

# **COMMISSION OF THE EUROPEAN COMMUNITIES**

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## **GUIDELINES FOR THE EUROPEAN COMMUNITY'S SCHEMA OF GENERALIZED TARIFF PREFERENCES FOR THE POST-1980 PERIOD**

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(Commission Communication to the Council)

COM(80) 104 final

Guidelines for the European Community's scheme of generalized  
tariff preferences for the post-1980 period

1. Introduction

The initial ten-year period of application of the EEC's generalized preferences scheme put into effect on 1 July 1971 expires at the end of 1980.

The Council of the European Communities has already stated that it intends to extend the scheme beyond the initial period<sup>1</sup> and this decision has been conveyed to the Community's developing country partners in various forums in recent years (Conference on International Economic Cooperation, UNCTAD IV and V). The Parliament and the Economic and Social Committee have also pronounced in favour of an extension. The extension of the Community's scheme for a further period would therefore appear to be a political fact. Accordingly, in this communication the Commission is presenting to the Council the guidelines which it considers should be followed in implementing the new scheme, in the light of the experience of the initial period and the prospects for our relations with the developing countries. The Commission intends to present at a later stage, in good time for a decision to be taken by the Council not later than mid-November 1980, formal detailed proposals for implementing the GSP for 1980. The proposals will be based on the guidelines set out in this communication.

2. Experience gained from the application of the GSP<sup>2</sup>

The most important points arising out of the practical functioning of the Community scheme may be summarized as follows:

- (i) the scheme's impact has been as much psychological as economic, as the actual use made of the GSP in the last three years has represented on average only 19% of total imports from the beneficiary countries subject to customs duty;

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<sup>1</sup> Council Resolution of March 1975 on the future development of the Community's generalized tariff preferences.

<sup>2</sup> See Annex for an initial assessment of the GSP.

- (ii) any danger to the various sectors of production in the EEC has been avoided, notably by virtue of the limiting provisions introduced as part of the implementation of the rules of the scheme;
- (iii) the preferential advantages have been used mainly by a limited number of beneficiary countries whose economy was already relatively more developed or diversified and has involved a limited number of products, in respect of which there was already a traditional flow of exports to the EEC;
- (iv) the functioning of the scheme depends on the different rules implemented in the initial period of application - and on the adjustments made to them from time to time; as a result of the rules, however, the complexity of the scheme is such that it has to some extent prevented the beneficiary developing countries from making full use of the advantages offered;
- (v) the actual rate of use of the GSP<sup>1</sup> is still limited (55% to 60% on average); this is mainly due to the fact that users have concentrated on products subject to relatively strict quantitative limits and also the fact that their level of technological development has prevented the beneficiary developing countries from exporting non-sensitive products in large quantities.

### 3. General guidelines

The experience of the first ten years of application shows that there is no need to make fundamental changes to the Community scheme. Notwithstanding certain faults, the scheme has achieved the objectives set for it, notably by striking a balance between the respective interests of the developing countries and Community producers, against an economic background which in the EEC has changed from a situation of sustained growth to one in which steep inflation has been accompanied by high levels of unemployment.

The GSP scheme for the post-1980 period should take equal account of the need to give effective help to industrial development in the developing countries, on the one hand, and the compelling requirements of the EEC's industrial and commercial policy, on the other. In addition, provision will have to be made for any measures that may serve to simplify the use of the system.

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<sup>1</sup>This rate represents the proportion of the preferential opportunities open each year which is actually taken up.

With this in view the new scheme should:

- (i) be adapted to the new economic conditions now prevailing in international relations and to situations which can already be foreseen;
- (ii) take account of the competitive position of EEC producers with a view to enabling a progressive implementation of the necessary structural adjustments ;
- (iii) take equal account of the Community's interests as an exporter of processed industrial products to the developing countries and as an importer of raw materials from those countries;
- (iv) be applied in such a way that the developing countries which stand in the greatest need may be given the widest and most liberal preferential access through measures to correct the uneven use of the preferential advantages, whether at the level of the beneficiary countries or as regards the products on which use of the advantages is concentrated;
- (v) be based on simplified implementing provisions as regards the preferential limits and, if possible, the rules of origin, so as to enable the use of the preferential advantages to be spread as widely as possible.

