

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(85) 425 final

Brussels, 9 august 1985

PROPOSAL FROM THE COMMISSION TO THE COUNCIL
FIXING THE COMMUNITY'S GENERALIZED TARIFF PREFERENCES
SCHEME FOR 1986

(presented by the Commission to the Council)

Only the explanatory memorandum has been reproduced. The details of the proposal were published in OJ C302/85, 25 November 1985

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Introduction

These proposals from the Commission to the Council - 3 draft EEC Regulations and a draft ECSC Decision - are intended to provide the legal basis for the operation of the European Community's Scheme of generalized preferences during the year 1986.

The proposals also aim to translate into practical operation the general ideas put forward by the Commission in the communication it sent to the Council on 8 May 1985 - "Review of the European Community's Generalized Tariff Preferences Scheme".* In this communication, following an analysis of how the GSP Scheme had been working since the commitment was taken to extend its application for a second decade (1981-90), the Commission believes it had unveiled a carefully balanced package of measures, which would enable the scheme to continue to respond to evolving circumstances, both inside the EEC and in its trade relations with Non-Associate developing countries.

These proposed measures addressed themselves in particular to the challenge now being posed to the EC's present GSP policy by the emergence - as yet on a limited scale and in a few sectors only, but likely to grow significantly in the future - of suppliers of manufactured products in a handful of the most advanced developing countries, which on any realistic assessment must be considered to have arrived at a position of being fully competitive with the EC's own industries and no longer requiring the GSP advantage to stay in the market.

While the techniques of differentiation, which have been operated since the beginning of 1981 would remain generally valid, after the present operational framework, approved by the Council in December 1980, expires at the end of 1985, this specific situation could be responded to by a further refinement to the machinery of preferential limits.

Where it could be demonstrated by the consideration of objective criteria that the original objectives of the GSP had been attained, it had now become justifiable to examine the possibility of terminating GSP benefit - but only on a selective product / supplier basis. Moreover, any final decision should take into account more general considerations relating to the level of economic development of the country which would be affected.

The Commission, however, also insisted that the introduction of this new stage in the evolution of the EC's GSP Scheme could only command political acceptance - be reconcilable with the EC's commitment both to developing

* COM(85) 203 final

countries and to other GSP donor countries - as part of a much wider reevaluation of the scheme, the end result of which ensured that the value of the EC's GSP offer was at least maintained in real terms : selective product / supplier withdrawals had to be matched by quantitative improvements, liberalising access for less competitive suppliers, and on other products so that the total value of the EC's GSP offer was at least maintained in real terms. In addition the Commission envisaged qualitative improvements to increase transparency in the operation of the scheme and to enhance security for its beneficiaries. All these measures together are to be regarded as an integrated total package.

In conjunction with these changes to the form of the EC's Scheme for industrial products, it will be necessary to provide across-the-board for Spain and Portugal becoming full members of the EC in 1986. The timetables for tariff alignments - GSP as well as Common External Tariff rates - have been laid down in the respective Accession Treaties. However, where in the GSP Scheme limits have to be applied to preferential entry, it will be necessary to recalculate every single preferential limit - on industrial + ECSC products, textiles and agricultural products - to govern entry into these two new markets with effect from 1 March 1986. The formulas to be applied both on indicate ceilings and where the strict control of a quotas is required, together with the allocation of shares among 12 Member States, are described below.

Finally, it should be noted that apart from accomodating Spanish and Portugese participation, significant changes are not planned either to

- the scheme for textile products, which currently is very largely linked to the life of the Multifibre Agreement and which continues under its most recent renewal to operate until the end of 1986 ; or to

- the scheme for agricultural products, where for reasons which are expanded below, the Commission believes that a pragmatic approach remains appropriate.

- the scheme for steel products

Article 113 as the legal basis of the EC's GSP scheme

In its mid-term review Communication, the Commission spelt out the reasons both of principle and of practical necessity which had led it to conclude that the ambiguity about the legal basis of the EC's GSP scheme could no longer be allowed to continue and that it must be seen to be anchored firmly in Article 113 of the Treaty. Further discussions and reflections have in no way weakened the conviction that accepting the GSP as an integral part of the EC's overall commercial policy is perfectly compatible with respecting the fundamental GSP concept of the autonomous, non-negotiable and non-reciprocal nature of the instrument.

