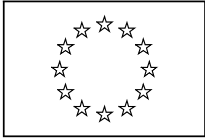

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GREEN PAPER

ON THE FUTURE OF RULES OF ORIGIN IN PREFERENTIAL TRADE ARRANGEMENTS

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Summary and Introduction

Within the framework of GATT rules, the EU applies preferential rates of customs duty to products imported from many countries, be it under international agreements or unilaterally. These trading arrangements only make sense if the tariff preferences accorded benefit products that are actually obtained in - "originate" in - the countries concerned. The rules of origin serve to establish this link between products and beneficiary countries. They are useful only in so far as they reflect the actual conditions of production and trade and the needs that the preferential arrangements are designed to satisfy.

However, the present framework for determining, managing and verifying preferential origin no longer seems wholly adapted either to these needs or to quantitative and qualitative trends in the international economy. Over and above an effort to apply the rules properly,[1] the changing situation demands a reassessment of their economic relevance, an improvement in the reliability of the system with a view to protection the financial interests of the Community and the restoration of a balanced division of responsibilities between traders benefiting from preferences and the supervisory authorities.

The objectives of the Green Paper

Preferential origin rules need to be fundamentally reviewed, especially in view of the level of duties likely to emerge from the new round of multilateral trade negotiations, the role to be played by preferential origin rules in free trade agreements and the policy of market access and supporting sustainable development.

Management procedures and supervisory and safeguard mechanisms also need to be designed to make sure that preferential arrangements are used properly and shield the business community and the financial interests at stake from abuses of the system.

The purpose of this Green Paper is to help the Commission to formulate guidelines in response to these objectives, taking account of the various interests at stake and the contributions expected from those involved in the preferential arrangements.

Structure and content of the Green Paper

The Green Paper opens by taking stock of the economic, legal and financial context of the preferential trade arrangements[2] and the concomitant rules of origin. It includes an inventory of the difficulties and of constraints more specifically associated with the diversity, complexity and proper application of the present rules and procedures in the matter of preferential origin.

It then looks at different ways of adapting (a) the origin rules better to their intended purpose and (b) the implementing procedures better to the origin rules.

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[1] The Commission, in its communication of 23 July 1997 on the management of preferential tariff arrangements (COM(97) 402 final), had initially focused on ways of making the arrangements work more efficiently. This communication gave rise to the Council conclusions (Internal Market) of 18 May 1998 and Parliament Resolution of 22 October 1998 (OJ C 341, 9.11.1998).

[2] **Annex I** shows trends in preferential imports as a proportion of total Community imports and **Annex II** the preferential arrangements applied by the Community and the associated legal framework of origin rules.

The Commission identifies three areas in which it believes new balances are needed:

– the criteria for acquiring originating status and their legal framework, so that the rules of origin perform better and contribute to the smooth working of arrangements that are increasingly geared to increased market access and sustainable development;

– the supervision of their conscientious application, to the greater good of legitimate traders and the protection of the EU's financial interests;

– the establishment of procedures ensuring an optimal division of tasks and responsibilities between traders and the authorities; specific developments in the latter area highlight the conceivable future options for the following three components: certification of originating status at export, the declaration of origin at import and the verification of origin.

  In the matter of certification, a choice will have to be made between trying to improve the working of the present system, which would place the onus on the customs authorities of the country of export, transferring all responsibility to the exporter or an intermediate solution confining the possibility of certifying origin to exporters approved or registered by the competent authorities.

  The choices and improvements made in respect of the other two components will very much depend on the certification method chosen. The importer's responsibility, the capacity of the competent authorities of the country of import to supervise the arrangements and the machinery needed for administrative cooperation between the parties will vary according to the degree of responsibility assigned to exporters and the customs authorities of the country of export.

  The aim of the Green Paper is therefore to identify the possible combinations so that a "procedural model" coherently and comprehensively covering all three components can be drawn up at the end of the consultation process.

Wide-ranging consultations

The Commission hopes to prompt interested parties to submit further analysis and imaginative responses to the questions raised and the options presented - or even alternative proposals.

The Green Paper is aimed at international traders and the competent authorities of the Member States, candidate countries and the EU's partner countries in preferential arrangements, as participants in these arrangements. The Commission also intends to involve the other EU institutions in the debate.

To enable contributions arising from the Green Paper to be collected and channelled into a structured discussion with the interested parties, the Commission would ask you to send your comments in writing, **by 1/03/2004**, to:

Directorate-General for Taxation and Customs Union
Customs Policy - Rules of Origin
TAXUD/B/4
European Commission
B-1049 Brussels

We strongly recommended that you use the following e-mail address:

taxud-greenpaper-origin@cec.eu.int

You will find, in grey boxes following the main sections, a series of questions intended to inform the discussion and give the contributions some structure.

1. PREFERENTIAL ORIGIN AT A CROSSROADS

The issue of preferential origin is not simply a matter of dealing with the budgetary and other fallout from the malfunctioning of the administrative cooperation procedures and machinery that were supposed to ensure compliance with origin rules. It is to be seen against a wider backdrop of developments in international trade and the implementation of the common policies on trade, industry and development. Today the rules of origin are clearly "at a crossroads".

1.1. The preferential origin rules in the context of international trade and the common policies

Tariff preferences are established to develop trade between partners and contribute to their sustainable economic and social development. They are of immediate, shared benefit to the operators involved in the preferential transaction. The exporter benefits from better access to the market of the importing country and the importer can obtain supplies more cheaply while still ensuring his supplier receives an adequate return on his product.

The "Doha Development Agenda" of November 2001 should lead to increased trade liberalisation, a drive for better market access and integration of the sustainable development dimension in international trade. This new round of multilateral trade negotiations could result in a further reduction in customs duties and still more marked erosion of preferences, seriously limiting the margins still available.

In this situation, the expected gains both of regional economic integration within the meaning of GATT Article XXIV and from autonomous preferential arrangements will depend increasingly on the production conditions imposed by these agreements or arrangements for goods to be considered originating products and thus benefit from the preferences. In addition, the WTO negotiations will also cover all the rules affecting regionalism, including preferential rules of origin.

The preferential rules of origin are **an instrument of commercial policy**. Their initial role was to help open up the EU market, reciprocally or otherwise, to imports from partner countries but to do so in a manner that afforded adequate protection for the EU interests concerned. In view of the restructuring and delocalisation of certain industries and the low average level of duties applied by the Community, this policy is increasingly moving towards a general drive to facilitate world trade and access for EU exports to third country markets. In certain sectors, the preferential origin rules drawn up by the Community in the 1970s are probably not geared to such an approach.

- Preferential origin rules **also serve the objective of supporting sustainable development and integrating the developing countries into world trade**, by allowing their products to get a better access to the Community market while generating a sufficient value added in the country concerned. Experience and **Annex I** show, however, that the Community's efforts to attain its development

objectives[3] are sometimes hampered by the fact that the developing countries that are potential beneficiaries of the preferences are unable to take full advantage of them for a whole series of reasons, among them the difficulty of complying with some of the rules of origin[4]. They often lack the production facilities, investment opportunities or administrative organisation needed to meet the conditions imposed. Other explanations include the complexity of some of the rules, the fact that some traders have difficulty understanding them and the cost of the relevant formalities. If that is the problem one must decide on the type of development one wishes to promote by means of preferential import tariffs and draft the origin rules and procedures to suit the purpose and the interests involved;

Such difficulties can on the other hand foster a tendency not to comply with the rules of origin. That works then **to the disadvantage of the Community**, preferences actually benefiting traders who do not obey the rules or who "passively" benefit from the exporting country's fraudulent or mistaken application of the rules or failure to exercise proper control.

