

COMMISSION OF THE EUROPEAN COMMUNITIES

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Proposal for a
COUNCIL REGULATION (EEC)
applying generalized tariff preferences for 1988 in respect of certain
industrial products originating in developing countries

Proposal for a
COUNCIL REGULATION (EEC)
applying generalized tariff preferences for 1988 to textile products
originating in developing countries

Proposal for a
COUNCIL REGULATION (EEC)
applying generalized tariff preferences for 1988 in respect of certain
agricultural products originating in developing countries

Draft
DECISION
OF THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES OF THE
EUROPEAN COAL AND STEEL COMMUNITY, MEETING WITHIN THE COUNCIL
applying for 1988 the generalized tariff preferences for certain steel
products originating in developing countries

Only the Explanatory Memorandum has been reproduced. The final texts are published
in

Official Journal L350, 12.12.1987:

Decision 87/564/ECSC (Steel Products)
Regulation EEC 3635/87 (Industrial Products)
Regulation EEC 3635/87 (Agriculture Products)

and Official Journal L367, 28.12.1987:

Regulation EEC 3783/87 (Textiles).

INTRODUCTION

These proposals from the Commission to the Council - 3 draft EEC Regulations and one draft ECSC Decision - are intended to provide the legislative basis for the operation of the European Community's scheme of Generalized Tariff Preferences for the calendar year 1988.

In drawing up the proposals the Commission is aiming to carry further the policies defined in the guidelines it put forward in its Mid-Term Review Communication to the Council (1) and which have now been implemented in part in the EC's GSP schemes of 1986 and 1987, in particular the policy of accentuated differentiation in the allocation of benefits on Sensitive industrial products, which this year has led to the first product/country exclusions of fully competitive suppliers with as the counterpart, redistribution of these benefits to less competitive suppliers with, as the counterpart, liberalisation of their terms of access.

In the view of the Commission, the adoption of the 1988 GSP scheme will however be subject to particular priorities and constraints, some of which have already been announced in the Commission's Communication to the Council of 17 February 1987, concerning the scheme of Generalised preferences for 1988 (2). Thus,

- The EC is pledged along with all its major trading partners to bring into operation on 1 January 1988 the "Harmonised System for the description and classification of goods". This Harmonised System will in turn form the basis for the Community's new integrated tariff (TARIC), which has to be applied in all aspects of customs operations in the EC. A mammoth technical operation of transposition from the present Customs Cooperation Council Nomenclature to the Harmonised System was launched some time ago, but the completion of the TARIC itself is dependent on all elements being decided, included any special subpositions required for the purposes of the EC's GSP Scheme.

(1) Doc COM (85)/203 final of 6 May 1985
(2) Doc COM (87)/68 final

In addition, other preparatory actions have to be fitted in, such as the training of thousands of customs officials in Member States in the new system as well as of people making customs declarations. To reduce the possibility of a last minute scramble - or indeed the serious consequences of delays preventing the target date being met, the Commission is transmitting its proposals to the Council (some two months earlier than has been customary), and in turn calls on the Council to adopt the 1988 GSP scheme definitively with a deadline of no later than 30 September. On its side, to help in the smooth passage of the discussions with the Council, apart from the modifications in the list of Sensitive products due to the introduction of the Harmonised System, the Commission has otherwise avoided proposing major innovations in the regulations for industrial and for agricultural and fishery products.

These limited economic changes and improvements which are being put forward, will involve specific adaptations justifiable on grounds of the evolution of the EC's internal economic situation and its commercial relationships with other partners as well and in application of the agreed criteria for product/country exclusions - either totally or in stages.