Administration of the EC's GSP scheme

1. GSP Committee

In order to ensure security of access - that is reducing the uncertainty and indeed unpredictability of the reintroduction of duties because of an absence of consistent practices - and transparency - that is cleaning up the unnecessary obscurity about the evolution of imports under GSP in products on which preferential limits apply - the most suitable procedure is to set up an appropriate Committee, in a first stage for the industrial scheme.

This Committee whose creation is recommended in the 8th May 1985 review, would be consulted

- on questions relating to the re-establishment of duties on products subject to individual ceilings on requests, and on products in the Non-Sensitive list.
- on implementing measures of the current scheme such as the return of unused shares in quotas to the Community Reserve, retrospective correcting of amounts charged against tariff quotas and distributed ceilings, etc.

2. Publication of annual imports

To ensure, amongst other things, that the interested parties are informed about the evolution of preferential imports into the Community during the course of the exercise, it seems appropriate to publish details of annual imports as well as of the changes which have been made at the time when the Commission becomes aware of 100% usage of tariff ceilings.

1. Industrial products other than textiles

The Commission continues to believe that the EC must remain committed to the objectives of the GSP - to help developing countries increase their export earnings and speed up their rates of economic growth through the creation of conditions which encourage industrialisation.

a) The proposals which it is now presenting would, if adopted, certainly create an overall improvement in the possibilities for developing countries of preferential access to the EC market and especially for those developing countries which will still need to rely on the GSP advantage. They involve

- liberalizing the scheme by the removal of a substantial number of Individual Country Quotas and to transfer entire products to the Non-Sensitive category, which had hitherto to be treated as sensitive;
- increasing the values/volumes of preferential limits not merely by redistributing among other suppliers the quotas on products on which GSP benefit has been withdrawn but by a wholesale re-evaluation of all preferential limits, relating them wherever possible to EC consumption or if not to EC imports.

In detail this means

- the outright transfer to the Non-Sensitive List of 23 products currently treated as sensitive, 7 of which are directly attributable to the removal from the GSP of dominant suppliers; only 5 new products need to be brought onto the sensitive list in 1986 because of a marked deterioration in the economic circumstances of the industry concerned. The net removal from the sensitive list of 19 products ^{*)} exceeds the increase in the length of the sensitive list over the previous 4 years;
- as a second measure of liberalization, no less than 47 individual country quotas ^{-of which 26 result of selective exclusions-} could now be abolished, leading to an appreciable simplification of the administrative burden, both at Community and at Member State level. The disappearance of dominant suppliers not merely allows their quotas to be abolished, but in a number of cases so eases the pressure from GSP imports that quotas which had to be imposed on other less competitive suppliers can also be done away with.

^{*)}

It is proposed to redefine and merge 2 products under a single heading.

- as only 10 new individual country quotas are required for 1986 because of a worsening of the situation in these sectors, there would be a net reduction of 37 in the number of ICQs for 1986.
- it is worth noting that the 4 countries which would become subject to these first product/country withdrawals - Hong Kong, South Korea, Brazil and Singapore are nevertheless among the leading beneficiaries of this exercise in liberalizing List A.

b) The precondition for this major exercise in liberalization is, however, the recognition and acceptance that it has now become opportune to introduce a new stage in the present policy of differentiation, by for the first time in the operation of the EC's GSP scheme proposing a limited number of withdrawals of GSP benefit at the level of individual product/supplying country. The reasons which have led to this conclusion are summarized in the introduction to this explanatory memorandum, and have been argued more extensively in the Communication containing the mid-term review. It should be noted that the proposals for selective withdrawals of GSP benefit in 1986 relate only to products whose sensitivity has already been attested by the supplying country concerned having been made subject to an individual country quota. That the country in question has attained full competitiveness with EC producers is demonstrated by objective tests, using the criteria which the Commission had already put forward for discussion: in 10 cases this is an export performance which results in it taking up at least a 20% share of total EC imports from third countries of the product in 1983, for 16 products in the proposed list however, the presumption of competitive capability is based on an alternative criteria of total imports having exceeded the value of the quota more than 10-fold over the average of the 2 years 1982/83.