The diversity of preferential arrangements and their objectives, as illustrated by **Annex II**, places a number of constraints on the design and administration of origin rules. Despite the progress made over the years towards harmonising and simplifying them, preferential origin rules remain complex in both practical terms (criteria for acquiring originating status) and procedural terms (proof and control of origin). The degree of uniformity that has been achieved is obscured by the multiplicity of schemes, the number and diversity of which are growing all the time. This complexity is compounded by the conditions for applying cumulation of origin with a view to boosting regional economic integration[5]. Last but not least, the harmonisation already achieved limits, paradoxically, the scope for the Community, and more specifically the Commission, to provide and negotiate, at the request of its traders or its Member States, ongoing "maintenance" and tailoring of the rules to the needs of trade and industry and the common policies,

Questions concerning section 1.1:

1. Assuming the DDA negotiations result in a substantial cut in duties, will preferential duties continue to be attractive to traders, in view of the costs and formalities, if current origin rules and procedures are maintained?

2. Do the preferential origin rules fit the current objectives of the Community's commercial, industrial, agricultural and development policies - as a whole, or by economic sector, country or group of beneficiary countries?

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[3] New preferential agreements, increased preferences, the "Everything but Arms" initiative in favour of the least developed countries, etc.

[4] Non-governmental organisations such as the Centre for European Policy Studies (CEPS Working Document No 183, Making EU Trade Agreements Work the role of rules of origin, referred to above), and Oxfam (Rigged Rules and Double Standards trade, globalisation and the fight against poverty, referred to above) have highlighted the need to reassess the impact on development of preferential arrangements and rules of origin.

[5] Cumulation of origin allows an exporter deciding on the originating status of an export product to treat materials originating in partner countries as if they originated in the country of export; bilateral cumulation involves one other country, diagonal cumulation and full cumulation involve more than one. For further details, see Annex II.

3. Are there any reasons (e.g. failure to invest in manufacturing, internal administrative structures and procedures, human or plant health regulations) other than the complexity and rigour of the origin rules to explain why certain beneficiary countries or groups of countries make so little use of the preference made available? Why is cumulation of origin not used more, particularly by certain groups of developing counties?

4. Does failure to obey the origin rules stem mainly from the complexity and/or ignorance of the rules, the impossibility of obeying them if one wants to export goods, or deliberate intent to commit fraud? Is this failure made easier by the limited possibilities to monitor the proper application of preferential rules of origin?

5. Given the current number and range of preferential arrangements, can the relevant origin rules contribute appropriately and flexibly to achieving the objectives of the arrangements?

1.2. Managing and monitoring compliance with the preferential origin rules

The diversity of preferential arrangements also seriously put constraints on the capacity of the Community, and especially the Commission, to apply and supervise them in an exhaustive manner, by ensuring, in particular, the monitoring of the proper working of the arrangements and application of the rules and compliance with the obligations of the contracting parties' authorities, as advocated by the Court of Justice.

1.2.1. Difficulties in managing administrative cooperation instruments

The actual implementation of the preferential arrangements implies a constant exchange of information essential to administering the rules of origin. The administrative cooperation inherent in those rules is based on certification and controls carried out by the competent authorities, which means that the parties must be familiar with the stamps used and the names and addresses of the authorities and such information must be regularly updated.

With many countries, this system does not work properly, which leads to recurrent difficulties on import and endless reminders to countries whose interests and levels of economic and administrative development are often very different. If results are not forthcoming in this area, the only option is to suspend or withdraw preference from any country which is failing.

1.2.2. Verification of preferential origin on export: a false sense of security

The current system of certifying the originating status of products is based on the principle of direct verification by the authorities of the export country when the certificate is issued. In fact, the demands of trade are such that it is impossible for the authorities to check each export operation thoroughly from the point of view of the preferential origin of the goods. As with most of the other information declared about the goods, origin is essentially checked after the event and even then not systematically but on a random or targeted basis. **The intervention of the authorities at the initial certification stage therefore gives both the importing country and the importer a false sense of security**.

1.2.3. *Operational problems with administrative cooperation and the handling of post-clearance verification requests*

Preferential arrangements bind the parties in a close partnership based on a division of responsibilities and mutual trust in the other party's compliance with its commitments (see the "Les Rapides Savoyards"[6] and "Huygen"[7] judgments). This means that the pillars of the system are certification of the originating status by the authorities of the export country, either directly or indirectly (by "authorising" an "approved exporter"), and administrative cooperation between the parties in the matter of checking origin. The confidence that the system offers not only to the parties but also to their traders is based on these two elements. Subsequent verification, at the request of the country of import, of preferential origin by the country of export is therefore mandatory when denying preferences in cases other than those where the certificate submitted is inapplicable.

1.2.4. *The parties' mutual dependence as regards the action that they can take, which depends on the quality and results of administrative cooperation.*

Administrative cooperation in checks on preferential origin should normally clear up any doubts about the authenticity of the proof of origin and the originating status of exported goods. Whether the tariff preference requested by the importer is granted will depend on the checks carried out, the attitude of the country of export and the outcome of the cooperation procedure. This applies particularly to agreement-based systems in which mechanisms for settling origin disputes rule out any unilateral withdrawal of preferences not expressly provided for.

Under Community law, moreover, failings by the authorities involved in certifying and verifying origin, i.e. a breakdown in administrative cooperation, can mean that the duties payable are not actually recovered.[8]

1.2.5. *A questionable dispute settlement procedure*

As regards origin, the aim of this procedure in the contractual and sometimes the autonomous framework (OCT) is to settle disputes that have arisen over subsequent verification of proof of origin or, more generally, over the interpretation of origin rules. However, it not widely used and the results are, in any case, disappointing. After all, such disputes generally arise where the exporting country is asked to confirm the non-originating status of products whose status it originally certified (or allowed to be certified/failed to check) at the request of its own exporters. Moreover, if the parties cannot reach an understanding, the general arrangements provided for by the agreement must be invoked.

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[6] Judgment of 12 July 1984, in case 218/83.

[7] Judgment of 7 December 1993, in case C-12/92.

[8] Community courts have increasingly been invoking the current shared responsibility between the parties and the necessary administrative cooperation between their authorities to shift liability towards the public authorities in charge of managing and monitoring preferential arrangements. The result is increased protection for importers, who would normally be liable for duties resulting from the refusal of an unwarranted preference, where the authorities do not properly assume their responsibilities. See the judgment of the Court of First Instance of the European Communities of 10 May 2001 in the "Turkish televisions" case (Joined cases T-186/97, Kaufring AG and Others) and section 1.3.

Questions concerning section 1.2:

6. Is round-the-clock supervision of our trading partners' implementation of preferential arrangements really conceivable? Is it possible to increase/redirect our monitoring capacity in this field to ensure the arrangements are used properly, partly in the interests of Community traders themselves, and if so how?

7. Do you agree with all or part of the analysis of the limitations of the current system of administrative cooperation on preferential origin?

1.3. The economic and financial consequences of fraud and administrative failures to meet the obligations imposed by preferential arrangements

In the current state of Community legislation and case-law on preferential origin and customs debt resulting from a refusal of preference (when goods are found to be non-originating), these consequences can be summed up as follows:

- under Community law on remission, repayment and non-recovery of customs debt,[9] an importer acting "in good faith"[10] may be exempted from payment of the customs debt if the commercial risk involved is considered "abnormal"; an example is when an importer is confronted with an error made by the competent authorities in certifying or checking preferential origin or finds himself in a special situation involving no negligence on his part;
- the Community budget bears the corresponding financial loss;
- this situation constitutes a threat to the balance of preferences and to fair trade and competition;
- the result is a perverse system where one party suffers the economic and financial effects of negligence by the other party.

Questions concerning section 1.3:

8. Do you agree with this analysis? Are the consequences inherent in the system, and should the taxpayer bear the costs?

9. Irrespective of the scale of the problem, does it damage the credibility of the preferential arrangements to grant the benefit of preferential tariffs for goods which do not in fact fulfil the conditions, even to an importer acting "in good faith" on grounds of equity and the protection of legitimate expectations?

