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R E P O R T
of the Section for External Relations
on the
Renewal of the Generalized System of Tariff Preferences of the
European Community for the Five Year Period
1986-1990

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CES 555/85 fin F/TO/CH/HO/MG/jc

BACKGROUND

1. In 1967 the Group of 77⁽¹⁾ advocated the conclusion of a non-discriminatory and non-reciprocal basis of an agreement on a general system of tariff preferences which would guarantee access without restrictions or customs duties to the markets of all the developed countries for all manufactured and semi-finished products from all LDCs.
2. By a resolution of 26 March 1968 UNCTAD recognized that unanimous agreement had been reached on the early introduction of a mutually acceptable and generalized system of preferences on the basis of non-reciprocity and non-discrimination, which would be beneficial to LDCs.
3. In June 1971 the GATT contracting parties agreed to a ten-year waiver of the most favoured nation clause, to allow the application of the Generalized System of Preferences (GSP).
4. In 1971 (on 1 July), the EEC followed by Japan and Norway, put their first one-year schemes into effect; the other industrialized nations (i.e. most OECD members and a few Eastern bloc countries) followed suit in succession, as late as 1 January 1976 in the case of the USA.
5. Since the conclusion of the "Tokyo Round" the "enabling clause" has given preferences a legal basis in GATT; this clause thus removed the need to have recourse to waivers in order to grant differentiated treatment to LDCs.

AIMS AND SCOPE OF THE SYSTEM

6. The GSPs operated by industrialized countries are designed to contribute to the industrialization of the LDCs.
7. From 1971 the Community GSP covered:
 - a) all LDCs;
 - b) in principle all industrial products, laying down margins, ceilings and quotas according to a classification under four categories (sensitive products, hybrid products, quasi-sensitive products and non-sensitive products);
 - c) a growing number of agricultural products, but not products without a common organization of the market subject to levies.

(1) Algiers Charter signed by 77 LDCs.

8. In 1981 the Community system was renewed for ten years. During the first five years minor alterations were made annually. From 1986 more significant changes can be made.

9. N.B.:

- the inclusion of China among the beneficiaries of the GSP for an increased number of products;
- the Economic and Social Committee is becoming increasingly critical of the composition of the list of beneficiaries;
- the Committee advocates the introduction of modest social clauses.

10. The system has been simplified in the course of its second decade of operation. Industrial products have been reclassified under two categories (instead of four) :

- sensitive products (numbering 178 in 1981);
- non-sensitive products (all the others).

A product may be transferred from one category to the other by reason of changing (market) circumstances.

11. Some LDCs continue to feel, nonetheless, that the Community GSP is too complicated and unclear.

12. In 1985 the Commission has submitted proposals on the GSP for implementation during the last half of the second decade (i.e. from 1986 to 1990).

COMMISSION GSP PROPOSALS FOR THE PERIOD 1986-1990

13. In its Communication to the Council entitled "Revision of the Generalized System of Tariff Preferences of the European Community"⁽²⁾ the Commission proposed the following main changes to the current system:

14. Greater differentiation between beneficiary countries: this would permit the exclusion from the GSP of a given country or product on the basis of certain objective criteria e.g. in the event of the product in question gaining a 20% market share of total imports from non-Community countries or exceeding at least tenfold the tariff quota of the country concerned for two years in succession. Exclusion from the GSP would not follow automatically however, as the Commission would retain the right to take other factors into account, such as the general level of economic development of the exporting country concerned, measured in terms of per capita GNP.

15. Quantitative "improvement" of the GSP: in the case of "sensitive" industrial products, this would be achieved through greater emphasis on the automatic adjustment of preferential

(2) COM(85) 203 final of 6 May 1985

limits which would be linked to the development of the Community's external trade, whilst taking into account the current state of the Community market.

16. Certainty: the Commission considers that the reimposition on GSP products of the normal customs duties applicable to non-Community countries creates uncertainty for suppliers and wishes to establish a "much more rigorous procedure", so as to draw a clearer distinction between "sensitive" and "non-sensitive" products. In the case of all products other than those subject to tariff quotas, the Commission would decide whether or not it was appropriate to reimpose normal customs duties after consulting a management committee consisting exclusively of representatives of the Member States; for several years the Commission has advocated the setting-up of a committee of this type.

17. Provision of information: the Commission would undertake to inform interested parties, at their request, when a target ceiling had been reached and to arrange for the publication of this information.

18. Rules of origin: before contemplating a more thoroughgoing revision of the rules of origin applied by the Community in its trading relations with the various categories of non-Member State, the Commission proposes that the concept of "donor country content" be introduced, thus enabling the value initially added in the Community to be taken into account in cases of "outward processing traffic" (e.g. where a raw material or component originating in the Community is re-imported after processing in a non-Community country).