4. The rules and application of the new scheme

In the light of the general guidelines set out above, the new scheme should meet the following implementing criteria:

(a) Legal status of the new scheme

Experience has shown that the "autonomous" nature of the preferences - which has come in for increasing criticism from the beneficiary developing countries - has enabled the Community scheme to maintain its principle of offering the widest possible opening and also to adapt flexibly to changing situations in international economic relations. These advantages should be maintained and the new scheme should continue to be legally autonomous rather than contractual.

Moreover, the developing countries now have at their disposal consultation procedures which should enable them to examine with the donor countries the implementation of the different schemes.

(b) The duration of the new scheme

From a legal point of view the donor countries are no longer tied to a period of application linked to a clause derogating from the GATT. As a result of the work of the Framework Group in the MTN the implementation of the GSP does not

require a derogation. A balance needs to be found, therefore, between:

- (i) the desire of the developing countries to be able to count on the scheme being implemented for a sufficiently long period to enable industrialization programmes to be established;
- (ii) the need to ensure that the scheme does not continue to be applicable in completely changed circumstances in which it would no longer be politically or economically justifiable.

Furthermore, there is an important distinction to be made between the actual principle of maintaining the generalized tariff preferences system in force and the question of the period during which the scheme itself would be applied without substantive changes.

With regard to the principle of maintaining the system in force, the GSP could be implemented for a maximum period of 20 years, i.e. up to the year 2000. This date, which is sufficiently far away to permit industrial development plans to be implemented but at the same time does not seem too remote, has the psychological advantage of coinciding with the limit set by the Lima Conference of UNIDO for industrial production in the developing countries to reach the level of 25% of world production - seen as a target to aim at and where this is possible.

So far as the period of application of a scheme based on unchanged general rules is concerned, in view of the rapid changes which could take place in the world economic and political situation provision should be made for the scheme to be subject to a periodic review (which could even cover the substance of the scheme) should the situation make this necessary or if it seemed advisable in the light of experience, although the periods involved should not be less than five years.

(c) Consideration to be given to "differential" application of the preferential advantages

The evident imbalance in the use of the scheme should be corrected by enabling the less competitive developing countries to make better use of the advantages offered. Although it is clear that this is not the sole factor governing the uneven distribution of benefits, nevertheless it cannot be denied that a result of the Community scheme has been, notably as regards industrial products, that countries which are economically more advanced and have more fully developed marketing networks take up the preferential advantages more quickly, at the expense of economically weaker developing countries. Furthermore, it has been found in recent years that certain beneficiary developing countries have developed rapidly to the point that in some sectors their competitive position is such that with the preferential advantage added their exports could cause difficulty for certain sectors of Community production.

There would therefore be a twofold advantage in limiting the preferences accorded to these countries in the sectors or for the products concerned: it would provide scope for enlarging the preferential advantages for the less competitive beneficiary countries and would also prevent excessive pressure being brought to bear on the sectors of production in the EEC which are in difficulties and may need a certain period of time for restructuring.

However, the products and countries in respect of which limitations should be introduced will have to be identified on the basis of objective criteria which take account of the economic situation in the sectors and countries concerned.

The criteria to be used should in general be based on the principle that the GSP concessions should be proportionately more generous towards the beneficiary countries which have made least progress along the road to development. Accordingly, the criteria should have regard in particular to the following:

- economic and social indicators of the beneficiary countries ;
- the use found to have been made of the preferential advantages in the preceding period as regards the maximum country amounts (butoirs);
- the situation of a given product or sector with particular reference to the share of the EEC internal market taken by imports;
- the situation of the countries concerned as producers and exporters of the products in question.

For political and practical reasons, the application of a "differential" limitation of preferential advantages should not be so designed as to result in the exclusion of beneficiary countries or products or sectors. Excluding a country from preferential treatment in respect of a given product should be considered only in exceptional cases.

To conclude, the application of preferential advantages should be based on the following principles:

- it should not involve the complete exclusion neither of a beneficiary nor of a product nor sector ;
- it should provide for a differential allocation of the preference according to product and country ;
- it should be aimed at according greater liberalization to the least developed and poorest countries.