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9 Articles 220(2)(b) and 239 of Council Regulation (EEC) No 2913/92 establishing the Community customs code respectively concern the waiving of post-clearance recovery and the remission or repayment of import duties.

10 However, one cannot plead such a 'good faith' if the Commission has published a 'notice to importers' in the O.J.E.U.: see, on this point, the communication COM(2000) 550 final of 8 September 2000 (OJ C 348 of 5.12.2000), by which the Commission has set out the conditions, in the context of preferential tariff arrangements, for informing economic operators and Member State administrations of cases of 'reasonable doubt' as to the origin of goods.

2. SEEKING NEW EQUILIBRIA IN PREFERENTIAL TRADE

The changing trade and tariff situation and the structural problems with the working of the preferential arrangements demand new equilibria:

– in the criteria for determining origin rules and the framework for their implementation;

– in the mechanisms for safeguarding and protecting the economic and financial interests of the contracting parties, bearing in mind the objective of promoting legitimate preferential trade;

– in the responsibilities of those involved in the procedures for certifying, declaring and checking preferential origin.

Though a distinction has been drawn for ease of analysis, these factors must not be viewed in isolation. The management and control procedures, like the degree of protection to be introduced against risks, therefore depend to a great extent on the strictness and complexity of the rules. An overall approach will therefore be necessary to ensure the consistency of the exercise and guarantee the quality of its results.

2.1. Defining and establishing a management framework for rules of origin geared to the objectives of the preferential arrangements and their international environment

The economic and legal framework for devising and implementing preferential origin rules should be reviewed in the light of the following considerations:

– The preferential origin rules should be re-examined in terms of substance (criteria) and brought into line with the international environment and the objectives of the Community's preferential arrangements.

– They should serve given economic, commercial and development interests, corresponding to the objectives of the common policies and WTO requirements.

– A strategy should be developed for technical assistance with preferential arrangements and rules of origin, with recourse for example to the WTO Fund for technical assistance for development. Where assistance is financed from the Community development cooperation budget, the strategy should reflect the priorities set in the “Country Strategy Papers” for the relevant period.

– A more “integrated” regional approach should be envisaged for the legal and institutional framework of origin rules by adopting regional agreements that include in a single act the preferential origin rules corresponding to the different areas of cumulation of origin.

Questions concerning section 2.1:

10. Against the backdrop of the trend towards lower customs duties, would gearing the rules of preferential origin primarily to access by Community products to third country markets and access by developing countries' products to the Community market seem to be compatible with maintaining sufficient Community production and export capacity to ensure growth and employment?

11. What conditions could the origin rules for a given product or sector be designed to suit, particularly under reciprocal agreements, in order to facilitate Community exports, without jeopardising Community production or Community suppliers of the raw materials used?

12. What conditions could the origin rules for a given product or sector be designed to suit in order to contribute to development in the country of export, without jeopardising Community production? What type of development and what types of economic activity in the beneficiary countries should origin rules promote in this way?

13. Does the approach need to be refined according to the industrial or agricultural sector in question, and if so, in what way? Do the interests of large businesses and SMEs differ in this respect?

14. How can a strategy of internationally funded technical assistance primarily geared to development be reconciled with partnerships between the Community and given countries or groups of countries? Could the Community conceivably organise technical assistance on demand? How can (existing or new) programmes and financing tools for technical assistance be best used? How can we ensure technical assistance is programmed precisely where and when it is most needed?

15. Would regrouping origin rules and their management into fewer legal instruments (for example covering large regional groups of countries applying identical rules and cumulation of origin) make them more transparent for all those involved and more likely to be applied correctly?

2.2. Improving protection against the economic and financial injury resulting from poor application of the agreements

The aim of such protection is to ensure that arrangements are fairly and properly implemented, in the interests of both the Community and its trading partners. In practice, fraud and failure to meet the conditions for granting preferential treatment may not only mean a loss of revenue for the country granting preference but may damage its legitimate economic interests, and those of its partners, by distorting competition.

Providing such protection entails:

– greater capacity for the Community to prevent and react to problems of fraud or incorrect application of preferential origin rules;[11]

  To be effective, this protection implies, at Community level, a clear breakdown of tasks and responsibilities between the Commission and the administrations of the Member States, in charge of controlling compliance with rules of origin, by the economic operators as well as by the countries benefiting from preferences; it also implies enhanced co-operation and harmonisation of controls to perform, together with the allocation of the means necessary to this end.

– a clause suspending preferences in the event of fraud or other irregularities and/or lack of administrative cooperation, which is progressively incorporated into the preferential agreements on a reciprocal basis;[12]

  This instrument will be used where repeated problems adversely affect both the proper application of the arrangements and compliance with their objectives. It will have a preventive or deterrent effect on those inclined to abuse the arrangements or neglect to supervise them.

– a clause assigning financial liability to any contracting party that has failed to implement a preferential agreement correctly and consequently caused injury to the other party. This clause should be considered not as an instrument of retaliation available to one of the parties but as an essential factor in ensuring that all parties implement the agreements fairly.

Moreover, these instruments need to function in an environment in which the parties' obligations and the rules and procedures to be followed have been well defined and, if necessary, redefined in order to restore and improve the equilibrium of the system.

Questions concerning section 2.2:

16. How can we ensure, in the current legal situation, that problems of fraud and poor application of preferential arrangements are tackled quickly so as to protect both the economic and financial interests involved?

17. How can introducing clauses on the suspension of preferences and financial liability into preferential agreements enhance the protection of the interests at stake? Can their scope be anything other than financial?

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[11] The Commission has already developed this reaction capacity in several fields, which in some cases (e.g. products imported from settlements in the Israeli-occupied territories and sugar imported from the Western Balkan countries) has led to notices to importers being published in the Official Journal.

[12] Some agreements (with Croatia, Former Yugoslav Republic of Macedonia and, shortly, Algeria and Lebanon) include a specific clause allowing one party to take “appropriate measures” in the event of fraud and/or the other party's failure to meet its obligations under the agreement. A clause explicitly providing for the suspension of preferences in such cases is already included in autonomous preferential arrangements (GSP and the Western Balkans). For the very first time this type of clause has been introduced into the new EC-Chile agreement, and the Commission will negotiate its inclusion in the other preferential agreements.

2.3. Better division of responsibility for granting and monitoring preferences

Preferential origin procedures, combined with the rules applicable to imports of products into the Community, should reflect more accurately the respective roles of those involved in preferential arrangements:

– Economic operators are both the people most familiar with the economic and industrial realities of their commercial transactions and the immediate beneficiaries of preferential arrangements. They can therefore take account of moves to integrate the supply, production and distribution chains in the definition of their responsibilities and preferential aspects of their commercial contracts. Importers do not buy blind; they possess (or should demand from the supplier) full information on the production, specifications and hence the origin of the goods, in the industrial sense of the term. Generally they manage this supply (if not the production process) themselves, according to their needs, as customers, often within an integrated (group) structure.

– The public authorities are the managers of the preferential arrangements and they must therefore assume responsibility for "policing" preferential trade, monitoring compliance with the agreements and settling disputes. In matters of origin, as with any other information (value, quantity, tariff classification) which affects the calculation of duties owing, the question is to what degree the administrations should be involved in the initial determination of preferential origin.

Certification, declaration and control of the rules of origin could therefore take into account the consequences of international developments in the organisation of production, product marketing and the availability of the relevant information. The authorities of a country no longer have command, at the time of export, of all the data needed to determine by themselves whether certain products should have originating status.