19. Steel products: proposals will be formulated in the light of the general system applicable to relations with non-Community countries from 1986.

20. Textile products: the proposals for this sector to be put forward in 1987 will depend on the system which replaces the present Multifibre Arrangement, which expires on 30 June 1986.

21. Farm products: the Commission is seeking to "improve" the Community offer, both by including "new" products in the GSP and by upgrading concessions on "old" products, so as to take account of the situation of the least developed countries and Latin American states, which make less use of the GSP than their Asian counterparts.

GENERAL COMMENTS

22. Given that the declared aim of the GSP is to promote the industrialization of developing countries, i.e. all developing countries, the Section has often wondered whether the composition of the list of beneficiary countries ought not to take greater account of their individual level of development. There are indeed some LDCs whose GNP exceeds that of some Community countries. Not only do such countries benefit from preferences, but, in addition, no reciprocity is required of

them. The Section considers that any country whose per capita GNP equals that of any Member State of the Community should not be eligible for the GSP.

23. In addition, large companies based in industrialized countries sometimes use cheap labour in LDCs for the manufacture of consumer goods which then, thanks to the GSP, enjoy free or preferential access to the Community market. The Section has doubts about the advisability of granting benefit from the GSP in cases where the manufacture of a product clearly does nothing to promote the development of the country of manufacture.

24. The Section considers that the Community's trade links with the state-trading countries must be re-examined, in the light, in particular, of the proposals put forward recently by COMECON.

25. The same applies to products where local supply conditions (ores, products manufactured using cheap energy) give certain countries an undue competitive advantage over Community companies. In such cases the Section advocates the application of a system based on cross-selectivity. Products manufactured under abnormally advantageous conditions in given countries should not benefit from the GSP. The Section would reiterate in this context that the US GSP provides for the exclusion of certain countries and products and that the withdrawal clauses in the GSP operate automatically, thus providing greater certainty for donor and beneficiary countries alike.

26. The Section also proposes that the following products be excluded from the GSP :

- counterfeit goods, on which the Committee took a stand on 3 July 1985⁽³⁾,
- products which, on entering the Community, are subject to anti-dumping or anti-subsidy measures which distort competition to an unacceptable degree,
- manufactured goods from countries which levy export duties on the raw materials used.

27. The Section acknowledges the difficulties inherent in the withdrawal of the GSP privileges from beneficiary countries. Nonetheless the ultimate aim should be progressively to bring the most advanced LDCs into conformity with the "normal" GATT regulations i.e. on the one hand they should not lay undue claim to privileged treatment, and on the other hand they should practice reciprocity. In this way the most advanced LDCs ought progressively to give up their GSP privileges, thus enabling the countries with the greatest need to benefit effectively from the system.

(3) CES Opinion 583/85

28. The next multilateral conference under the auspices of GATT will be required to draw up a timetable and lay down precise conditions for a gradual return by the LDCs to the normal GATT regulations. The development co-operation policies of the industrialized countries should take account of this timetable.

29. The Section considers that the GSP is justified as an instrument of development co-operation policy only insofar as it contributes effectively to the development of the beneficiary countries. But what kind of development? Development chosen by and for the people of the countries concerned, particularly where in the future the choice falls to a greater and greater extent on rural development and "self-determined" development.

30. The industrialized countries, including the Community, must face the fact that, in order to finance investment necessary for their development, LDCs must be able to export. But the only products which they can export are often agricultural products, with which the markets of the industrialized countries - particularly those of the Community, the Common Agricultural Policy being what it is - are already saturated.

31. With regard to the import of farm products into the Community under the GSP the Section notes the Commission's intention to supplement and improve the offer made by the EC. The Section would stress the importance to the beneficiary countries of a diversification of agricultural production and, insofar as is possible, of local processing of these products. The Community should also promote duty-free imports of agricultural products which are not in direct competition with products subject to a common organization of the market and it should ensure that the excise duties levied on some tropical products in EC Member States are removed or, at least, reduced.

32. The Section considers that a greater volume of south- south trade is essential to the development of the Third World. For its part, the Community could encourage the LDCs benefitting from the GSP to apply the most favoured nation clause among themselves.

33. The Section considers that the GSPs of the various donor countries should in the long term, and in the interest of the LDCs themselves, be harmonized with a view to bringing the import systems applied to the LDCs gradually back into conformity with the normal regulations of GATT (reciprocity and non- discrimination). In the meantime, however, national differences should be borne in mind (e.g. with regard to agricultural products) in considering the structures and policies of the donor countries.

34. Users of the Community GSP, both importers in the Community and exporters in the LDCs, often complain about a twofold uncertainty arising from the autonomous nature and the management of the system :

- users have no guarantee that preferences available one year will continue to be available the following year;

— customs duties on sensitive products can be reimposed at any moment if quotas are exceeded.