It has, however, been necessary to bring forward proposals for a comprehensive overhaul of the EC's GSP scheme for textile products. The structure of the scheme, as far as the vast majority of products ie. those which fall within the scope of the Multifibre Agreement, is concerned remains essentially that adopted in 1980. Those comparatively minor modifications and up-datings since then have not prevented the scheme becoming ossified, increasingly unrelated to often significantly changed trade flows, and at one and the same time, not applying the degree of differentiation, which is now clearly necessary and has been accepted in the industrial sector and yet too complex and over-administered through the allocation of individual quotas on volumes which are often so small that this sub division becomes economically meaningless either for exporter or importer.

The Commission believes that its proposals offer a scheme which represents the contemporary realities of international trade and the comparative competitive position of different suppliers, through a structure which is more logical, coherent and simple to understand than at present.

These principles already apply to Non-MFA textiles and to jute and coir products.

Lastly, it is appropriate that in the context of its GSP scheme, the EC also continues to advance to the agreed goal of completing the Internal Market by 1992. The Commission is accordingly proposing for 1988 further measures to make the management of the scheme more "communautaire" as well as more predictable and transparent in its operation.

Nevertheless, under the Commission's proposals the real possibilities for preferential imports will be considerably widened because of a number of factors all of which are not explicitly written into the draft regulations. Thus

- the value of preferential limits where they exist will in practice rise substantially as the result of the appreciation of the ECU in relation to the currencies of many GSP beneficiaries which are linked directly or indirectly to the U.S. dollar;
- similarly for Non-Sensitive industrial products, even where the recalculation of reference bases does not result in an increase in ECU terms;
- the Commission's proposals to transform all allocated quotas into non-allocated fixed duty-free amounts will now allow the complete utilisation of all preferential limits;
- the new formula for calculating individual preferential limits on MFA textile products will bring into operation a textile scheme which is both much simpler to operate and to understand and will also offer increased possibilities on many products for all but dominant suppliers;
- finally as far as the scheme for agricultural products are concerned, the margin for manoeuvre is narrow due both to the Preferential access for ACP products - mainly tropical - and to the severe constraints brought up by the CAP reform for temperate products. But precisely for this reason it is worth noting that if little progress can be made at this stage for these products within the GSP, the LDC's will nevertheless benefit from the progress made on the CAP reform, particularly in terms of better prices.

The Economic Background

Proposals for the EC's GSP Scheme cannot be drawn up in a vacuum. Although the EC has committed itself to continuing to offer such preferences until at least the end of the present decade, both the extent to which the preferences can be improved and their administration liberalised, and the balance to be struck in the allocation of the benefits between developing countries at different levels of economic development is a matter for evaluation in the light of the prevailing and immediately foreseeable economic circumstances. As always a balance has to be struck between

- the demands and needs of the beneficiaries;
- the duty to safeguard the continued activity of the more vulnerable sectors of the EC economy; as well as
- regard to contractual obligations to other groups of developing countries with which the EC has concluded Preferential Agreements;

As far as many developing countries are concerned it cannot be said that the economic climate has improved over the last 12 months : increases in exports of manufactures by some have often been cancelled out by the further drop in the prices of several key commodities, so that overall their terms of trade have not improved significantly, and thus those countries with the largest debts have not necessarily seen this burden alleviated nor their capacity to import in pursuit of economic development improved.

The situation inside the EC is not much rosier : the success in bringing down the level of inflation* - partly of course due to the drop in import prices of many primary products, has not been matched by a corresponding improvement in the tempo of economic activity; on the contrary, the EC-wide index of industrial rose by only 2% compared to 3.3% in 1985 over 1984. Even more disturbingly, unemployment has again risen to the highest figure ever recorded - 17 million.

ARTICLE 113 AS THE LEGAL BASIS FOR THE EC'S GSP SCHEME

In a decision of 26 March 1987 the Court of Justice had upheld the Commission's claim in the case it launched in February 1986** that the legal basis for the industrial and textile regulations must be more specifically defined than by mere reference to the Treaty of Rome as a whole, and that as the Scheme of Generalised Preferences falls clearly within the ambit of the EC's trade policy, that legal basis must be Article 113 of that Treaty, with of course the consequence of introducing majority voting in the application of the GSP scheme. For the 1988 GSP scheme, the Commission now proposes Article 113 as the legal basis not only for the industrial and textile regulations but for the regulation for agricultural and fishery products as well, the reasoning of the Court's judgement applying also to the scheme in this sector.

