(4)], apply to tariff preferences provided for by this Regulation to ensure that the benefit of this scheme goes only to those whom the scheme is intended to benefit.

(18) The reasons for temporary withdrawal should include serious and systematic violations of the principles laid down in the conventions listed in Annex III so as to promote the objectives of those conventions and to ensure that no beneficiary receives unfair advantage through continuous violation of those conventions.

(19) Due to the political situation in Myanmar, temporary withdrawal of all tariff preferences in respect of imports of products originating in Myanmar should remain in force.

(20) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission[(5)],

HAS ADOPTED THIS REGULATION:

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EC) No 980/2005. (See end of Document for details)*

CHAPTER I

GENERAL PROVISIONS

Article 1

1 The Community scheme of generalised tariff preferences (hereinafter referred to as 'the scheme') shall, from the date of entry into force of this Regulation until 31 December 2008, apply in accordance with this Regulation.

2 This Regulation provides for:

a a general arrangement,

b a special incentive arrangement for sustainable development and good governance,

c a special arrangement for least developed countries.

Article 2

The beneficiary countries of the arrangements referred to in Article 1(2) are listed in Annex I.

Article 3

1 A beneficiary country shall be removed from the scheme when it has been classified by the World Bank as a high-income country during three consecutive years, and when the value of imports for the five largest sections of its GSP-covered imports to the Community represent less than 75 % of the total GSP-covered imports of the beneficiary country to the Community.

2 When a beneficiary country benefits from a preferential commercial agreement with the Community which covers at least all the preferences provided by the present scheme for that country, it shall be removed from the list of beneficiary countries in Annex I.

3 The Commission shall notify a beneficiary country of its removal from the list of beneficiary countries in Annex I.

Article 4

The products included in the arrangements referred to in points (a) and (b) of Article 1(2) are listed in Annex II.

Article 5

1 The tariff preferences provided for by this Regulation shall apply to imports of products included in the arrangements enjoyed by the beneficiary country in which they originate.

2 For the purposes of the arrangements referred to in Article 1(2), the rules of origin, concerning the definition of the concept of originating products, the procedures and the methods of administrative cooperation related thereto, are laid down in Regulation (EEC) No 2454/93.

3 Regional cumulation within the meaning of Regulation (EEC) No 2454/93 shall also apply where a product used in further manufacture in a country belonging to a regional group originates in another country of the group, which does not benefit from the arrangements applying to the final product, provided that both countries benefit from regional cumulation for that group.

Article 6

For the purposes of this Regulation:

(a) 'Common Customs Tariff duties' means the duties specified in Part Two of Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff[(6)], except those duties set up within the framework of tariff quotas;

(b) 'Section' means any of the sections of the Common Customs Tariff as adopted by Regulation (EEC) No 2658/87. For the purposes of this Regulation only, Section XI is treated as two separate sections: Section XI(a) comprising Common Customs Tariff chapters 50-60 and Section XI(b) comprising Common Customs Tariff chapters 61-63;

(c) 'Committee' means the Committee referred to in Article 28.

CHAPTER II

ARRANGEMENTS AND TARIFF PREFERENCES

SECTION 1

General arrangement

Article 7

1 Common Customs Tariff duties on products listed in Annex II as non-sensitive products shall be entirely suspended, except for agricultural components.

2 Common Customs Tariff ad valorem duties on products listed in Annex II as sensitive products shall be reduced by 3,5 percentage points. For products of sections XI(a) and XI(b), this reduction shall be 20 %.

3 Where preferential duty rates, calculated in accordance with Article 7 of Regulation (EC) No 2501/2001[(7)] on Common Customs Tariff ad valorem duties applicable on the day before the entry into force of this Regulation, provide a tariff reduction, for the products referred to in paragraph 2 of this Article, of more than 3,5 percentage points, those preferential duty rates shall apply.

4 Common Customs Tariff specific duties other than minimum or maximum duties on products listed in Annex II as sensitive products shall be reduced by 30 %.

5 Where Common Customs Tariff duties on products listed in Annex II as sensitive products include ad valorem duties and specific duties, the specific duties shall not be reduced.

6 Where duties reduced in accordance with paragraphs 2 and 4 specify a maximum duty, that maximum duty shall not be reduced. Where such duties specify a minimum duty, that minimum duty shall not apply.

7 The tariff preferences referred to in paragraphs 1 to 4 shall not apply to products of sections in respect of which those tariff preferences have been removed, for the country of origin concerned, according to Article 14, Article 21(8) and column C of Annex I.