35. The Section feels that these uncertainties should not be exaggerated. In any case they cannot entirely be avoided. The Section nonetheless advocates greater clarity in the management of the GSP. Information on the unused portions of quotas should be made more readily available by faster processing of statistics on trade in products covered by the GSP. The automatic reimposition of customs duties also has the effect of reducing the "uncertainty" mentioned above.

36. It is felt that greater certainty is essential, particularly in view of the often considerable implications for employment and investment in both the sensitive and non-sensitive sectors.

37. The Section for External Relations regrets that the lack of reliable and up-to-date statistics makes it impossible either to ensure effective, open management of the system (see p. 37) or to monitor utilization of the system closely (in terms of countries/products).

38. The Section considers that the Community and the Member States should equip themselves with the technical facilities to provide the Commission with the national data required for the development of Community policies. Computer processing of national import and export figures, promptly supplied, would provide the Commission with the necessary statistical basis for the effective management of the instruments of commercial policy and enable the Commission to monitor closely the effects of external policy measures on the internal development of the Community. This Community statistical data bank would also enable representatives of social and economic groups to assess the repercussions of commercial policy provisions on the utilization of production capacity (in men and machines) in the sectors for which they are responsible.

39. The Section once again stresses that it is incumbent on the Community in all its external relations to contribute to an improvement of not just the economic, but also the social situation in the world. Such a responsibility cannot in any way be regarded as impairing the sovereignty of the Community's partners.

40. In this context attention is drawn to the Havana Charter of 1948 which provided for the setting-up of an International Trade Organization. Although this organization never came into being, it is interesting to note that Article 7 of the Charter established the principle of equitable working standards to be observed in international trade. Article 7 also stipulated that the trade organization should consult and cooperate with the International Labour Organization.

COMMENTS ON THE COMMISSION'S NEW POLICY OUTLINE

41. The Section for External Relations notes with some satisfaction that in its communication of 6 May 1985 the Commission envisages the possibility of a product/country combination being excluded from the GSP. The Section nonetheless regrets that exclusion would occur only by decision of the Commission after consultation with a management committee, rather than automatically.

42. As in the past the Section is opposed to the idea of a management committee to be consulted by the Commission prior to the exclusion of a country, a product or a product/country combination. Such a procedure would be cumbersome and would remove the last glimmer of clarity from a system which for the reasons outlined above (point 36) is already shrouded in obscurity. Although not opposed in principle to the assumption of new powers by the Commission, the Section feels that in this case the effect would be to deprive Community sectors adversely affected by the import under the GSP of a given product of any hope of the restoration of an economic balance which for political reasons the Commission is prepared to see disrupted. Finally, this procedure would also make for greater uncertainty for suppliers.

43. Whilst appreciating that the Commission is attempting to bring greater clarity to the GSP in planning to publish information on target ceilings, the Section regrets that it is not planned to provide this information in two stages, i.e. at 75% and 100% utilization of the quotas concerned.

44. The Section fails to understand why the Commission insists on quoting Article 113 of the Treaty establishing the EEC as the legal basis for the GSP when the role planned for the management committee clearly involves development policy decisions.

45. The Section wonders why the Commission does not follow the "American model" which is more automatic in its operation and, therefore, clearer. The USA does not hesitate to exclude countries (e.g. OPEC members) or products (e.g. textiles, shoes) from the GSP completely. The Trade and Tariff Act of 1984 stipulates that exports of a "specific" product to the USA by any "competitive" country which benefits from the GSP will not be permitted to exceed 25% of total American imports of the product or a ceiling of \$25m with effect from the probable entry into force of this twofold restriction on 4 January 1987. The USA is also assessing the possibility of excluding from the GSP any country which fails to take adequate and effective measures to combat counterfeit goods or, fails to grant its workers internationally recognized labour rights.

46. The conclusions reached in the course of the Section's discussions are recorded in its Opinion on the Communication by the Commission to the Council concerning the Revision of the Generalized System of Tariff Preferences of the European Community.

47. Any assessment of the value of the GSP as both a development and trade policy instrument should form part of a broader analysis of the external policy of the Community. The Community's external relations become steadily more numerous and more complex, and the economic interest groups represented at the Economic and Social Committee see no sign of a coherent overall pattern or a clear strategy. Indeed since 1975, when the then EC Commission Vice-President, Lord SOAMES painted a vivid picture of a Community in the process of translating into reality the image it projected in non-Community countries, both industrialized and developing, the Committee has had no further opportunity to discuss the role of the Community in the world. Such a discussion would provide an opportunity to make an overall assessment of the GSP and its role in EC trade as a whole.

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