* EC average = 2.7% Jan '86/Jan '87

** Case 45/86

THE SCHEME FOR INDUSTRIAL PRODUCTS

In its Mid-Term Review Communication, and in the preceding Explanatory Memoranda to its proposals for the 1986 and 1987 GSP schemes, the Commission spelled out the philosophy, which it believed should govern the EC's application of generalised preferences in the industrial sector for the remainder of the decade. After a very limited first step by the Council to carry differentiation further and thus to respond in the 1986 GSP scheme to the phenomenon of the emergence in some sectors of fully competitive suppliers from the most advanced developing countries, the Council in adopting the 1987 scheme finally adopted the Commission's proposal to introduce selective product/country exclusions, on the basis at any rate of the criteria that the supplier of the sensitive industrial product should have :

- already being subject to the strict form of control of an Individual Country Quota; and
- accounted for at least 20% of total imports of the product from outside the EC.

Following a 50% reduction in the value of the quotas concerned in 1986, GSP benefit has been totally withdrawn in 11 product/country cases in 1987.

The application of the same criteria leads to :

A.) - further exclusions in the following 3 product/country cases in 1988, where the quota has already been reduced by 50% this year.

<u>CCT HEADING</u>	<u>DESCRIPTION</u>	<u>COUNTRY TO BE EXCLUDED</u>
ex 40.11	Rubber tyres - for bicycles, motorcycles etc.	South Korea
91.04	Other clocks	Hong Kong
96.01 B ex III	Brushes and brooms	South Korea

B.) - a first-stage 50% reduction in the following quotas

<u>CCT HEADING</u>	<u>DESCRIPTION</u>	<u>SUPPLY COUNTRY</u>
29.22.16	Isopropylamine	Roumania
73.25 B	Iron/steel stranded wire, cables, ropes etc.	South Korea
91.09	Watch cases	Hong Kong
92.01.12	Upright pianos, new	South Korea

A 50% reduction in the following quota is also called for in line with the established policy on differentiation where imports from the exporting country have exceeded the value of the quota 10 fold.

31.02	Urea	Libya
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The Commission has also carried out its normal review of the composition of the list of Sensitive industrial products. In view of the continued difficulties of some important economic sectors and the increased competitiveness of certain developing country suppliers, the Commission has felt constrained to propose

- the introduction of 8 additional Individual Country Quotas against various suppliers of products already on the Sensitive List, not allocated between Member States.

- the conversion of 5 existing Individual Country Quotas into ceilings :

CCT 28.42 A II	Carbonates of Sodium	Romania
CCT 70.14	Illuminating glassware	Hong Kong
		Romania
CCT 73.31	Nails, tacks, staples	Romania
CCT 74.07	Tubes and pipes of copper	Brazil

- the transfer to the Non-Sensitive List of the following 2 products at present classified as Sensitive :

CCT 70.13	Glassware
CCT 85.03	Primary cells and batteries

As far as the preferential limits themselves are concerned, the adaptation to the new Tariff descriptions under the Harmonised System and in the TARIC has necessitated a complicated exercise to modify the descriptions of 28 products, involving the reallocation of parts of the headings to other headings, on occasion even on the Non-Sensitive List. Where significant trade flows are involved the preferential limits have of course had to be re-calculated on the basis of the formula introduced in the 1986 scheme - 1% to 5% of 3rd country imports - depending on the situation in the particular industry, to reflect the new product descriptions. This exercise of transposition has been carried out in a scrupulously neutral manner.

