
STATUTORY INSTRUMENTS

2020 No. 1438

The Trade Preference Scheme (EU Exit) Regulations 2020

PART 7

Enhanced Framework

EF - general

15.—(1) For the purposes of the EF, an eligible developing country is a qualifying GSP country that—

- (a) is an economically vulnerable country in accordance with regulation 16;
- (b) has ratified, acceded to, or otherwise expressed its consent to be bound as a matter of international law by, the conventions specified in Schedule 2 (“Schedule 2 conventions”);
- (c) is considered by the Secretary of State to be effectively implementing those conventions, in accordance with paragraph (2); and
- (d) complies with monitoring conditions specified for EF countries in an Enhanced Framework notice provided for by paragraph (3).

(2) Effective implementation for the purposes of paragraph (1)(c) means that—

- (a) reporting and monitoring requirements specified in Schedule 2 conventions are complied with;
- (b) the most recent available conclusions of monitoring bodies under those conventions, where appropriate, do not identify a serious failure to effectively implement obligations in those conventions; and
- (c) the most recent available United Kingdom monitoring does not identify such a serious failure.

(3) The Secretary of State may publish an “Enhanced Framework notice” for purposes relating to this regulation.

(4) An Enhanced Framework notice may include—

- (a) information to be provided by eligible developing countries in connection with an application to the EF;
- (b) conditions that an EF country must comply with in order to participate in and cooperate with United Kingdom monitoring;
- (c) the form of binding undertaking that an EF country may be required to give to the Secretary of State for the purposes of conditions specified in the notice; and
- (d) steps the Secretary of State may undertake relating to United Kingdom monitoring.

(5) “United Kingdom monitoring” means monitoring undertaken by or on behalf of the Secretary of State to monitor effective implementation of the Schedule 2 conventions, for the purposes of the EF.

Economically vulnerable country

16.—(1) An eligible developing country is an economically vulnerable country, for the purposes of regulation 15(1)(a), where—

- (a) subject to paragraph (2), it benefitted from the EU GSP special incentive arrangement for sustainable development and good governance (GSP+)(1) immediately before the appointed day; or
- (b) its mean average imports of EF goods by value into the British Islands (disregarding EF goods in respect of which the standard rate of import duty is a nil rate), over the most recent import review period, satisfied the following—
 - (i) the seven largest GSP sections of those imports, by value, represented more than 75% in value of its total imports of EF goods into the British Islands; and
 - (ii) its total imports of EF goods represented less than 9% in value of such imports from qualifying GSP countries, into the British Islands over the same period.

(2) An eligible developing country may only be regarded as economically vulnerable under subparagraph (1)(a) during the three-year period that begins with the day on which the appointed day falls.

Application to the EF

17.—(1) An eligible developing country that is not an EF country may apply to the Secretary of State for the EF to be applied to it, where it considers that—

- (a) regulation 15(1)(a) and (b) applies;
- (b) it has effectively implemented and will continue to effectively implement the Schedule 2 conventions; and
- (c) it is willing to cooperate with the conditions specified in an Enhanced Framework Notice provided for by regulation 15(3).

(2) Subject to paragraph (3) and an assessment under regulation 26, the Secretary of State must notify the country making an application under paragraph (1) (“applicant country”) within 6 months, following the day on which the application is received, of the outcome of the application in accordance with paragraph (4).

(3) The time period in paragraph (2) may be extended by the Secretary of State notifying the applicant country of—

- (a) further information required or further enquiries to be made before the application can be determined; and
 - (b) the period of extension, which may be calculated by reference to receipt of further information.
- (4) A notification must, where the Secretary of State determines that the applicant country—
- (a) has not met the criteria in regulation 15(1)(a) to (c), state the reasons for that determination;
 - (b) has met the criteria in regulation 15(1)(a) to (c) but that country needs to take further steps in order to participate in the EF in line with conditions provided for by regulation 15(3) (if appropriate), specify those steps;
 - (c) has met the criteria in regulation 15(1)(a) to (c) and that country does not need to take further steps, specify the reasons for that determination.

(5) Where paragraph (4)(b) applies and the Secretary of State is subsequently satisfied that the steps specified in the notice referred to in that paragraph have been met the Secretary of State must—

(1) See article 1.2(b) of the EU GSP.

- (a) send a further notification to the applicant country confirming this; and
 - (b) as soon as reasonably practicable thereafter, publish an EF admission notice.
- (6) Where paragraph (4)(c) applies the Secretary of State must, as soon as reasonably practicable after the publication of the notice referred to in that paragraph, publish an EF admission notice.
- (7) An EF admission notice is a notice stating that an eligible developing country, that is not listed in Part 2 of Schedule 1, has qualified for the EF and is to be treated as an EF country.
- (8) An EF admission notice must specify—
- (a) the day from which the EF applies to the applicant country, which must be no later than 28 days after the day on which the notice is published; and
 - (b) the validity period of the notice.

Country determined to no longer be economically vulnerable

18.—(1) Subject to paragraphs (2) and (3), the Secretary of State may publish a suspension notice to suspend the country from the EF where the Secretary of State has determined that country to no longer be economically vulnerable.

(2) Paragraph (1) does not apply for the three year period, that begins with the day on which the appointed day falls.

(3) An EF country may not be suspended from the EF, on the ground specified in paragraph (1), unless—

- (a) the Secretary of State has published a notice containing the information specified in paragraph 4 (“economic vulnerability notice”); and
 - (b) a period specified in that notice under paragraph (4)(c) has expired.
- (4) An economic vulnerability notice must specify—
- (a) the name of the EF country;
 - (b) the fact that the Secretary of State has determined that the country no longer meets the EF economic vulnerability criteria in regulation 16;
 - (c) a period during which the EF will continue to apply to the country;
 - (d) the Secretary of State’s intention to suspend the country from the EF, from the 1st January, following the last day of that period referred to in sub-paragraph (c); and
 - (e) circumstances, if any, that may give rise to a re-consideration of economic vulnerability during that period.

Non-compliance with EF

19.—(1) Where the Secretary of State determines that one or more of the criteria in regulation 15(1)(b) to (d) are no longer satisfied by an EF country, the Secretary of State may publish a suspension notice to suspend that country from the EF.

(2) Before taking an action specified in paragraph (1), the Secretary of State must follow the warning and assessment procedure specified in and provided for by regulation 26.