Questions concerning section 2.3:

18. If a tariff preference exists for a product (affecting the price), how is it incorporated into the conditions of an international trade transaction? How does the buyer/importer insure himself against the risk that preference may ultimately be withheld on import or later, if checks reveal that the product did not qualify for preference or was non-originating?

19. Which of the people involved in preferential arrangement are best placed to establish the origin of a product?

20. Should the authorities' main role be to establish the originating status of products or to check that it has been correctly established?

3. POSSIBLE OPTIONS FOR CERTIFICATION, DECLARATION AND CONTROL OF PREFERENTIAL ORIGIN RULES

Once the rules of origin have been defined, procedures to implement them play an essential role in ensuring that preference schemes work properly. Granting or refusing a preference depends on deciding correctly whether the products have originating status. This decision requires being able to rely on complete sources and data and to check the accuracy of the information used.

Current origin procedures do not fully satisfy this dual objective.

This section therefore aims to present possible courses of action on the fundamental aspects of management and control of the origin rules:

– certification of preferential origin in the country of export benefiting from the preferences,

– declaration of preferential origin on import and the responsibility of the importer benefiting from preferential duties,

– verification that the declaration and the certificate are correct.

The choices to be made with regard to each of these points are highly interdependent; certification procedures, in particular, have a major impact on the importer's responsibility and the object or form of the checks to be introduced.

When considering whether the options presented are appropriate, therefore, it is essential to evaluate them not in isolation but as a whole, combining them to obtain **a series of procedures intended to ensure preferential treatment is properly applied**, from the issue of proof of origin to the consequences of any checks which might challenge the originating status of the goods and ultimately lead to preference being refused.

This document does not purport to cover all possible options; others may emerge for consideration during the consultation process.

3.1. Certification of preferential origin on export

Certification is the mainstay of every preferential system. It is the basis for requesting and granting preferences and the object on which checks will focus. At present it is carried out either directly by the customs or governmental authority (through certification) or by the exporter (by means of an invoice declaration), who must be authorised by the administration if he conducts operations above a certain threshold. In both cases, the administration of the country of export is responsible for obtaining proof of preferential origin. We have discussed the limitations of this hybrid system above.

Whichever option is selected for certification, it will not be fully effective unless the traders involved in preferential trade are fully aware of the rules and procedures applicable, the obligations associated with their application and their liability if they fail to honour their obligations. Companies wishing to take advantage of preferential arrangements in accordance with the rules must therefore dispose of all the relevant information.

There are three conceivable options for certification:

3.1.1. *Improve the current system for establishing proof of origin*

Modalities

- Develop training and information projects on the principles and practicalities of the rules of origin, issue of certificates and the corresponding checks on the originating status of the products or the authorisation and checks on the practices of approved exporters authorised to make invoice declarations.

- Step up monitoring as well as administrative cooperation and mutual assistance, including joint enquiries on the spot.

- Step up capacity to identify and react to fraud situations and poor application of the rules (see point 2.2).

- Make the authorities of the beneficiary countries take responsibility by introducing preference suspension and, if necessary, financial liability clauses to be triggered in the event of failure to obey the rules or a lack of administrative cooperation.

Advantages

- Such action would ensure that the authorities and traders in beneficiary countries had a better knowledge of the rules to be applied and could use preferences more effectively.

- It would help to ensure administrative cooperation and checks worked more smoothly.

Limitations

- This has been the approach followed so far: training and technical assistance activities and control/inquiry measures, which were supposed to help the authorities of the export countries take responsibility and ensure the best use of preferences. It entails mobilising substantial resources.

- It has shown its limitations both in terms of ensuring the preferential arrangements run smoothly and protecting the respective financial interests of the parties. Available resources do not allow to introduce full and permanent checks on the way the arrangements are implemented, given the number of beneficiary countries and the continually changing legal frameworks.

- However much effort is invested to that end, this approach carries a risk of recurrent failings, with a concomitant erosion of traders' sense of responsibility and potential difficulties in recovering duties on import into the Community

3.1.2. *Introduce certification by the exporter only*

Modalities

– Give the exporter alone the task of certifying the originating status of the products, as a factor in his commercial relationship with the importer, without prejudice to any checks conducted by the competent authorities to ensure the origin rules are complied with.

– A standard form of certificate would incorporate all the details needed (with a view to subsequent checks) to identify the exporter, the goods and the conditions of production on which their originating status is based; the exporter would fill in the form and send it (electronically, perhaps) to the importer.

Advantages

– This option assigns the task of certification to the person best placed to carry it out in the first instance, albeit subject to subsequent checks by the authorities.

– It basically improves the division of tasks and responsibilities between the private sector that benefits from preferences, whether as purchaser or vendor of the beneficiary products, and the public authorities responsible for ensuring that such transactions are legal and comply with the rules.

– It relieves the authorities of a task that they are not able to perform at the export stage and which also has the disadvantage, at Community level, of taking responsibility away from the importer.

– Nor should it have any deterrent effect on exporters wishing to benefit from preferences as they already have to undertake, in requesting a certificate or authorisation as an approved exporter, to comply with the preferential origin rules for the products in question.

– From the point of view of protecting the Community's financial interests, this approach also has the advantage of no longer making recovery of duties due in the event of refusal of a preference dependent on the behaviour of the authorities of the export country.

Limitations

– This option removes the “filter” represented in theory by the governmental authorities' approval (assuming such proof takes the form of a certificate and not an invoice declaration) and risks increasing the level of fraudulent certification (since the authorities in the country of export, or the country in which the certificates issued are registered, will no longer intervene) to the detriment of importing countries and importers.

– It could lead to abuse or fraudulent use of preferential tariff quotas opened for certain products, notable agricultural products, and thereby harm the interests of the beneficiary countries themselves; some way of conducting joint surveillance with them would have to be found.

- It also reduces the scope for subsequent checking, since the exporter will no longer be identified and could disappear from one day to the next. It would make the importer alone financially liable for fraudulent certification.

3.1.3. *Introduce an intermediate system of "approved" or "registered" exporters*

Modalities

- Abolish all certification by the authorities and entrust the task to exporters identified for this purpose by the country of export.

- Choose between two formulas: "approval", entailing an audit (mainly of the firm's management structure, financial health and length of time in business) and prior authorisation plus monitoring of practice, and "registration", limited to listing exporters likely to certify preferential origin, with a view to facilitating subsequent checking.

Advantages

- This approach offers the advantages of the second option (abolishing certification by the authorities) while maintaining a minimal framework within which exporters should operate.

- This makes the competent authorities of the country of export responsible for the conditions in which they issue authorisations and control their use.

- This option could give importers greater security and ensure that checks could be made on operators of sufficient long-standing.

Limitations

- Keeping a system of prior authorisation could present similar disadvantages to direct certification if the authorisations are not correctly granted and their use properly controlled by the country of export.

- The "registration" formula reduces this risk but it would have to be backed up by the introduction of a suitable information system.

3.2. Declaration of preferential origin on import and the responsibility of the importer

We should all be able to agree that granting tariff preferences to products which do not have the required originating status is illegitimate in both economic and budgetary terms. There is, moreover, a general principle, established in law, that a declarant vouches for the accuracy of the information and the authenticity of the documents supplied in support of the declaration. If he does not fulfil this obligation the declaration is false and could render him liable for the customs debt for any duties not paid as a result, and possibly subject to penalties.

However, where preferential origin is concerned, the binding nature of the declaration made in applying for preference, and its impact on the importer's obligation to pay the duties owing if preference is ultimately refused because the

products are not originating, will obviously depend on the options chosen regarding the nature of, and arrangements for establishing, the proof of origin.

3.2.1. Act on debt and debt recovery

Modalities

– Without changing the current systems of certification and administrative cooperation, abolish all reference to equity and legitimate expectations by the debtor with regard to the recovery of debt incurred as a result of a refusal to grant preference,

or, alternatively,

– spell out the conditions to be met by the importer/debtor (particularly as regards his relations with the exporter) to qualify for a waiver of post-clearance recovery or remission/repayment.