It would also be appropriate to bear in mind the Commission's proposal relating to compliance with minimum labour standards and the implications of this principle for the implementation of generalized preferences should it be adopted by the Council (1). In this connection the Commission will put forward more specific suggestions in its formal and detailed proposals for the new scheme.

(1) Doc. COM(78)492 final

5. Structural changes in the new scheme

Experience has shown that the Community scheme has become fairly complex and that consequently it is advisable to put the application of the principle of "differentiation" in according preferential advantages on a new basis. The change must therefore meet the two requirements of simplification and "differential" application of preferential treatment. Study of other donor countries' schemes reveals no satisfactory feature that could be applied as an improvement to the Community scheme. Either they apply excessively inflexible or automatic rules with regard to the exclusion of beneficiaries or products (e.g. the United States scheme) or the more generous advantages they offer relate to products and sectors - notably in agriculture - which, if included, could endanger Community production. Consequently it would appear to be advisable, while retaining the overall structure of the EEC scheme, to adapt it along the following lines.

(a) Product coverage

With regard to agricultural products, the list of products covered by the preferences has been steadily enlarged and now extends to 310 tariff headings covering practically all the products which do not represent a threat of injurious competition to EEC production. Given the constraints of the common agricultural policy and the need to safeguard opportunities for access for the ACP countries - or, in the case of certain products, opportunities for the Mediterranean countries - and the possibility of the accession of new countries, it would be inappropriate to widen the present product coverage, although consideration could however be given to certain improvements to the present arrangements if this could be justified, especially for the Least Developed countries.

In the case of industrial products, the coverage provided by the EEC scheme is among the most complete. Certain semi-manufactures or products of first-stage processing are not included, however, notably raw hides and skins, certain textile primary products and certain metals up to the ingot stage. Consideration could be given to the possibility of admitting them to preferential treatment, as such a measure would be of particular help to the least developed countries. In view of the restrictive policies applied by different beneficiaries in respect of exports of the products in question, however, the question of their inclusion would have to be gone into very thoroughly and account would have to be taken of the need to safeguard supplies for the EEC.

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(b) The beneficiary countries

It is possible to divide beneficiary countries into three categories, depending on their present level of development:

(i) Newly industrializing and highly competitive developing countries: for some products these countries have achieved a competitive position on the Community market which lessens the need for preferences. Moreover, their aggressive export policies make it impossible for other beneficiaries to get the full preferential advantage offered on those products. Objective criteria must therefore be used to restrict the preferential advantage going to countries in this category.

(ii) Poorest countries and LLDCs: the EEC scheme already includes virtually complete liberalization for the least advanced developing countries as listed by the UN. This is essential if these countries are to have any chance of exporting their products. The present arrangements should therefore be continued and further improved (e.g. in the matter of product cover) where possible. The list of beneficiaries should also be updated in the light of further UN additions, and indeed reviewed to see whether the Community should not include other countries with particularly weak economies and a low level of development.

(iii) Developing countries not falling into either of the above two categories: these are the countries which could potentially benefit the most from preferences, since they already possess, albeit at a modest level, the financial and technical basis on which to build processing industries with an export capacity. For these countries the scheme should be liberalized as far as possible to allow them to make the most of the preferences on offer by developing their exports of new products.

(c) Simplification of the arrangements for industrial products

The Community's new scheme would exclude neither certain particularly sensitive products nor some highly-competitive beneficiary countries. But the new rules should make it possible to exercise selective control over exports of sensitive industrial products originating in certain beneficiary countries.

Industrial goods other than textiles are currently divided into four categories: sensitive products (15 tariff headings), hybrid semi-sensitive products (28 headings), semi-sensitive products (81 headings) and non-sensitive products (around 1 700 headings).



Each category is subject to different rules regarding control and observance of preferential limits , at the level either of the beneficiaries as a whole or of individual countries. The whole system has become so complicated that it is now difficult for users to grasp in detail, or apply correctly. This complexity is the result of measures designed to take account of the degree of sensitivity of the product itself, or of the existence of beneficiary countries which are super-competitive in certain products, or again of the different degrees of sensitivity of a single product in different Member States. However, proceeding on the assumption - shown by experience to be correct - that the "sensitivity" of a product can almost always be traced to one, two or at most three beneficiary countries, it ought to be possible to deal with the problem created by those countries while at the same time simplifying administration of the scheme by allowing freer access for other beneficiaries.

