



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 2.4.2009
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Proposal for a

COUNCIL DECISION

amending Commission decision 2008/938/EC on the list of the beneficiary countries which qualify for the special incentive arrangement for sustainable development and good governance, provided for in Council Regulation (EC) No 732/2008 applying a scheme of generalised tariff preferences for the period from 1 January 2009 to 31 December 2011

(presented by the Commission)

EXPLANATORY MEMORANDUM

The attached proposal for a Council Decision aims to amend Commission Decision 2008/938/EC by removing Venezuela from the list of countries benefiting from special incentive arrangement for sustainable development and good governance (the GSP+) in 2009-2011

Council Regulation (EC) No 732/2008 applying the scheme of generalised tariff preferences in the years 2009-2011 provides for the granting of GSP+ preferences to developing countries which satisfy requirements established under its Articles 8 and 9. In line with these requirements any GSP+ beneficiary country must be "vulnerable" and have ratified and effectively implemented 27 international conventions in the fields of human rights, core labour standards, sustainable development and good governance, listed in Annex III to Regulation (EC) No 732/2008. A country must also commit to accept and comply fully with the monitoring and review mechanism envisaged in the relevant conventions and related instruments.

On 31 October 2008 the Government of Venezuela submitted to the Commission its request for GSP+ preferences for the period 1 January 2009 to 31 December 2011. The Commission's review of the request revealed that Venezuela had not at that time ratified the United Nations Convention against Corruption, listed under point 27, in Part B of Annex III to Regulation (EC) No 732/2008.

The Government of Venezuela in a letter by the Mission of Venezuela to the European Communities committed to ratify and effectively implement the United Nations Convention against Corruption by no later than 31 December 2008.

On the 9 December 2008 the Commission adopted Decision 2008/938/EC on the list of the beneficiary countries which qualify for the GSP+, provided for in Council Regulation (EC) No 732/2008 for the period from 1 January 2009 to 31 December 2011 and included Venezuela on the list of the beneficiary countries in the expectation that Venezuela would take appropriate steps to ensure the ratification and effective implementation of the United Nations Convention against Corruption at the latest by 31 December 2008, as it had committed to do.

Commission Decision 2008/938/EC of 9 December 2008 was taken with the prior agreement of the Standing Committee on the General System of Preferences on 25 November 2008 in which 26 Member States (318 votes) voted in favour, 1 Member State (27 votes) abstained, along with the implicit understanding that if Venezuela failed to ratify and effectively implement the missing convention by the end of the year action would have to be taken to amend the list.

However, as of 31 December 2008 Venezuela had not ratified the Convention against corruption and accordingly did not fulfil all the necessary requirements under Regulation (EC) No 732/2008 to be granted benefits under the GSP+. The subsequent actions by Venezuela in January 2009 to complete the ratification are not relevant for meeting the criteria specified in Regulation 732/2008 for countries to benefit from GSP+ from 1 January 2009. It is therefore necessary to amend Commission Decision 2008/938/EC accordingly, by removing Venezuela from the list of countries benefiting from GSP+ in 2009-2011.

To avoid any adverse impacts on economic operators, an appropriate transitional period for the application of the Decision should be provided for.

Against this background, on 30 January 2009 the draft Commission Decision to remove Venezuela from the list of GSP+ beneficiary countries was submitted to the Standing Committee on the General System of Preferences for a vote pursuant to Article 10(2) of Regulation (EC) No 732/2008 and in accordance with Article 5 of Council Decision 1999/468/EC. The proposal was opposed by a blocking minority of Member States (72 votes against and 39 votes through abstention). 21 Member States (234 votes) were in favour of the proposal. The Committee has therefore not delivered an opinion by qualified majority.

Consequently, in accordance with Article 5(4) of Council Decision 1999/468/EC, the Commission is required to submit to the Council a proposal relating to the measures to be taken and shall inform the European Parliament. The Council may act by qualified majority within no later than three months from the date of referral of the proposal to the Council.

Proposal for a

COUNCIL DECISION

amending Commission decision 2008/938/EC on the list of the beneficiary countries which qualify for the special incentive arrangement for sustainable development and good governance, provided for in 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 COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to 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 964/2007¹, and in particular Article 10(2) thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) Regulation (EC) No 732/2008 provides for the granting of a special incentive arrangement for sustainable development and good governance to developing countries which satisfy requirements established under its Articles 8 and 9.
- (2) In accordance with Article 10(2) of that Regulation the Commission adopted Decision 2008/938/EC of 9 December 2008 on the list of the beneficiary countries which qualify for the special incentive arrangement for sustainable development and good governance, provided for in Council Regulation (EC) No 732/2008 applying a scheme of generalised tariff preferences for the period from 1 January 2009 to 31 December 2011².
- (3) In accordance with that Decision, the Bolivarian Republic of Venezuela (hereinafter 'Venezuela') was granted the special incentive arrangement for sustainable development and good governance.
- (4) However, it has now come to light that Venezuela did not ratify the United Nations Convention against Corruption, listed under point 27, in Part B of Annex III of Regulation (EC) No 732/2008. Therefore, Venezuela did not fulfil all the necessary requirements under Regulation (EC) No 732/2008 to be granted the special incentive arrangement. Commission Decision 2008/938/EC should be amended accordingly,

¹ OJ L 211, 6.8.2008, p. 1.

² OJ L 334, 12.12.2008, p. 90.

while providing for an appropriate transitional period for its application. In accordance with Article 214 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code³, any customs debt incurred with the benefit of Decision 2008/938/EC until the date of application of this Decision will therefore not be affected

- (5) Pursuant to Article 10(3) of Regulation (EC) No 732/2008, this Decision is to be notified to Venezuela.
- (6) The Generalised Preferences Committee has not delivered an opinion within the time limit laid down by its chairman. The measures provided for in this Decision must therefore, by virtue of Article 10(2) of Regulation (EC) No 732/2008 and in accordance with Article 5(4) of Council Decision 1999/468/EC⁴, be adopted by the Council,

HAS ADOPTED THIS DECISION:

Article 1

In Article 1 of Decision 2008/938/EC, the words "(VE) Venezuela" are deleted.

Article 2

This decision shall apply from the sixtieth day following that of its publication in the *Official Journal of the European Union*.

Article 3

This Decision is addressed to the Bolivarian Republic of Venezuela.

Done at Brussels, [...]

For the Council
The President
[...]

³ OJ L 302, 19.10.1992, p. 1

⁴ OJ L 184, 17.7.1999, p. 23.