Advantages

– The first option would make the "objective" nature of the customs debt clear, depriving the debtor of any legal basis for a waiver of post-clearance recovery or repayment/remission relying on an administrative failure and/or the trader's good faith (and thereby abolishing "administrative risk").

– The second, less radical, option, would be aimed at finding a new balance between "commercial risk" and "administrative risk", enabling the former to be invoked against a debtor applying for a waiver/repayment/remission and reducing the impact of the latter.

Limitations

– These options, while they remain within the current legal and administrative framework regarding origin, could appear to be attempts to restrict, by legislation, the scope of what are now clearly general principles upheld by the Community courts on grounds of equity and the protection of legitimate expectations.

– These principles are not limited to customs debts incurred in respect of preferential origin, and it is likely that, given comparable situations, the courts will use their authority to reinstate the right to remission/repayment or a waiver.

3.2.2. Act on the importer's responsibility and the definition of commercial risk

3.2.2.1. Assuming the authorities of the country of export remain responsible for certifying origin

Modalities

– Impose additional commitments and obligations on the importer applying for preference (special declaration promising to comply with the rules of origin, an "origin clause" in the contract with the exporter, etc.).

- Amend/reinforce the Customs Code implementing provisions regarding customs declarations and/or the preferential origin rules (systematically requiring a specific declaration by the importer).

Advantages

- This option would increase the importer's commitment with regard to the declaration of origin and his obligation of diligence in relation to his contractual partner, the exporter, since their relationship includes an element of “commercial risk”.

Limitations

- Under Community law the declarant is already responsible for the accuracy of his declaration, including preferential origin: if the authorities' role in certifying origin is maintained there may nonetheless continue to be a high degree of “administrative risk” likely to give grounds for a waiver of recovery, repayment, or remission.

3.2.2.2. Assuming the exporter alone (whether or not he is registered or approved) bears responsibility for certifying origin

Modalities

- Ensure the importer's liability for the declaration of preferential origin based on a direct, exclusive commercial relationship with the exporter.
- Spell out the importer's commitment when declaring preferential origin, on his own responsibility, on the basis of the certificate and information received from the exporter. Make it obligatory to keep such information and to supply additional information on request in case of doubt about the origin of the products.
- Provide for a mechanism to reverse the burden of proof of preferential origin, offering the country of import the option of refusing preference if the origin of the product cannot be confirmed following checks or failing cooperation by the country of export.

Advantages

- This approach can be seen, in terms of the importer's position and checks on origin, as complementary to giving the exporter the task of certifying preferential origin. It restores the roles of the traders in preferential trade.

Limitations

- This option could be seen by importers as increasing their liability.

3.3. Control of preferential origin

Checks on whether goods really qualify for preferential origin should be conducted both on the importer, who declares their origin and applies for the preferential rate of duty, and the exporter, who meets the conditions for their certification. In both cases,

the modalities chosen for certification will affect the nature and results of the checks carried out, and it seems essential to step up checks on import.

3.3.1. *Stepping up checks on the importer*

Modalities

– Develop mechanisms and criteria at Community level to target controls on declarations of preferential origin and direct enquiries relating to the importer and, if necessary, the exporter. Step up checks on import using these mechanisms. Make sure that the importer's liability is invoked.

Advantages

– Identifies import operations involving a risk in terms of the preferential tariff arrangements.

– Reverses burden of proof for granting preference in customs' favour.

– Gives direction to requests for assistance from export countries and checks on exporters.

Limitations

– Difficulties with any approach coordinated at Community level.

3.3.2. *Stepping up checks on the exporter*

3.3.2.1. Assuming the authorities of the country of export remain responsible for certifying origin

Modalities

– Make current procedures for post-clearance checks and administrative cooperation work.

Advantages

– No legal amendments would be needed.

Limitations

– The limitations of the current system have been set out at length.

3.3.2.2. Assuming the exporter (whether or not he is registered or approved) bears sole responsibility for certifying origin

(a) Importing country carries out checks directly

Modalities

– Provide for the legal bases and procedures allowing direct checks on the exporter by the country of import, by means of a questionnaire or on the premises, as is done in the North American Free Trade Area (NAFTA).

Advantages

– Such checks would enable information to be sought directly "at source", enabling any doubts about the declared origin to be confirmed or removed.

Limitations

– Language and legal problems with contacting exporters are to be expected.

(b) Country of export provides country of import with assistance

Modalities

– Mutual assistance and specific cooperation mechanisms to enable the country of import to have the country of export check the origin of the products exported and, if necessary, be involved in these operations.

– Checks carried out in this way should enable the authorities to establish that products declared to be of preferential origin really are. Failing positive and satisfactory confirmation, the country of import could refuse preference on the basis of the information at its disposal.

– The assistance and control procedures to be introduced and the scope for traders to appeal should be subject to a more detailed description than exists at present.

Advantages

– This new form of assistance and cooperation with checks would involve the parties in checking that traders apply it properly.

– The risk of having preference refused on import if they fail to cooperate would encourage the country of export and traders to behave more responsibly.

Limitations

– This involves drafting specific and detailed rules for implementing cooperation regarding checks.

– This still requires collaboration on the part of the country of export.

– The rights of traders should be maintained in the procedure.

Questions concerning section 3:

21. What do you think of the various options presented for the procedure's three components and of the analysis of their advantages and limitations?

22. What combination of options would, in your opinion, offer the most balanced and coherent procedure for establishing a product's preferential origin, checking the truth and protecting the economic and financial interests at stake?

23. Are any other options and combinations conceivable?

ANNEX I

Preferential imports into the Community (1998-2001)

The purpose of this Annex is to give readers of the Green Paper a general picture of the significance of imports into the Community of goods receiving preferential tariff treatment. It does not purport to be a thoroughgoing statistical analysis, but does offer some commentary on the figures presented.

Section 1 covers the overall share of preferential imports in global imports and changes over the past four years.

Section 2 breaks these imports down into the various categories of preferential arrangements referred to in Annex II.

Section 3 shows the respective share of the preferential arrangements and economic sectors in question.

Section 4 gives details of the sources, terminology and methodology used. It also points out the limitations of this exercise. We recommend that you refer to it before studying the previous sections.

1. PREFERENTIAL IMPORTS IN RELATION TO WORLD IMPORTS

1.1. Preferential imports as a proportion of total Community imports in 2001

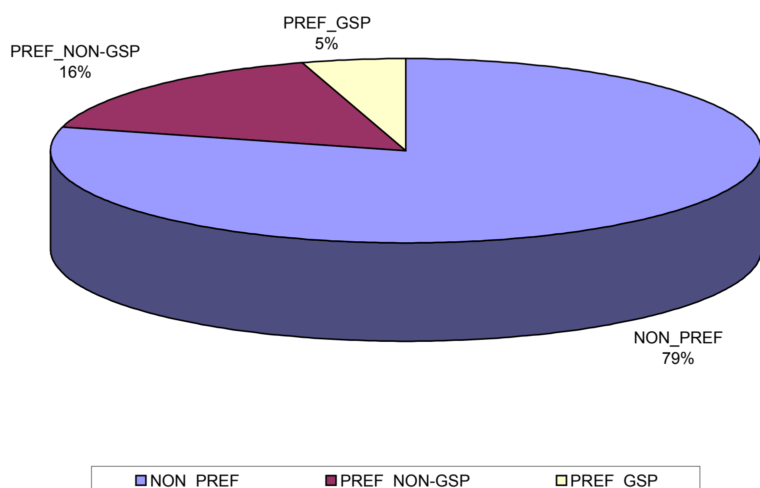
Table T1 shows, for 2001, the value (V) and quantity (Q) of preferential imports (non-GSP, GSP and cumulative preferences) as a proportion of total imports from the beneficiary countries and total Community imports.