Apart from these specific situations, however, the Commission believes that because of the exceptional time pressures throughout the remainder of the year to ensure that the Harmonised System and the TARIC come into operation on 1 January 1988 without fail, combined with the unhelpful economic situation inside the EC, the 1987 preferential limits should in general be carried forward unchanged into 1988. In three cases however - sulfphonamides (NIMEXE 29.36.00) automobiles up to 3000 cc. (NIMEXE 87.02 - 21, 23) and acetic acid (NIMEXE 29.14.17) a re-examination of these calculations has shown that an adaptation of the preferential limits is unavoidable.

Non-Sensitive Products : updating of calculation of reference base

When adopting the GSP scheme for 1987 the Council agreed to introduce a new formula for calculating the reference base which is used when preferential imports of Non-Sensitive industrial products from one or more beneficiary countries cause or threaten to cause economic difficulties in the Community or a region of the Community and the levying of normal customs duties may be examined. In general, this reference base for 1987 was fixed at 5% of the value of imports of the product in question coming from outside the EC during 1986, although in a few cases when this would have caused too massive an increase in the value of the reference base this is being limited to 1%.

The Commission is proposing that for the EC's 1988 GSP scheme, the reference year be up-dated to the latest for which the necessary statistics are available, which it is hoped will be 1986, thus allowing the inclusion for the first time of import statistics from Spain and Portugal.

THE SCHEME FOR AGRICULTURAL AND FISHERY PRODUCTS

From similar considerations as have already been advanced in regard to the scheme for industrial products, the Commission is proposing only minimal changes for 1988 to the GSP regulation for preferential imports of agricultural and fishery products.

The Commission considers that this is not an appropriate occasion to propose the inclusion of any new products in the scheme, and indeed following the "unbinding" in the GATT of the MFN rate of duty on the product, it will be necessary to subdivide this heading to limit the GSP concession in future to sweet potatoes for human consumption (CCT 07.06 B I) instead of the entire position 07.06 B which also covers sweet potatoes for animal consumption.

On the other hand, as the consequence of certain concessions to which the EC has agreed with other trade partners in the negotiations arising out of Spain and Portugal's accession under the provisions of Article XXIV (6) of the GATT, the Commission proposes the following reductions in the GSP rates of duty.

<u>CCT HEADING</u>	<u>DESCRIPTION</u>	<u>GSP RATE</u> <u>1987</u>	<u>GSP RATE</u> <u>PROPOSED 1988</u>
08.01 D	Avocados	6%	3% 1 December 31 May
20.06 A II	Almonds, walnuts, hazelnuts toasted - in packets of 1 kg. or less	14%	11%
20.07 B II (a)2 and (b)2	Grapefruit juice	8%	6%
24.02 B	Cigars	41%	34%

The only other innovation that the Commission envisages in this regulation is that as a further step in the campaign to complete the internal market, it is proposing to abolish the allocation of shares on the quotas on canned pineapples in slices, canned pineapples other than in slices, and on soluble coffee.

Additional concessions for Least Developed Countries

In the 1983 GSP scheme the EC agreed to a major extension of product coverage in favour of Least Developed Countries with the aim of giving these countries virtually the same terms of preferential access as ACP suppliers ie. duty-free entry on all otherwise dutiable agricultural products, apart from those items where the sole protection was a variable levy or similar instrument.

The Commission proposes that this exercise should be continued by the inclusion of one product which has still not been brought within the scope of this arrangement :

ex 20.07 A III Pineapple juices

The EC's GSP Scheme for Textiles

In the Mid-Term Review Communication the Commission stated that the GSP arrangements for textiles would be re-examined following the expiry of the Multifibre Arrangement III ie. after 31 July 1986 - "in the light of the situation then prevailing".

The negotiations relating to the renewal of the MFA and of the attendant bilateral self-restraint agreements continued well into the autumn of 1986, so the EC decided to renew for 1987 the existing regulation unchanged apart from some technical adaptations.

