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Proposal for a

REGULATION (EU) OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Council Regulation (EC) No 732/2008 applying a scheme of generalised tariff preferences for the period from 1 January 2009 to 31 December 2011

EXPLANATORY MEMORANDUM

The European Union grants trade preferences to developing countries in the framework of the generalised system of preferences (the GSP). The GSP is implemented through successive Regulations applying a scheme of generalised tariff preferences with a period of application of three years at a time. The current scheme is established by Council Regulation (EC) No 732/2008 which will expire on 31 December 2011. After this date operation of the GSP will lapse unless appropriate legislative action is taken to ensure continuity.

The successor GSP Regulation should be based on a proposal from the Commission taking appropriately into account relevant considerations on the effectiveness of the current GSP in achieving its objectives and proposing such amendments as would ensure its continued effectiveness in the future. Internal work to prepare a Commission proposal on a successor Regulation started with a public consultation launched in March 2010. It is expected that the Commission will be in a position to agree its proposal to the Council and Parliament in early 2011. The length of the subsequent legislative procedure cannot be predicted with certainty but it is likely to last at least 15-18 months. However, it is the Commission's wish that the new GSP Regulation would apply as soon as possible at which point this temporary prolongation of the existing scheme should end.

The remaining period of application of the GSP Regulation is therefore insufficient to permit the preparation of a Commission proposal for this purpose and subsequent agreement on a successor regulation through the ordinary legislative procedure. It is however desirable to ensure continuity in the operation of the scheme beyond 31 December 2011. The consequences of any discontinuity in legal cover for GSP would be that all imports under GSP would revert to standard most favoured nation treatment, except for those from least developed countries which would be covered by the Everything But Arms (EBA) regime.

Consequently and in parallel to the work on the next GSP Regulation, it is proposed to maintain the current Regulation beyond 31 December 2011 with minimum changes until such time as a successor Regulation is agreed and enters into force. Given prevailing uncertainties about the time it will take to complete the legislative process on a successor Regulation, it is proposed to extend the validity of the current GSP Regulation until 31 December 2013. This should create an adequate window for the successor Regulation to be prepared and agreed with sufficient notice for economic operators and beneficiary countries to make themselves ready for any changes made without running the risk that an open-ended extension would in effect perpetuate the status quo and delay opportune reforms in the scheme.

This proposal amends only those elements of Regulation (EC) No 732/2008 which are necessary for the extension of its validity to 31 December 2013. No changes are proposed to the graduation of specific product sections in respect of individual beneficiaries as already provided for in the current Regulation. The proposal introduces adjustments to permit developing countries which fulfil the criteria for being eligible for the special incentive arrangement for sustainable development and good governance (GSP+) to benefit from the additional tariff preferences under this agreement if, upon their request by 31 October 2011 or 30 April 2013, the Commission decides to grant them the special incentive arrangement respectively by 15 December 2011 or 15 June 2013. Developing countries which have already been granted benefits under the special incentive arrangement as a result of the relevant Commission Decisions of December 2008 and June 2010 should retain that status during the extension of the present scheme. Commission Decision 2008/938/EC of 9

December 2008¹ on the list of beneficiary countries which qualify for GSP+ limited the period of validity of this preferential treatment from 1 January 2009 to 31 December 2011.

Council Regulation (EC) No 732/2008 contains certain powers reserved to the Council which are not based on Council Decision 1999/468/EC laying down the procedures for the exercise of implementing powers conferred on the Commission². The Commission will make a proposal which will revise all such procedures in the common commercial policy in the light of the system of implementing acts set out in Article 291 of the Treaty on the Functioning of the European Union and the regulation on the rules and general principles concerning the Commission's exercise of the implementing powers adopted on the basis of Article 291(3). That proposal will also address Articles 16(4), 19(4) and (5) and 22(2) of the present Regulation. This proposal will be presented as soon as possible and will follow the adoption by the Commission on 9 March 2010 of its proposal on the rules and general principles concerning the Commission's exercise of its implementing powers.

The proposal on the extension of the current GSP Regulation does not incur costs charged to the EU budget. Its application would also not entail any loss of customs revenue compared to the current situation.

¹ OJ L 334, 12.12.2008, p. 90.

² OJ L 184, 17.7.1999, p. 23.

