

Client Alert

International Trade

31 October 2012

New EU GSP Regulation published

I. Introduction

Following recent adoption by the EU Council, the Regulation imposing the new EU Generalised Scheme of Preferences (GSP) for developing countries – Regulation 978/2012 – was published on 31 October 2012 in the Official Journal of the EU.¹

The **new EU GSP regime** introduced by Regulation 978/2012 will not replace the current GSP regime – and repeal the current GSP Regulation, Regulation 732/2008² – until **1 January 2014**, so the existing GSP tariff preferences outlined in Regulation 732/2008 continue to apply in the meantime. At the same time, **Regulation 978/2012 will enter into effect already on 20 November 2012** (i.e. 20 days after its publication). This has an impact on certain timeframes relating to the new GSP regime, as explained below.

For more information about the key features of the new GSP regime, such as country and product coverage and the graduation of product sections, please see our Client Alert following adoption of the new GSP Regulation by the EU Council of [9 October 2012](#).

II. Timeframes

Annual review of beneficiary country list

Under the new GSP regime, the European Commission must review the list of GSP beneficiary countries by 1 January of each year after the new GSP Regulation has entered into force and remove countries which no longer fulfil relevant criteria. Because Regulation 978/2012 will enter into force on 20 November 2012, **the first annual beneficiary country review for the new GSP regime** (to apply as of 2014) **will take place already by 1 January 2013** (with publication and entry into force of a related decision expected to occur shortly thereafter, sometime in the beginning of 2013).

Countries currently listed in Annex II of Regulation 978/2012 as GSP beneficiaries that have either been classified by the World Bank as high or upper-middle income countries for three consecutive years, or benefit from another preferential trade arrangement with the EU which provides at least the same tariff preferences as GSP for substantially all trade, could therefore be removed in the beginning of 2013. However, **transitional periods** will apply if a decision is made to remove a country from the GSP beneficiary list as part of the annual review process. A decision to remove a country from



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¹ [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, [2012] OJ L 303/1.

² Council Regulation (EC) No 732/2008 of 22 July 2008 applying a scheme of generalised tariff preferences from 1 January 2009 and amending Regulations (EC) No 552/97, (EC) No 1933/2006 and Commission Regulations (EC) No 1100/2006 and (EC) No 964/2007, [2008] OJ L 211/1, as amended ([latest consolidated version](#)).

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 (such as a bilateral Free Trade Agreement, FTA) will only apply from 2 years after the date of application of that arrangement.

Application of a transitional period for countries that have initialled an EU FTA

Regulation 978/2012 grants a transitional period of two years (i.e. until 21 November 2014) for those countries that would no longer receive GSP benefits due to their World Bank classification, provided that they have initialled a preferential trade arrangement with the EU before the Regulation enters into force. This means that the **two-year transitional period will only apply for eligible high or upper-middle income countries that have initialled an FTA** (which has not yet entered into force) **with the EU before 20 November 2012**. Countries that will benefit from this two-year transitional period therefore include Colombia, Peru, Costa Rica and Panama. However, they do not include Malaysia, with which EU FTA negotiations are still ongoing.

Next steps

The new GSP regime will not apply until 1 January 2014, but the publication and entry into force of underlying Regulation 978/2012 enables the adoption and publication of certain **legal acts needed to implement and update the new regime**. Such legal acts are expected in 2013 and will outline, *inter alia*, GSP+ countries and procedures, adjustments to the preferential rules of origin, annual beneficiary country review amendments, and a new list of graduated products from certain beneficiary countries. The graduated product section list is expected to be adopted in the **beginning of 2013**.

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