Since the end of last year, however, the Commission has carried out an in-depth evaluation of the present scheme and has concluded that a major overhaul is not merely timely, but urgent. In regard to the great majority of products ie. those which fall within the ambit of the MFA and an even higher proportion of the trade, this scheme returns essentially a structure adopted as far back as 1980, and in turn, refers back to trade flows of 1977, thus enshrining a pattern of trade which is seriously out of line with current realities. Although an element of differentiation has been built into it, the mechanism used does not necessarily either hold back dominant suppliers or on the other hand encourage smaller, newly emergent suppliers or those which still have a claim to preferential access, and it is in any event framed by too complex an administrative network.

For 1988 therefore the Commission is proposing a GSP textile scheme which it believes is simultaneously more logical and yet simpler, and whose philosophy for the first time parallels the policy applied since 1986 in the industrial sector, since it provides for an accentuated differentiation based on similar objective criteria. Thus

- the organic link with the EC's overall policy framework for textile trade - the MFA - should be retained ie. apart from Least Developed Countries, eligibility to benefit to continue to be conditional upon the developing country either having negotiated a formal bilateral agreement or undertaken a similar commitment with the EC. The Commission will continue its efforts to persuade all remaining developing countries with an interest in textile exports which are not eligible to accept the simple procedure of an exchange of letters. In any event the categorisation of products to be used will be identical with that being applied in these agreements.

- in the case of major suppliers the objective test of having reached at least 10% of EC imports of a particular MFA category of textiles over a 3 year (1983/1984/1985) average will be deemed the attainment of such strong competitiveness in the EC market that GSP support is no longer required. Acceptance of this criterion would lead to a total of 79 category/country exclusions in 1988 affecting the following suppliers : Brazil = 2 categories, China=21, South Korea=16, Hong Kong=30, Macao=5 and Romania=5. The Commission considers however, that it is also appropriate as in the industrial sector, to apply a dispensation in regard to certain low-income countries, whose share of EC textile imports did not exceed 5% of total third-country imports in the three year period;

- the GSP offer itself should no longer be calculated in relation to the performance of an individual country in that particular category, but as a fixed proportion of the totality of EEC imports for the category, with a fundamental distinction between the dominant suppliers (Hong Kong, South Korea, Macao) and the state trading countries (China, Romania) and all other suppliers : on every category therefore - apart from the situations where exclusion is now justified - the first group of 5 countries would each receive 0,2% of total imports (calculated on 1985 imports of the 12 Member States), while the other beneficiaries would be awarded a 1% share per eligible country.

However, taking into account the line followed in the framework of the MFA, the GSP offer has been fixed at a higher level - of the order of 5% - in regard to countries for which exports of cotton cloth (Category 2 : India, Pakistan) or wool products (Category 48 : Peru and Category 50 : Uruguay) are of major economic importance. In addition, special rules have been applied concerning hand-knotted carpets (Category 58) because of the exceptional position of these products in India and Pakistan.

For the countries and products subject to quotas in the bilateral agreements, the preferential volumes will be administered as allocated quotas using the same key as that applied under the bilateral agreements. In all other cases the GSP offers will be administered under the system of ceilings apart from products in Groups I and II originating from dominant suppliers or state trading countries, which will also be administered as quotas.

Administration of the EC's GSP Scheme

The Commission has already in previous years criticised the continued practice of the Council of dividing up the tariff quotas on Sensitive industrial products according to a fixed key, advancing the twin objections that this obligatory channelling of trade flows all-too-often leads to underutilisation of quotas and sterilisation of quota shares and that moreover juridically it offends against the principles of the Customs Union and the uniformity of the Common Commercial Policy because it can result in unequal conditions of access between Member States to preferential imports. This was yet another ground for the Commission on February 1987 challenging before the Court of Justice the validity of the current year's regulation on industrial products.*

However, in the 1987 regulation the Council did decide in response to the peculiar circumstances applying to certain petrochemical products to introduce in this sector a number of what were in effect non-allocated quotas but given the title of "fixed duty-free amount". Consistent with the logic of its long held position the Commission therefore calls on the Council wherever a strictly controlled preferential limit is required to apply these in the form of the fixed duty-free amount. Such a mechanism moreover corresponds with the objectives of completing the Internal Market by 1992.

