



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 29.10.2003  
COM(2003) 634 final

2003/0259 (ACC)

Proposal for a

**COUNCIL REGULATION**

**amending Regulation (EC) No 2501/2001 applying a scheme of generalised tariff preferences for the period from 1 January 2002 to 31 December 2004 and extending it to 31 December 2005**

(presented by the Commission)

## EXPLANATORY MEMORANDUM

1. In accordance with the guidelines adopted in June 1994 for the period 1995 to 2004, the Community adopted at the end of 2001 Regulation No 2501/2001 applying a scheme of generalised tariff preferences for the period from 1 January 2002 to 31 December 2004. This latter date will see the expiry of both the ten-year guidelines for the period 1995 to 2004 and of the last implementing Regulation for the years 2002 to 2004.
2. The new ten-year guidelines and their first implementing Regulation should normally enter into force on 1 January 2005. Keeping to this timetable would require the Commission to submit its proposal for a Regulation this year so that it can be adopted in 2004 at the latest. But the wider framework of the GSP is that of the WTO. Given that the round of multilateral negotiations launched in Doha in November 2001 will not be completed in time for this timetable to be kept to, it is proposed to defer adoption of the ten-year guidelines to a later date and simply to renew the current Regulation No 2501/2001 for one year, namely 2005.
3. This extension must be accompanied by a number of changes to the GSP. However, these changes have to be compatible with the 1994 ten-year guidelines, namely:
  - maintenance of the level of the offer,
  - differentiation between sensitive and non-sensitive products and the associated tariff modulation,
  - stability and predictability by establishing multiannual implementing Regulations,
  - annual adjustment of the offer through graduation (exclusion of countries/sectors with a level of competitiveness no longer requiring preferences and reinstatement of those in the opposite situation),
  - exclusion from the GSP of countries at a high level of development, the scheme's suspension in cases of fraud or unfair social or trade practices,
  - retention, within the framework laid down by the WTO, of social and environmental incentives, of specific incentive arrangements for efforts to fight drug production and trafficking, and a special scheme for the least-developed countries.
4. The main proposed change is to the annual adjustment of the offer by graduation. Country/sector graduation has existed since 1996; this year, however, is the first time that it has been applied on an annual basis. Based on the experience, it appears necessary not to apply the graduation to the smallest countries, in order to concentrate it most on the biggest beneficiaries.
5. Accordingly, the graduation mechanism can be modified in order to exclude, in a non-discriminatory way, all beneficiary countries accounting for less than 1% of GSP imports. In practice, this will focus the effects of graduation on the principal GSP

beneficiaries, a dozen countries accounting for the bulk of GSP trade<sup>1</sup>. This new mechanism does not prejudice the question of whether further amendments will be necessary within the new GSP regime aiming at limiting preferences to those countries which are more vulnerable. This concentration of graduation on the principal GSP beneficiaries constitutes a return to the very principles of graduation, as set out in the 1994 guidelines. These guidelines noted that the leading beneficiary countries dominated the Community's GSP, somewhat to the detriment of countries which had greater need of its benefits.

6. The second change of note concerns the conditions for granting the special incentive arrangements for the protection of the labour rights. The experience of requests submitted by some beneficiary countries has shown that, whatever their characteristics, the developing countries face specific obstacles in integrating and applying internationally agreed social standards (ILO standards). Accordingly, the incentivising aspects of these arrangements should be bolstered, something which could be done temporarily, subject to evaluation of the beneficiary countries' progress in incorporating these standards into their legislation and practice.
7. Other proposed changes include abandoning the annual publication of an opinion on the upcoming annual graduation in the Official Journal. Rather than being informative, this opinion sows uncertainty and confusion since it concerns countries/sectors which are not necessarily those that will "graduate" (or "degraduate") when the actual Commission decision is adopted on the basis of statistical data for the three most recent years available.

The evaluation of the arrangements for drugs, initially planned for the last year of the scheme's application (i.e. 2004) has to be deferred to the new last year of application of the procedure, which, as a result of this Regulation, will be 2005.

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<sup>1</sup> On the basis of most recent statistics available, the list of countries subject to graduation next time (1 January 2006, or 1 January 2005 if it is decided to bring forward application of this new clause) is: China, Russia, India, Thailand, Indonesia, Malaysia, Brazil, Pakistan, Saudi Arabia, the Philippines and Vietnam. The main beneficiaries of this amendment (countries not subject to graduation) would be all the "drug" countries (except Pakistan), Argentina (which from 2005 will no longer benefit from the "crisis" clause introduced in 2003), Sri Lanka, Iran and Kuwait.

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THE COUNCIL OF EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof,

Having regard to the Commission proposal,<sup>2</sup>

Having regard to the opinion of the European Parliament,<sup>3</sup>

Having regard to the opinion of the European Economic and Social Committee,<sup>4</sup>

Whereas:

- (1) Since 1971 the Community has granted trade preferences to developing countries under its generalised tariff preference scheme.
- (2) The Community's common commercial policy must be consistent with and consolidate the objectives of development policy, in particular the eradication of poverty and the promotion of sustainable development in the developing countries.
- (3) The multilateral trade negotiations launched at fourth ministerial conference of the World Trade Organisation in Doha in November 2001 are not yet over. It is therefore premature to draw up guidelines for applying the scheme from 2005 to 2014, which is a valid reason for renewing the current scheme for one year in accordance with the guidelines in the communication from the Commission to the Council of 1 June 1994.<sup>5</sup>
- (4) Implementation of Council Regulation No 2501/2001 showed the need to amend some of its provisions.<sup>6</sup>

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<sup>2</sup> OJ C [... ], [... ], p. [... ].