T1 - SITUATION PREF/NON PREF IMPORTS IN 2001				
IMPORTS 2001	**V_PREF**	**V_TOTAL**	**Q_PREF**	**Q_TOTAL**
	000.000_EUR	*000.000_EUR*	*000_TONS*	*000_TONS*
WORLD (EXTRA EU)		**929.754**		**1.417.630**
NON-GSP_TOTAL		333.669		652.721
NON-GSP_TOTAL/WORLD		*35,89%*		*46,04%*
NON-GSP_PREF	149.592		124.356	
NON-GSP_PREF/TOTAL	*44,83%*		*19,05%*	
NON-GSP_PREF/WORLD	*16,09%*		*8,77%*	
GSP_TOTAL		360.782		900.535
GSP_TOTAL/WORLD		*38,80%*		*63,52%*
GSP_ELIGIBLE		97.918		60.138
GSP_PREF	44.534		28.470	
GSP_ELIGIBLE/TOTAL		*27,14%*		*6,68%*
GSP_PREF/ELIGIBLE	*45,48%*		*47,34%*	
GSP_PREF/TOTAL	*12,34%*		*3,16%*	
GSP_PREF/WORLD	*4,79%*		*2,01%*	
CUMUL_PREF	194.126		152.827	
PREF/WORLD	*20,88%*		*10,78%*	
NON_PREF		735.627		1.264.804
NON_PREF/WORLD		*79,12%*		*89,22%*

Note: The sum of total imports from non-GSP and GSP countries does not equal total imports from countries granted preferences because some countries belong to both the GSP and another preferential arrangement.

The relative shares in 2001 of preferential imports (GSP and non-GSP) and non-preferential imports by value are shown in the **pie chart** below (C1):

C1 - SITUATION PREF/NON PREF IMPORTS IN 2001



Comments:

– The value of preferential imports as a percentage of the total is relatively small (around **21%**). However, bear in mind the following points:

  – for a large number of products, no customs duty has been set or an autonomous exemption or suspension of duties has been granted or the erga omnes bound rates under the GATT are zero or minimal and/or tariff quotas exist;

  – no preferential arrangements apply to the Community's main trading partners (the US, Japan, etc.);

  – when a preferential arrangement is agreed with a given country or group of countries, it does not necessarily cover all products: products may be excluded from the scope of an agreement or be covered by the agreement but not granted tariff preferences; for example, in agreements with many GSP beneficiary countries entire sectors are "graduated" and therefore excluded from preferential treatment;

  – even where preferential tariff treatment has been provided for, the relevant products do not always fulfil the conditions required to receive it;

  – even if the conditions are fulfilled, international traders may opt not to apply for preferential treatment on commercial grounds, because of the procedural constraints or costs.

– Preferential imports account for around **45%** of the value of imports from countries outside the GSP with which the Community has preferential arrangements, which is fairly substantial given that such arrangements rarely cover all products.

– For GSP countries, preferential imports account for some **45%** of the value of products eligible for GSP preference, not total products. *This is because many GSP*

beneficiary countries are also beneficiaries of a different preferential arrangement for the same product or for other products which are not eligible for the GSP (see point 4.2). However, note that:

- imports from GSP beneficiary countries, both with and without preference, account for a high proportion of total Community imports (around **40%**);
- the proportion of those countries' products eligible for the GSP is low (**27%**), so that GSP preferential imports account for only around **12%** of total Community imports; however, both figures are averages: they are affected by the large volumes of ineligible imports from certain countries with "graduated" sectors and do not reflect the diversity of beneficiary countries or groups of countries (least developed countries).

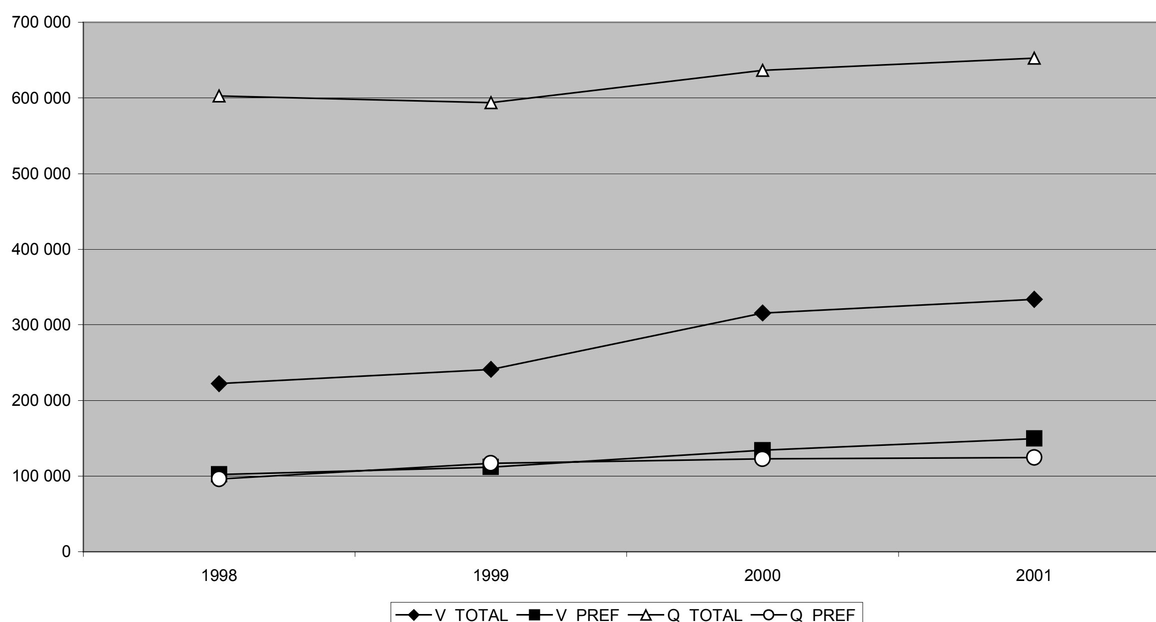
- Given what has been said about imports from countries with "dual" preferential arrangements, "GSP" and "other", all that can be extrapolated from Table T1 is that in 2001 imports appeared to break down into **three more or less equal parts** by value, totalling around **EUR 900 billion**, with GSP countries, countries benefiting from non-GSP preferential arrangements and countries with no preferential arrangements each accounting for imports of around **EUR 300 billion**.

1.2. Evolution 1998-2001

1.2.1. Non-GSP preferences

Table T2 and **chart C2** show the evolution of preferential imports and total imports from countries benefiting from non-GSP preference over four years and the percentage of preferential imports.

T2 - EVOLUTION IMPORTS NON GSP 1998-2001				
PERIOD	**V_TOTAL**	**V_PREF**	**Q_TOTAL**	**Q_PREF**
	000.000_EUR	*000.000_EUR*	*000_TONS*	*000_TONS*
1998	222.248	102.264	602.637	96.014
PREF/TOTAL		**46,01%**		**15,93%**
1999	240.954	111.837	593.725	116.932
PREF/TOTAL		**46,41%**		**19,69%**
2000	315.539	134.085	636.356	122.511
PREF/TOTAL		**42,49%**		**19,25%**
2001	333.669	149.592	652.721	124.356
PREF/TOTAL		**44,83%**		**19,05%**



Comments:

– As total imports from the (non-GSP) beneficiary countries rose, preferential imports kept pace and remained relatively stable in percentage terms.

