



COMMISSION OF THE EUROPEAN COMMUNITIES

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REPORT FROM THE COMMISSION TO THE COUNCIL

Report from the Commission to the Council on the compliance of El Salvador with the commitments undertaken under Article 9(2) of Council Regulation No 980/2005 applying a scheme of generalised tariff preferences

Proposal for a

COUNCIL DECISION

on the granting of the special incentive arrangement for sustainable development and good governance beyond 1 January 2007 to the Republic of El Salvador

(presented by the Commission)

REPORT FROM THE COMMISSION TO THE COUNCIL

Report from the Commission to the Council on the compliance of El Salvador with the commitments undertaken under Article 9(2) of Council Regulation No 980/2005 applying a scheme of generalised tariff preferences

1. This report is made pursuant to the last subparagraph of Article 9(2) of Council Regulation No 980/2005 of 27 June 2005 applying a scheme of generalised tariff preferences¹ (hereinafter: "the GSP Regulation").

Background

2. Pursuant to Articles 10 and 30 of the GSP Regulation, the Republic of El Salvador (hereinafter: "El Salvador") has been provisionally admitted as a beneficiary country of the special incentive arrangement for sustainable development and good governance, specified in section 2 of the GSP Regulation (hereinafter "the special incentive"), as of 1 July 2005.

In accordance with Article 10(3) of the GSP Regulation, on 24 October 2005 El Salvador made a request to the Commission to be granted the special incentive until 31 December 2008. The request submitted by El Salvador included evidence of ratification of 24 conventions listed in Annex III of the GSP Regulation, the legislation and measures to effectively implement the provisions of the conventions ratified by El Salvador and the commitment of the country to accept and fully comply with the monitoring and review mechanism envisaged in the relevant conventions and related instruments². When submitting its request, however, El Salvador, in accordance with Article 9(2) of the GSP Regulation, referred to the incompatibility with its Constitution of provisions included in ILO conventions No 87 (concerning freedom of association and protection of the right to organise) and No 98 (concerning the application of the principles of the right to organise and to bargain collectively). Nonetheless, as required by Article 9(2) of the GSP Regulation, El Salvador committed to sign and ratify those two conventions before the end of the year 2006.

Following a thorough examination of the request and evidence submitted and the commitment made by El Salvador, the Commission by Decision of 21 December 2005³ included El Salvador in the definitive list of countries benefiting from the special incentive from 1 January 2006 to 31 December 2008.

Current status

3. Pursuant to the last subparagraph of Article 9(2) of the GSP Regulation, the Council is to decide whether to continue to grant the special incentive to El Salvador beyond 1 January 2007 on the basis of a report by the Commission on the compliance of El

¹ OJ L 169, 30.6.2005, p. 1.

² El Salvador also gave an undertaking in compliance with Article 9(1)(d) of the GSP Regulation.

³ OJ L 337 of 22.12.2005, p. 50.

Salvador with its commitments to sign and ratify the two above mentioned ILO conventions before the end of 2006.

4. The Commission has learnt that the El Salvador Parliament ratified ILO conventions No 87 and No 98 with a unanimous vote on 24 August 2006. The El Salvador government then proceeded to formally deposit the ratified conventions at the premises of the ILO in Geneva on 6 September 2006. The conditions of Article 9(2)(b) of the GSP Regulation have therefore been fulfilled.
5. Moreover, as provided in Article 9(1)(d) of the GSP Regulation, on 24 October 2006 El Salvador gave an undertaking to maintain the ratification of the two ILO conventions and their future implementing legislation and measures. El Salvador also accepted regular monitoring and review of the implementation record in accordance with provisions of the two ratified conventions.

Considering the above and in accordance with Article 9(2) of the GSP Regulation, the Commission therefore proposes to the Council to decide positively on the continued granting of the special incentive to El Salvador.

It is the intention of the Commission to monitor the effective implementation of the two ILO conventions in El Salvador, and to apply - where necessary - the measures provided for in Article 16 of the GSP Regulation allowing a temporary withdrawal of benefits granted under the special incentive arrangement. As part of said monitoring, the Commission will invite El Salvador to closely cooperate with the ILO to ensure a proper and concrete implementation of the conventions.

6. A draft Council Decision is annexed to this report.

EXPLANATORY MEMORANDUM

1. On 21 December 2005, after examination of the request submitted by the Republic of El Salvador on 24 October 2005, the Commission decided⁴ to include El Salvador in the definitive list of countries benefiting from the Special Incentive Arrangement for Sustainable Development and Good Governance, (hereinafter "special incentive") on the basis of Articles 9, 10 and 11 of Council Regulation (EC) No 980/2005 of 27 June applying a scheme of generalised tariff preferences⁵ (hereinafter "the GSP Regulation").
2. El Salvador was the only country to invoke - as set out in Article 9(2)(b) of the GSP Regulation - incompatibility with its Constitution of provisions included in ILO conventions No 87 (concerning freedom of association and protection of the right to organise) and No 98 (concerning the application of the principles of the right to organise and to bargain collectively). Both conventions are listed in part A of Annex III to the GSP Regulation, which requires the ratification and effective implementation of several core human and labour rights ILO/UN conventions in order for a country to benefit from the additional tariff preferences.
3. Having regard to all relevant provisions of the GSP Regulation, notably Article 9(2)(b) thereof, under which the special incentive *may be granted to a country which has not ratified and effectively implemented a maximum of two of the sixteen conventions listed in Part A of Annex III provided that in case of an incompatibility with its Constitution, the country concerned has formally committed itself to sign and ratify any missing Convention no later than 31 December 2006*, the Commission comes to the conclusion that the Republic of El Salvador has complied with the commitments set out in the GSP Regulation.
4. Therefore the Commission invites the Council to decide positively on the continued granting of the special incentive to El Salvador beyond 1 January 2007, as set out in Article 9(2) of the GSP Regulation, by adopting the enclosed draft decision.

⁴ OJ L 337, 22.12.2005, p. 50.

⁵ OJ L169, 30.6.2005, p. 1.

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THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Regulation (EC) No 980/2005 applying a scheme of generalized tariff preferences⁶, and in particular Article 9(2) thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) By Commission Decision 2005/924/EC⁷ El Salvador has been included for the period 1 January 2006 to 31 December 2008 in the list of developing countries benefiting from the special incentive arrangement for sustainable development and good governance provided for in Regulation (EC) No 980/2005.
- (2) Pursuant to the last subparagraph of Article 9(2) of Regulation (EC) No 980/2005 the continued granting beyond 1 January 2007 of the special incentive to countries that invoked specific constitutional constraints to the ratification of a maximum of two of the sixteen conventions listed in Part A of Annex III to Regulation (EC) No 980/2005 is subject to a Council decision
- (3) In accordance with Article 9(2) of Regulation (EC) No 980/2005 the Commission submitted a report to the Council concluding that El Salvador has complied with the commitments set out in Article 9 of that Regulation and proposing a continuation of the special incentive arrangement beyond 1 January 2007.

HAS ADOPTED THIS DECISION:

Sole Article

The Republic of El Salvador shall continue to benefit from the special incentive arrangement for sustainable development and good governance provided for in Regulation (EC) No 980/205 from 1 January 2007 to 31 December 2008.

⁶ OJ L 169, 30.6.2005, p. 1.

⁷ OJ L 337, 22.12.2005, p. 50.

This Decision is addressed to the Member States.

Done at Brussels, [...]

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