<sup>3</sup> OJ C [... ], [... ], p. [... ].

<sup>4</sup> OJ C [... ], [... ], p. [... ].

<sup>5</sup> COM(1994) 212 final.

<sup>6</sup> OJ L 346, 31.12.2001, p. 1. Last amended by Commission Regulation (EC) No 1686/2003 (OJ L 240, 26.9.2003, p. 8).

- (5) In April 2003 the Council and the Commission committed themselves to examining any appropriate amendment to the annual mechanism for excluding beneficiary countries/sectors on the grounds of their development (graduation), which justifies amendment of the relevant provisions of Regulation No 2501/2001. Article 12 should therefore be amended to avoid any adverse impact on beneficiary countries whose low volume of GSP-covered trade makes them vulnerable to any change in tariff preferences.
- (6) In order to take into account the individual characteristics of the developing countries benefiting from the GSP, the special incentive arrangements for the protection of labour rights need to be strengthened in order to give more encouragement to the gradual adoption of the standards set out in the International Labour Organisation declaration.
- (7) Regulation (EC) No 2501/2001 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EC) No 2501/2001 is amended as follows:

- 1) In Article 1(1) the words "and 2004" are replaced by ", 2004 and 2005".
- 2) At the end of Article 6(a) the words "tariff quotas" are replaced by the words "tariff quotas adopted under Article 26 of the Treaty or Annex 7 to Regulation (EEC) No 2658/87".
- 3) Article 12 is amended as follows:
  - a) Paragraph (3) is replaced by the following:

"3. On the basis of the most recent data available on 1 September of each year, the Commission shall establish which sectors meet the conditions laid down in paragraphs 1 and 2. However, paragraphs 1 and 2 do not apply to beneficiary countries whose exports to the Community account for less than 1% of total Community imports of products covered by the Community preference scheme in at least one of the three years referred to in paragraphs 1 and 2. Similarly, tariff preferences removed pursuant to column D of Annex 1 shall be restored."
  - b) Paragraph (4) is deleted.
- 4) Article 14(2) is replaced by the following:

"2. The special incentive arrangements for the protection of labour rights may be granted to a country:

  - (a) the national legislation of which incorporates the substance of the standards laid down in ILO Conventions Nos 29 and 105 on forced labour, 87 and 98 on the freedom of association and the right to collective bargaining, 100 and 111 on non-discrimination in respect of employment and occupation, and 138 and 182 on child labour, and which effectively applies that legislation, or

(b) which is engaged in significant ongoing efforts to incorporate and apply the substance of these standards.

In the case provided for in (b), the arrangements may be accorded for a limited period, their renewal of subject to the beneficiary country giving proof of progress in this area. The appraisal of such progress is carried out according to the memorandum of understanding to be agreed by the authorities of the beneficiary country."

- 5) In Article 25(4) the year "2004" is replaced by "2005".
- 6) In Article 41(2) the year "2004" is replaced by "2005".

#### *Article 2*

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, [... ]

*For the Council*  
*The President*  
[... ]

<b>FINANCIAL STATEMENT</b>	[... ]
	DATE: 9 October 2003
<p>1. TITLE OF MEASURE:</p> <p>Council Regulation amending Regulation (EC) No 2501/2001 applying a scheme of generalised tariff preferences for the period from 1 January 2002 to 31 December 2004 and extending it to 31 December 2005.</p>	
<p>2. LEGAL BASIS:</p> <p>Article 133 of the Treaty.</p>	
<p>3. OBJECTIVES OF MEASURE:</p> <p>The aim of this proposal is to renew for one year the current GSP Regulation applicable for the period 2002–2004, pending the finalisation of the Doha Development Agenda.</p>	
<p>COMMENTS:</p> <p>This Regulation does not involve new expenditure for the Community budget. It does, however, involve a loss of customs revenue.</p> <p>In 2002, the last year for which information is available, Community imports enjoying preferences amounted to €52.503 billion. The average preferential margin (weighted by the volume of trade) rose to 4.31%. The loss of income therefore amounted to €2.262 billion in a full year.</p> <p>The project in question is the renewal, for the year 2005, of the current Regulation (Council Regulation No 2501/2001) applicable for the years 2002 to 2004. On this basis, the loss of revenue would be maintained at this maximum annual level, meaning €2.262 billion for the year 2005. Application of the new Article 12(3) would increase this loss of revenue by only €146 million.</p> <p>The only foreseeable variation in this revenue loss would be downwards since tariff erosion is an ongoing process, excluding de facto from the GSP products which are no longer taxable (for example, ending of customs duties on electronic products at the end of the 1990s as a result of a decision taken at the Singapore WTO ministerial conference in 1996). However, the level will not be known until we know the customs duties applicable in 2005 following application of the tariffs currently under negotiation (Doha Development Agenda).</p>	