1.2.2. Generalised system of preferences

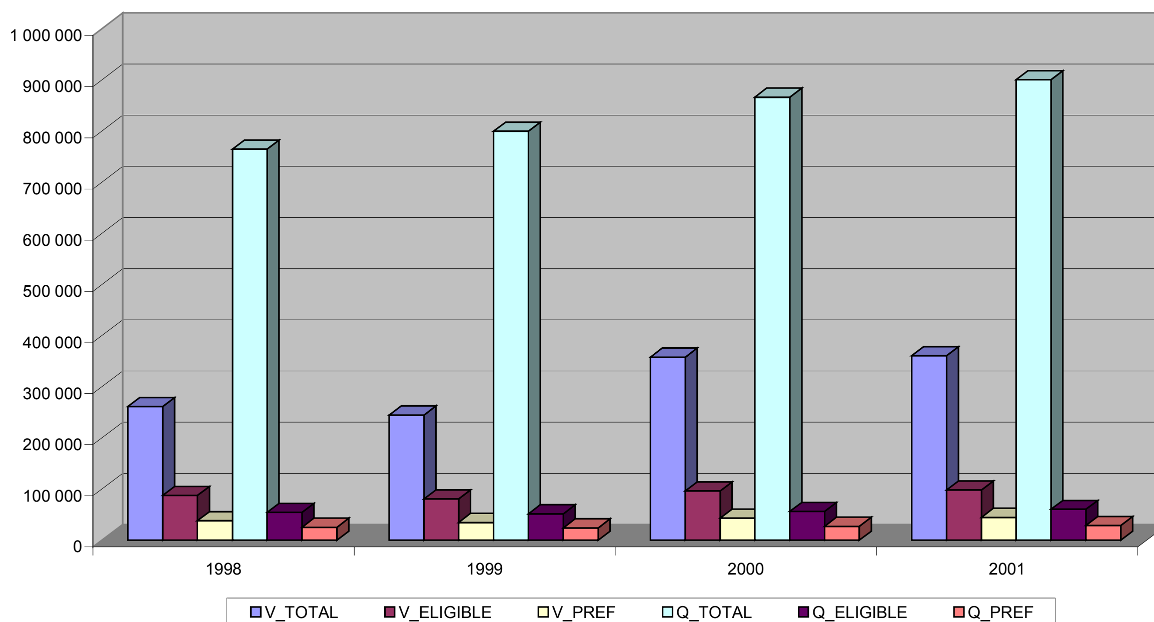
Table T3 and **charts C3a and C3b** show the evolution of preferential imports, eligible imports and total imports from GSP countries over four years and the relationship between them.

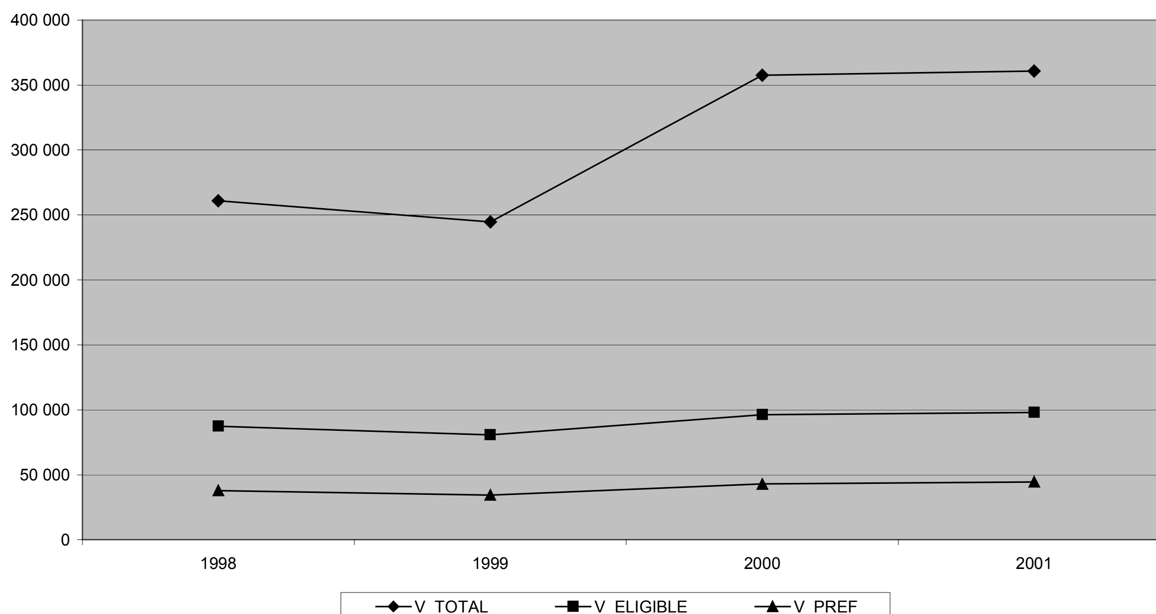
T3 - EVOLUTION IMPORTS GSP 1998-2001						
PERIOD	**V_TOTAL**	**V_ELIGIBLE**	**V_PREF**	**Q_TOTAL**	**Q_ELIGIBLE**	**Q_PREF**
	000.000_EUR	*000.000_EUR*	*000.000_EUR*	*000_TONS*	*000_TONS*	*000_TONS*
1998	**260 907**	**87 387**	**37 919**	**764 802**	**53 911**	**25 068**
ELIGIBLE/TOTAL	*33,49%*			*7,05%*		
PREF/ELIGIBLE		***43,39%***			***46,50%***	
PREF/TOTAL			*14,53%*			*3,28%*
1999	**244 540**	**80 757**	**34 379**	**799 823**	**51 538**	**24 015**
ELIGIBLE/TOTAL	*33,02%*			*6,44%*		
PREF/ELIGIBLE		***42,57%***			***46,60%***	
PREF/TOTAL			*14,06%*			*3,00%*
2000	**357 729**	**96 287**	**42 951**	**866 393**	**56 369**	**27 044**
ELIGIBLE/TOTAL	*26,92%*			*6,51%*		
PREF/ELIGIBLE		***44,61%***			***47,98%***	
PREF/TOTAL			*12,01%*			*3,12%*
2001	**360 782**	**97 918**	**44 534**	**900 535**	**60 138**	**28 470**
ELIGIBLE/TOTAL	27,14%			6,68%		
PREF/ELIGIBLE		**45,48%**			**47,34%**	
PREF/TOTAL			12,34%			3,16%

Note: The "PREF/ELIGIBLE" percentage represents the average annual rate of utilisation of GSP preferences.

C3a - EVOLUTION IMPORTS GSP 1998/2001

(V=000.000_EUR - Q=000_TONS)





Comments:

– Both eligible imports and preferential imports failed to keep pace with the rise in the value of total imports. One might note, conversely, that the inherent constraints of generalised preferences (eligibility and compliance with the conditions imposed) do not appear to have generally slowed down the advance of total imports from developing countries, whether under the erga omnes tariff regime or, for some countries, under other preferential arrangements. However, that does not mean that every GSP beneficiary country succeeded in participating in that global advance to the same degree.

– The figures for 2001 do not show the "Everything But Arms" initiative to have had any global impact on GSP imports as a whole (total, eligible or preferential). However, one must bear in mind that the EBA initiative only involved least developed countries, and mainly their agricultural products; moreover, some of the countries concerned also benefited from other preferential arrangements (ACP or OCT). The initiative is also too recent for proper evaluation, as there is always a time-lag between the adoption of such a measure and its economic impact.

