

# Client Alert

## International Trade

9 October 2012

## EU Council approves new Generalised Scheme of Preferences

### I. Introduction

On 4 October 2012, the European Council of Ministers adopted the new EU scheme of generalised tariff preferences (GSP) for developing countries,<sup>1</sup> which will replace the current GSP regime in the future. The new scheme is largely based on a 2011 proposal by the European Commission,<sup>2</sup> subsequently amended and adopted by the European Parliament on 13 June 2012.<sup>3</sup> **The new Regulation will be published in the Official Journal of the EU before the end of 2012, and will apply as of 1 January 2014.**

### II. Background

The EU has had GSP rules in place since 1971 to ensure that most exports from developing countries enjoy preferential duty access to the EU market. The EU's GSP regime these days can generally be divided into **three arrangements**: the overall "standard" GSP regime; the "GSP+" incentive regime granting further tariff reductions for those GSP beneficiary countries that respect certain labour, human, environmental and good governance rights and rules; and the "Everything but Arms" (EBA) regime providing for duty free and quota free access of all goods, with the exception of arms, from least developed countries. The current GSP regime – applicable since 2009 – is set out in Council Regulation 732/2008, which will expire on 31 December 2013. As has been the case at the end of every "cycle", the regime is adjusted to ensure that benefits are granted to those countries and those product sectors which the EU considers to be truly in need of autonomous duty preferences.

### III. The new GSP Regulation

- **Country coverage**

The general aim of the new GSP regime is to concentrate the EU's duty preferences on those developing countries most in need. As a result, as of 2014, the EU will significantly **reduce the number of beneficiary countries for GSP and GSP+ preferences**. Preferences will no longer be granted to countries classified by the World Bank as "high" or "upper middle income" economies for three consecutive years preceding the update of the EU list of beneficiary countries. Countries benefitting from another trade arrangement with the EU (i.e. other autonomous arrangements or bilateral Free Trade Agreements, FTAs) which provides at least the same tariff preferences as GSP for substantially all trade will also be removed from the list of eligible



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<sup>1</sup> See <http://register.consilium.europa.eu/pdf/en/12/pe00/pe00026.en12.pdf>

<sup>2</sup> See <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0241:FIN:EN:PDF>

<sup>3</sup> See <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P7-TA-2012-241>

GSP beneficiaries.<sup>4</sup> As a consequence, **countries such as Argentina, Belarus, Brazil, Kuwait, Qatar, Russia, and Saudi Arabia will no longer benefit from GSP preferences as from 1 January 2014.** While **Malaysia** would no longer receive GSP benefits due to its World Bank classification, it could potentially benefit from a two-year transitional period provided that it has initiated an FTA with the EU as a result of ongoing negotiations before the new GSP Regulation enters into force (the prospect of which is currently uncertain) – see “Duration and timeframe” below.

Moreover, by 1 January of each year after the new GSP Regulation enters into force, the European Commission will **review the list of GSP beneficiary countries**, and will remove preferences for those countries that no longer comply with the abovementioned criteria. However, in order to allow countries and economic operators to adapt to the change in a country’s status, a decision to remove a country from the list on the basis of its World Bank classification will only apply from one year after the entry into force of such a decision. A decision to remove a country from the list because it has concluded a preferential market access arrangement with the EU will only apply from 2 years after the date of application of that arrangement.

Under the new GSP regime, the **EBA arrangement will remain in place unchanged.**

- **Product coverage and graduation of benefits**

The EU will **increase the number of products** that can benefit from preferential treatment.<sup>5</sup> At the same time, however, it will **suspend preferences** for a product section from a certain country when the average value of EU imports of these products from that country exceeds 17.5% of the total value of EU imports of that product from all EU GSP beneficiary countries for three consecutive years (14.5% for textiles and clothing). The list of GSP sections subject to such “graduation” will be published in a separate implementing regulation.

The new Regulation further includes a **general safeguard mechanism** allowing the re-introduction of normal customs duties for certain specific products from a beneficiary country, if such products are imported in volumes and/or prices which could cause “serious difficulties” to EU producers. The Commission is further entitled to remove GSP and GSP+ preferences for products from the **textile, agriculture and fisheries** sector should imports increase significantly.

- **Duration and timeframe**

Contrary to the Commission’s initial proposal, the new GSP regime will be applicable for a limited period of time, i.e. **from 2014 to 2023 (except for the EBA arrangement for the least developed countries, which continues to apply without an expiry date).** The new Regulation also contains a **transitional period** for those countries which will no longer benefit from GSP preferences because they are classified by the World Bank as high-income or upper-middle income countries, but which by the time of entry into force of the Regulation (most likely sometime in the first half of 2013) have already initiated a preferential trade agreement with the EU. Those countries will still be able to benefit from the GSP scheme for a transitional period of two years after the entry into force of the new regime.

After publication, the Commission, the European Parliament, and the Council will adopt the necessary implementing Regulations to update the lists of eligible countries, beneficiary countries, and GSP+ countries, and of course the list of graduated products for beneficiary countries. The latter is expected to be published in January or February 2013.

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<sup>4</sup> The list of countries that would benefit from GSP preferences can be found in Annex II of the new Regulation.

<sup>5</sup> The list of products included in the overall GSP regime can be found in Annex V of the new Regulation; the products included in the GSP+ arrangement are listed in Annex IX.