The Commission has also previously expressed its disapproval of other aspects of the way in which the Council has adopted the regulation on industrial products, both in regard to the administration of tariff ceilings, which are supposed to be a Community instrument of control and to the procedure which permits under fail-safe conditions analogous to a safeguard clause, the reintroduction of duties on industrial products for which no a priori limit has been set. The experience of the operation of the EC's 1986 GSP scheme and of the present year's scheme so far has if anything increased this concern. In the view of the Commission it is not possible to justify the wide disparities between Member States not merely in reactions to but in interpretation of the consequences of ceilings being exceeded; similar circumstances result in highly inconsistent administration of these ceilings, thus significantly increasing the elements of uncertainty and arbitrariness in the operation of the scheme. The Commission is therefore once again proposing that the understanding under which it has automatically given effect to any request by a Member State to reintroduce duties if a tariff ceiling is exceeded, be replaced by the Commission being given a delegated authority itself to decide whether such a reintroduction is justified following examination of the facts and circumstances and consultation of other Member States should this be considered desirable.

* Case 51/87

For Non-Sensitive Products a procedure of obligatory consultation between the Commission and Member States has been written into each year's regulation since 1981. Again in the opinion of the Commission this procedure has on occasion been honoured in the letter rather than the spirit: not merely has the analysis of the situation not always been comprehensive enough but in any event it is usually in practice impossible in the end to refuse such a request if the Member State concerned persists, regardless of the interests of other Member States.

The Commission has already argued in favour of the abolition of the sharing out of quotas in the industrial regulations. Similar arguments can certainly be advanced in regard to the administration of tariff quotas for the preferential import of textile products. The Commission is, however, conscious that this entire sector remains highly sensitive and that in any event it is already proposing a radically new formula for the allocation of benefits on MFA products to eligible developing countries. The issue of underutilisation and "communautarisation" of administration cannot, however, be avoided. As a minimal first step towards reducing the malfunctioning of these quotas, therefore, the Commission proposes the introduction in any textile quota of a (30%) reserve share, with similar procedures on drawing rights as have hitherto been applied on the quotas in industrial products, whose total abolition has already been proposed.

Finally, it is necessary to strengthen the Commission's powers to ensure both the uniform and the speedy application of certain technical measures such as the a posteriori rectification of charges against preferential limits by the application of set standards and other procedures in regard for instance to the practice in certain Member States of the pre-allocation of quotas.

Rules of Origin

The Commission is using the occasion of being obliged to transpose the rules of origin in all its various preferential arrangements into the Harmonised System - an exercise which will retain the principle of substantial transformation by change of tariff heading at the 4 figure level and whose overall effects the EC has already publicly declared is aimed to be neutral (as far as the GSP is concerned) - to introduce what it believes will constitute an important simplification in the GSP rules : the amalgamation of the current exception Lists A and B into single list of exceptions.

The services of the Commission have not yet completed the in-depth study of the implications of introducing the Donor Country Content provision into the GSP Rules of Origin, which was begun last year, but has turned out to be a more complex exercise than originally expected. It is hoped however to be able to produce some conclusions before the end of 1987

Other Measures

The Commission proposes to undertake, as in previous years, a programme of information seminars in beneficiary countries in Asia and Latin America particularly the poorer and Least Developed Countries, and also envisages further joint actions with the UNCTAD/UNDP Training Project. Due to a combination of technical reasons it has proved impossible to publish this year a new edition of the Practical Guide to the EC's GSP scheme. The Commission has, however, initiated a study on the possibility of preparing future editions of this Guide using computer aided editing techniques, which it is hoped will be completed in time to publish a 1988 edition of the Guide based on the Harmonised System and the Taric.