This could be done by using only two product categories:

- non-sensitive products, simply monitored statistically; these could be reclassified at the start of a new period under the scheme if exports by the beneficiary countries were likely substantially to injure EEC producers ;
- sensitive products (initially goods falling within one of the three categories subject to surveillance). For such products, the most competitive beneficiary countries would be identified on the basis of objective criteria reflecting the economic position of the beneficiaries, the situation of EEC producers and the state of trade relations between the EEC and the countries involved. For such countries and for each product concerned Community quotas or tariff ceilings would be fixed and applied in most cases to each individual country identified as competitive and in exceptional cases to all countries so identified. For all other beneficiary developing countries, the preferences would be administered just as they are for the non-sensitive products now; a theoretical ceiling would be set and, in the event of duly-established market disturbance, exceeding this limit could trigger the reintroduction of customs duties (decided on a case-by-case basis).

Consideration of the current GSP utilization rate shows that such a streamlining is both possible and necessary. Strict controls would affect only a limited number of countries in all, normally no more than one or two beneficiaries for any one product. The simplified system would also make it possible to monitor about 70% of the current actual utilization of quotas and hybrid ceilings, appreciably lowering the risk to Community industries.

As far as textile products are concerned, it would seem inadvisable at this stage to think of making substantive changes to the arrangements introduced as recently as 1 January of this year. There will not be sufficient information available to judge the effects of the new system, which incorporates an entirely new set of implementing rules. The current scheme, moreover, is linked to the operation of the agreements concluded under the MFA. These are due to expire in 1982 and it would be logical to await the decisions to be taken in this connection rather than tamper with arrangements set up after lengthy discussions. Even here, however, a number of adjustments could be contemplated with the aim of eliminating unnecessary controls and improving access for the less competitive countries.

With regard to the rules of origin, there have been numerous criticisms from beneficiary countries finding them restrictive and over-complex. While holding to the underlying principles, it might be possible to look at ways of streamlining the rules and making them more liberal, particularly on the question of "cumulative" origin in countries belonging to regional groupings and on the "donor's content" principle.

(d) Administrative changes

The administration of the preferences system should also be simplified. An adequate solution would be to introduce a distinction between on the one hand decisions of day-to-day administration concerning the application of tariff measures, supervision of the utilisation of the system and the annual up-dating of the system, and on the other hand important decisions concerning general directives and the revision of the system at regular intervals. Decisions of the latter type would have to be taken as in the past by the Council acting on a proposal from the Commission ; by contrast, as far as day-to-day administration is concerned, it is the view of the Commission that it should itself take the decisions in this area, after consulting Member States according to some management procedure to be created for this purpose and in regard to which it will when the comes put forward formal proposals.

INITIAL ASSESSMENT OF THE OPERATION OF THE  
COMMUNITY'S SCHEME OF GENERALIZED TARIFF PREFERENCES

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1. The Community of Six introduced its scheme on 1 July 1971; it was subsequently applied by the Nine with effect from 1 January 1974. Successive schemes have seen constant increases in the preferential opportunities for all categories of product and, since 1975, the Community has angled its scheme to achieve a more balanced spread of the benefits offered. Thus access has been progressively liberalized for the least developed countries, while various steps have been taken to limit the preferences taken up by the most competitive countries, in order to give other beneficiaries a more equitable share.

The global Community offer, excluding textiles, rose by 75% from 1974 to 1979, from 3 700 million u.a. to 6 500 million EUA.

The number of agricultural products covered by the GSP rose from 187 in 1974 to 310 in 1979 and the volume of trade involved has trebled, from 450 million u.a. to the present level of 1 350 million EUA. This notable advance is largely due to the implementation of the Joint Declaration of Intent and the offer on tropical products made in the framework of the Multilateral Trade Negotiations.

In addition, some products have been added to the agricultural list to take account of bilateral relations between the Community and certain beneficiary countries, for example soluble coffee and cocoa butter from Brazil and Virginia-type tobacco from India.