In its assessment of situations which justify proposing products/country withdrawals the Commission has paid regard to the overall economic situation of countries whose performance in penetrating the EC market might otherwise indicate that they could in future support exporting without the benefit of any degree of preferential entry by excluding from this list of product withdrawal any low income GSP supplier.

Taken together these calculations add up to a total list of (26) product/country exclusions being proposed for 1986: the countries affected would be: Hong Kong - 12 products; South Korea - 10 products and Brazil and Singapore 2 products (each).

2. Re-evaluation of Preferential Limits

It will be recalled that in its Communication the Commission drew attention to the fact that since the abandonment of the mathematical formula, which had normally been used each year during the first decade of operation for calculating any revision of a preferential limit, the values/volumes of many of these tariff quotas/ceilings had lost any relationship to actual trade flows. Indeed for a significant number of products these limits had been left at the same level or accorded only minimal increases throughout the whole of the 5-year-period 1981-85.

To ensure buoyancy and indeed the resumption of real growth possibilities in the EC's GSP scheme, the Commission has therefore, as foreshadowed in the Communication, carried out a comprehensive review of almost all preferential limits with a view to devising a new formula - which can also be applied to any new quotas or ceilings. This exercise goes well beyond a redistribution of the quotas from excluded suppliers: in many sectors where the necessary statistics are available, such as chemical products, the Commission is proposing that - without returning to the old system of global preferential limits - the effective GSP suppliers should be awarded in general what amounts to 1 % of the EC's internal consumption - this amount then being divided up between them. On other products where this kind of data is not to hand, GSP suppliers could take in general 1 % and 5% of total third-country imports, depending upon the product or sector concerned.

Applying these formulas has led to proposals for increases in many cases substantially above the levels accepted, or indeed proposed by the Commission in many recent years. The corollary has also had to be accepted that in certain products where total imports have declined or risen below trend, decreases in the GSP offers are in order.

In other respects as the result of the situation in the steel sector and of the competitiveness of certain GSP beneficiaries, it is not envisaged maintaining the present preferential limits.

In consequence the Commission proposes that the increase corresponding to adapting the GSP to the trade flows of Spain and Portugal (which has been calculated at more than 10% of Community imports) should not be applied. The quotas and ceilings provided for the Community of 10 will be maintained at their present value for the Community of 12, without excluding the possibility of a later reduction.

Furthermore, as particularly sensitive steel products are concerned the Commission will in future apply strictly the criteria of exclusion put forward in its Communication of 6 May for countries whose exports to the Community exceed by 10 times their quotas for the products in question.

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Finally, the Commission proposes the inclusion of a chemical product which insofar is not covered by GSP (35.02 A II b).

3. Administration of the tariff quotas

In order to warrant a full utilization of the tariff quotas, the Commission is proposing, on the one hand, that some of them are not allocated between Member States.

On the other hand, with respect to the allocated tariff quotas, the Commission proposes, in order to ensure a more standard application of the TDC and a better utilization of these quotas:

- to increase the Community reserve from 20% to 30% of the volume of the quota
- to introduce for each of the products involved an allocation key for the quota shares attributed to Member States, based on the actual imports into the Community from countries benefitting from GSP in 1983
- to eliminate the rights held by Member States to limit their drawings on the Community reserve.

4. Provision for Spain and Portugal

The Commission has studied with great attention the question of the basis on which preferential limits in the industrial sector should be increased to provide for the participation of Spain and Portugal in the EC's GSP scheme. In line with the general philosophy of the revised arrangements now proposed for industrial products, the Commission considers that in principle it would be appropriate to calculate the increases in preferential limits by using the share of imports from GSP beneficiaries by the two new Member States on the import of the actual Community from these beneficiaries during the calendar year 1983. *) However, to avoid on the one hand sudden increases and on the other hand to encourage the start of trade flows on products where imports had been minimal or non-existent before, the Commission suggests that the application of these 1983 trade statistics should be within certain parameters, for the sensitive industrial products an upper limit of no more than 7.7% and a minimum percentage of at least 2.7. **)

Finally with regard to Non-sensitive industrial products listed in Annex 2, the Commission recommends that the reference basis should be increased by 10% across-the-board in 1986.