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amending Council Regulation (EC) No 732/2008 applying a scheme of generalised tariff preferences for the period from 1 January 2009 to 31 December 2011

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the proposal to the national Parliaments,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Since 1971, the European Union has granted trade preferences to developing countries, in the framework of its generalised system of preferences (the GSP). The GSP is implemented through successive Regulations applying a scheme of generalised tariff preferences (hereinafter referred to as "the scheme") with periods of application of generally three years at a time.
- (2) The current scheme is established 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 964/2007³ which applies until 31 December 2011, after which date the operation of the scheme will lapse unless appropriate legislative action is taken to ensure that it continues to apply.
- (3) Future improvements to the scheme should be based on a proposal for a new Regulation which takes into account relevant considerations on the effectiveness of Regulation (EC) No 732/2008 in achieving the objectives of the scheme. The new Regulation should include the necessary amendments to ensure the ongoing effectiveness of the scheme. It is also essential that the Commission's proposal takes into account statistical trade data, which will only become available in July 2010, on imports covered by the scheme for the period including 2009, a year marked by a sharp fall in global trade, including that of developing countries. It is equally important to ensure that economic operators and beneficiary countries are given

³ OJ L 211, 6.8.2008, p. 1.

adequate notice of the changes brought about by the new Regulation. For these reasons, the remaining period of application of Regulation (EC) No 732/2008 is insufficient to allow for the elaboration of a Commission proposal and the subsequent adoption of a successor Regulation through the ordinary legislative procedure. It is however desirable to ensure continuity in the operation of the scheme beyond 31 December 2011 until such time as a successor Regulation is adopted and applies. At the same time some technical amendments to the Regulation are necessary to ensure coherence and continuity in the operation of the scheme.

- (4) The period of extension of the current Regulation should not be open-ended, consequently and in order to provide the time needed for the legislative process for the adoption of the new GSP scheme, the period of application of Regulation (EC) No 732/2008 should be extended until 31 December 2013. In case the new Regulation becomes applicable before that date, the period of extension should be correspondingly shortened.
- (5) Developing countries which fulfil the criteria for being eligible for the special incentive arrangement for sustainable development and good governance (GSP+) should be able to benefit from the additional tariff preferences under that arrangement if, upon their request by 31 October 2011 or 30 April 2013, the Commission decides to grant them the special incentive arrangement respectively by 15 December 2011 or 15 June 2013. Developing countries which have already been granted benefits under the special incentive arrangement as a result of the relevant Commission Decisions of December 2008 and June 2010 should retain that status during the extension of the present scheme,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 732/2008 is amended as follows:

- (1) In the title, the words: "for the period" and "to 31 December 2011" are deleted.
- (2) In the second subparagraph of Article 8(2), the following points (c) and (d) are added:
 - "(c) for the purpose of Article 9(a)(iii) - those available on 1 September 2010, as an annual average over three consecutive years;
 - (d) for the purpose of Article 9(a)(iv) – those available on 1 September 2012, as an annual average over three consecutive years."
- (3) Article 9 is amended as follows:
 - (a) In paragraph 1, the following is inserted after point (a)(ii):

"or
 - (iii) by 31 October 2011, to be granted the special incentive arrangement as from 1 January 2012;

or

(iv) by 30 April 2013, to be granted the special incentive arrangement as from 1 July 2013;"

(b) Paragraph 3 is amended as follows:

(i) The second sentence is replaced by the following:

"Countries granted the special incentive arrangement for sustainable development and good governance on the basis of a request under paragraph 1(a)(i) shall not be required to submit a request under paragraph 1(a)(ii), 1(a)(iii) or 1(a)(iv)."

(ii) The following subparagraph is added:

"Countries granted the special incentive arrangement for sustainable development and good governance on the basis of a request under paragraph 1(a)(ii) shall not be required to submit a request under paragraph 1(a)(iii) or paragraph 1(a)(iv). Countries granted the special incentive arrangement for sustainable development and good governance on the basis of a request under paragraph 1(a)(iii) shall not be required to submit a request under paragraph 1(a)(iv)."

(4) In Article 10(3), the full stop at the end of point (b) is replaced by a semicolon, and the following is added after point (b):

"or

(c) by 15 December 2011, for a request under Article 9(1)(a)(iii),

or

(d) by 15 June 2013 for a request under Article 9(1)(a)(iv)."

(5) In Article 32(2), the words: "31 December 2011" are replaced by the words: "31 December 2013 or until a date laid down by the successor Regulation, whichever is the earliest".

Article 2

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

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

Done at Brussels,

For the European Parliament
The President

For the Council
The President