The offer for industrial goods other than textiles, which stood at 2 800 million u.a. in 1974, is now worth 5 100 million EUA, an increase of 82%. Over the same period the number of industrial products subject to quota or strictly-monitored ceilings has risen from 152 to 182, out of a total of 1 850 tariff headings covered by the GSP.

It should be pointed out that the theoretical basis for calculating the offer has not always been observed in the case of products under surveillance. This has been the case in particular from 1975 onwards, owing to the repercussions of the energy crisis on the Community's trade. At the moment, the theoretical method is actually applied for about 50% of products under surveillance. For the remainder, fixed-rate increases lower than those which would have resulted from calculation by the normal method have generally been offered, although in a few cases the volume of the offer has been "frozen" at the previous year's level (the offer for ECSC products has been held at the same level since 1976). This practice was introduced to strike a balance between the interests of the beneficiary countries and those of Community industries; similar action has been taken to preserve the interests of the ACP States, particularly in the case of plywood.

The offer on textiles rose in volume terms over the period 1974-79 from 68 200 tonnes to about 87 300 tonnes, an increase of 29%.

Utilization of preferential advantages is concentrated on a fairly small number of beneficiary countries, some 70% going to thirteen countries; in 1977, 17 countries accounted for 85% of utilization. This phenomenon occurs in the schemes of other donor countries as well, and is not really surprising, since the GSP mainly covers manufactured industrial products and thus is essentially of benefit to countries having attained a certain level of economic development and those with traditional trade flows to the Community or a fairly wide range of industrial products. This means that the chief beneficiaries include not only a number of the fairly advanced developing countries, but also countries like India, Pakistan, Peru, Indonesia and the Philippines, which belong to the low-income group. It should be noted, however, that for a number of countries the high utilization rate is based on a single group of products: palm oil accounts for 62% of Malaysia's total, tobacco for 44% of Indonesia's and petroleum products for 73% and 94% respectively of the total for Romania and Venezuela.

Consideration of the incidence of duties reintroduced under the maximum country amount system indicates a growing use of the GSP for products under surveillance, since the number was up from 109 in 1974 to 172 in 1979. A total of twenty-eight beneficiaries were affected by restorations of duties, with Yugoslavia, Hong Kong and South Korea alone totalling 102 in 1978.

Under the ceilings, there were 21 cases of duties being restored in 1974 and 35 in 1978.

The list of beneficiary countries has not been substantially altered since the introduction of the GSP and the preferences have generally been granted to developing countries which are members of the Group of 77. So far the only exception has been Romania, which was not a member of that Group when the decision was taken to include it among the beneficiaries of the scheme (China will benefit from the GSP for the first time in 1980).

2. The above considerations suggest the following general conclusions as to the operation of the Community GSP during its initial period:

(a) On the whole the increase of the preferential offer between 1974 and 1979 can be regarded as fairly satisfactory, even if it is more the result of specific factors (offer on tropical products, Joint Declaration of Intent) than of a deliberately conceived policy;

(b) Utilization of preferential advantages is still limited to a fairly small number of products, mainly concentrated in sectors where the competitive position of the beneficiaries in relation to Community industry is favourable in any case;

(c) The rate of utilization of preferences offered is still modest, particularly because of the fact that strict quantitative limits are imposed on the products most exported by the developing countries, while in the case of many non-sensitive products, beneficiaries are unable to take up the preferences for lack of the financial and technical resources to develop production of those products;

(d) A relatively small number of countries take up the bulk of preferences offered. These countries, however, include not only some with a fairly advanced level of development, but also much less-developed countries which have other factors in their favour: traditional trade patterns, geographical proximity or major exports of a small number of products;

(e) While GSP cover has been constantly increased, the volume of preferential imports is still extremely low in relation to total Community imports from the beneficiary countries; the proportion varies widely from sector to sector and, with one or two limited exceptions, it cannot be maintained that preferential imports alone constitute a threat to industries in the Community, since their share of total Community imports is so low (in 1976 and 1977, sensitive products entering under the GSP accounted for between 3% and 4% of total imports of those products).