*) This share is on average 5.4% for all sensitive items and 10% for all non-sensitive.

**) The minimum percentage (2.7%) represents half of the average share for the sensitive items (5.4%). The upper limit (7.7%) represents the mean point between the two average shares for both sensitive and non-sensitive (10% + 5.4%).

II. Textile products

For products covered by the MFA the Commission proposes, according to the orientation agreed upon by the Council in 1983, an increase in specific individual ceilings which takes them to the level already put forward for immediate application in 1984 but which the Council decided to phase over three years. It also suggests the suppression of the allocation of several specific ceilings whose volume is greater than the minimum offer and which it does not appear appropriate to maintain under a stricter system of management.

The accession of Spain and Portugal is taken account of by a linear increase of 1,42% of all ceilings, which corresponds to the growth of imports of MFA into the Community of Twelve in 1983, the year for which comparative statistics are available for the GSP beneficiaries.

The allocation of ceilings between Member States has been carried out as a function of the fixed Key applied in 1984 to the Member States of the Community of Ten and adapted to the new base 100 taking account of the real contribution of Spain and Portugal to the growth in ceilings, which corresponds respectively to a share of 1,3% and 0,1%.

Finally Costa Rica is included in the list of beneficiaries, having agreed to accept similar commitments to those of the bilateral agreements as did Bolivia and Ecuador in 1983 and Honduras in 1984. The Commission also proposes to include Argentina on condition that a satisfactory solution for her admission can be found before the entry into force of the 1986 GSP scheme.

As far as the non-MFA products are concerned, other than jute and coir, the accession of the two countries of the Iberian peninsula necessitates a linear increase of 3,19% and the share to be allocated to Spain and to Portugal for the allocation of ceilings is respectively 2,2% and 0,9% on the same basis as that used for MFA textiles.

The Commission also envisages to include all these products in its examination of the textile offer which it will carry out when the MFA lapses.

For jute and coir products the offer is not affected by enlargement since these products are not subject to ceilings.

III. Agricultural products

The Commission has already recalled in its Communication that the developed countries, donors of preferences had from the outset made it clear that their GSP offers on agricultural products would be selective, the product coverage being established by the outcome of case-by-case examination. As far as the EC has been concerned moreover, regard has always had to be paid to two important factors:

- the principles of the Common Agricultural Policy and of the Common Fisheries Policy in particular the various market arrangements and
- the obligations to particular groups of developing countries written into the Lomé and Mediterranean Agreements.

These considerations lead the Commission to conclude that the further evolution of the EC's GSP scheme should continue along these established lines, with new products being introduced and preference margins widened on a pragmatic basis.

In its proposals for the 1986 GSP scheme the Commission has, nevertheless, had two concerns particularly in mind:

- on the 5 products currently subject to quota limits, each preferential limit has necessarily had to be recalculated to provide for shares for Spain and Portugal, worked out in relation to their imports up to now of these products from GSP beneficiary countries. The tariff ceiling for unmanufactured tobacco other than Virginia flue-cured has similarly been recalculated;
- more generally in looking for areas of possible improvements in the scheme, priority should be given to products of interest to Latin America: as was strikingly brought out in the analysis of the scheme for agricultural products annexed to the Commission's Communication, the advantages drawn from it have been very unevenly distributed originating in 1983 from Asia and from Latin America.

1. Agricultural products subject to preferential limits

The Commission's proposals are accordingly as follows:

- raw/unmanufactured Virginia flue cured tobacco (subheading CCT 24.01 ex A)

to increase the present global quota of 61,200 MT to 67,000 MT by allocating a share of 5000 MT to Spain and 750 MT to Portugal and by marginally increasing the reserve share by 50 MT to 1250 MT on an annual basis^{*)}.

The share for Portugal is equivalent to 50% of Portugal's imports of this type of tobacco from GSP beneficiary countries, a proportion similar to that which receives GSP benefit in the imports of the present 10 Member States. The share proposed for Spain would allow some redirection of that country's present pattern of imports in favour of GSP beneficiary countries, which could to a limited extent offset the requirement that will now fall on Spain to introduce duties on products which hitherto have been receiving duty - free access to the Spanish market.

- canned pineapples

To increase the present global tariff quota for canned pineapples in slices by 5000 MT to 34,560 MT on an annual basis^{*)} with an unchanged GSP tariff rate of 15% and to increase the quota for canned pineapples in cubes by 1,250 MT to 46,150 MT on an annual basis^{*)}, the GSP tariff rate being brought down from 12% to 10%, thereby encouraging better utilisation of this underutilised quota.

This arrangement would allow for

- a) some trade diversion in imports into Spain from non GSP suppliers
- b) a transfer from the underutilised quota for cubes to the quota for slices which cannot satisfy demand for importers.

A new allocation of the quotas seems also necessary.

- soluble coffee

imports by both Spain and Portugal have been minimal up to now; there is therefore no need to increase the present global quota of 19100 MT by more than a nominal amount of 100 MT - with quota shares of 45 MT each for Spain and Portugal and the reserve share being increased by a further 10 MT to 1920 MT.

^{*)} The volumes opened for the tariff quota for Virginia tobacco and for the two quotas for canned pineapples will be respectively 65,992 MT, 33,727 MT (pineapples in slices) and 45,942 MT (pineapples in cubes) to take account of the fact that Spain and Portugal will only begin to apply preferences with effect from 1 March 1986.

- cocoa butter

neither Spain nor Portugal appear to import cocoa butter. Moreover utilisation of the present quota of 22000 MT by the present 10 Member States has never risen above 10%: with this pattern of imports the Commission believes that it is impossible to justify the continued maintenance of preferential limits - whether in the form of a tariff ceiling or a tariff quota - on this item, which serve no useful purpose. The Commission, therefore, proposes that this item be transferred to Annex II of the regulation, which lists all products eligible for GSP entry other than those subject to an a priori preferential limit, and on which instead the safeguard clause could be activated should a transformation of the situation ever occur (no change is envisaged in the present GSP tariff rate of 8% (MFN rate = 12 %)

- raw/unmanufactured tobacco, other (CCT 24.01 B)

the indicative global tariff ceiling for this item has remained unchanged at 2550 MT since 1981. However both Spain and Portugal are heavy importers of this type of tobacco, exclusively from Latin America. Taking into account average prices paid by importers in the two acceding countries, about 50% of their imports would have been likely to have received GSP benefit on the same terms as imports in the present Member States. To achieve the continuation of imports in the new Member States, especially from Latin America, the present ceiling needs to be increased from 2500 MT to 20000 MT on an annual basis. *)

*) The volume to be opened for this ceiling will be 17,090 MT to take account of the fact that Spain and Portugal will only begin to apply preferences with effect from 1 March 1986.

2. Additional products for Least Developed Countries

In the GSP scheme for 1983, the EC agreed on a major extension of product coverage in favour of Least Developed Countries intended to give these countries virtually the same terms of preferential access as ACP suppliers on all otherwise dutiable agricultural products, apart from those items where the sole protection was a variable levy or similar instruments. The Council at the time was unable to agree on the inclusion of 7 items, although 2 of these have subsequently been accepted. The Commission believes strongly, however, that in the context of the mid-term review of the substantial New Programme of Action (SNPA) in favour of the LLDCs, this chapter of improvements should now be brought to a comprehensive conclusion by the inclusion of 5 remaining items :

08.01 C Pineapples, fresh
 08.10 A Strawberries, frozen
 20.07 A I a ; A I b) 2 ; B I a) 1 aa) ; B I a) 1 bb) 22 ;
 B I b) 1 aa) 22 and B I b) 1 bb) 22 : Grape juices
 ex 20.07 A III Pineapple juices
 ex 20.07 B II a) 7 bb) : Mixture of fruit juices containing more
 than 25% pineapple juice.

3. Additional products for all beneficiaries and improvements on preference margins

The Commission is proposing the inclusion of 8 new products, nearly all of which are of particular interest to exporters from Latin America ; among these products may be noted offal ; fresh-water trout ; asparagus, clementines and wilkings. interest are proposals for improvements in preference margins on 2 products already included, where the product margins are so small that they can offer no real incentive to exporters.