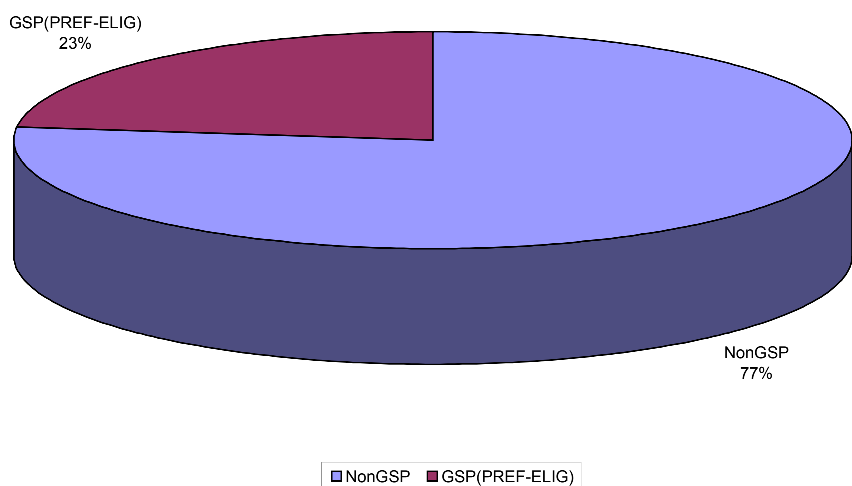
2. BREAKDOWN OF PREFERENTIAL IMPORTS BY REGIME

2.1. Breakdown of preferential arrangements as a whole

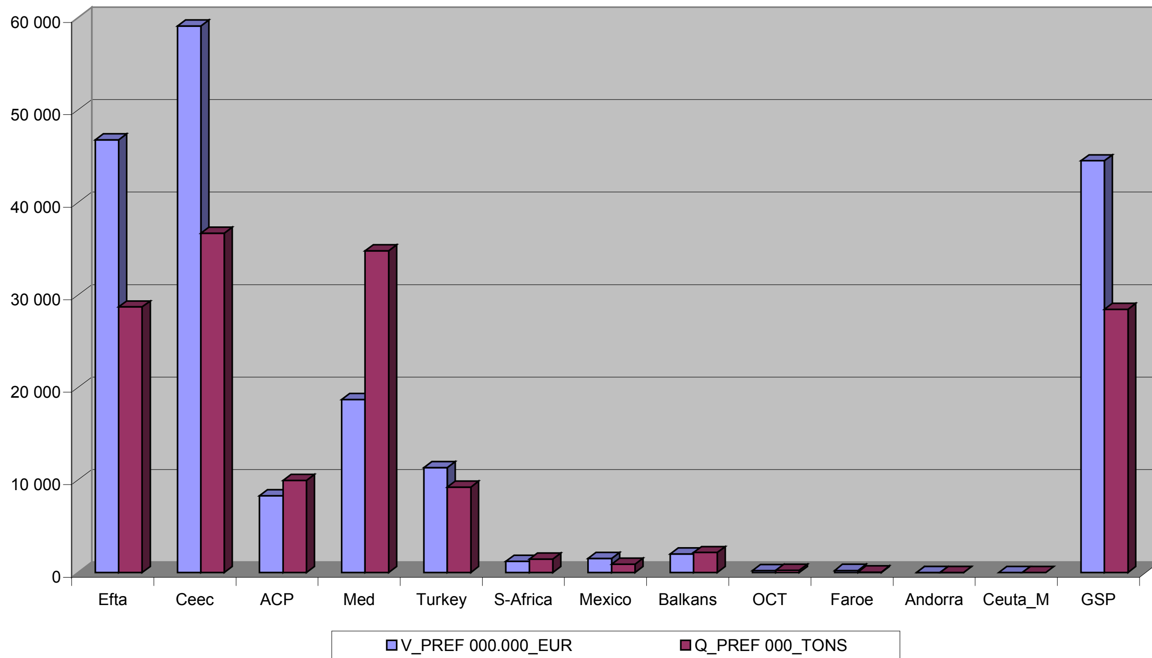
Table T4 and **charts C4a to C4c** show the various categories of preferential arrangements, including the GSP, as a proportion of total preferential imports in 2001.

T4 - BREAKDOWN OF PREFERENTIAL IMPORTS IN 2001						
2001	**V_PREF**	**Q_PREF**	**V_TOTAL**	**Q_TOTAL**	***V_RATE***	***Q_RATE***
PREF_REGIMES	*000.000_EUR*	*000_TONS*	*000.000_EUR*	*000_TONS*	*%*	*%*
EFTA	**46 799**	**28 738**	**101 981**	**183 963**	*45,89%*	*15,62%*
CEEC	**59 112**	**36 699**	**100 263**	**119 012**	*58,96%*	*30,84%*
ACP	**8 320**	**9 984**	**44 222**	**139 022**	*18,82%*	*7,18%*
MED	**18 727**	**34 794**	**42 481**	**114 080**	*44,08%*	*30,50%*
Turkey	**11 363**	**9 235**	**18 224**	**16 459**	*62,35%*	*56,11%*
S-Africa	**1 230**	**1 466**	**15 063**	**58 022**	*8,16%*	*2,53%*
Mexico	**1 542**	**908**	**6 389**	**11 493**	*24,13%*	*7,90%*
Balkans	**2 018**	**2 183**	**3 498**	**8 547**	*57,67%*	*25,55%*
OCT	**232**	**269**	**973**	**1 009**	*23,80%*	*26,63%*
Faroe	**239**	**67**	**523**	**227**	*45,65%*	*29,33%*
Andorra	**12**	**13**	**47**	**883**	*25,18%*	*1,46%*
Ceuta_Melilla	**0**	**0**	**5**	**4**	*1,31%*	*0,42%*
PREF_NON-GSP	**149 592**	**124 356**	**333 669**	**652 721**	***44,83%***	***19,05%***
PREF_GSP(/Elig)	**44 534**	**28 470**	**97 918**	**60 138**	45,48%	*47,34%*
PREF_GSP*(/Total)*			*360 782*	*900 535*	*12,34%*	*3,16%*
PREF_TOTAL	**194 126**	**152 826**				

C4a - BREAKDOWN OF NON GSP AND GSP PREFERENTIAL IMPORTS IN 2001

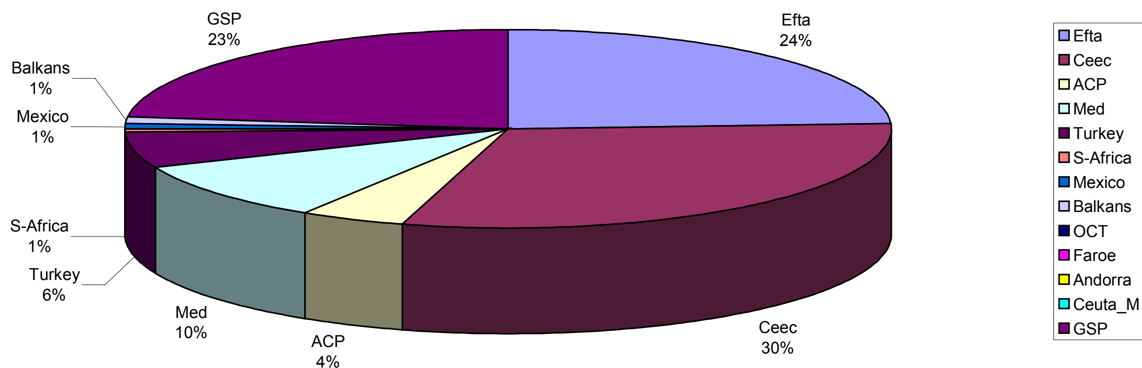


C4b - BREAKDOWN OF PREFERENTIALIMPORTS BY REGIME IN 2001



C4c - BREAKDOWN OF PREFERENTIAL IMPORTS BY REGIME IN 2001

(V_PREF 000.000_EUR)



Comments:

– Note that the Community's European partners account for the bulk of its total preferential imports (EFTA, CEEC and Turkey together account for some **60%**), even if the GSP share (**23%**) is fairly substantial.

– Enlargement, which should involve eight Central and Eastern European and two Mediterranean countries, will obviously upset this breakdown as the new Member States' present external trade is reassigned, partly as internal Community trade and

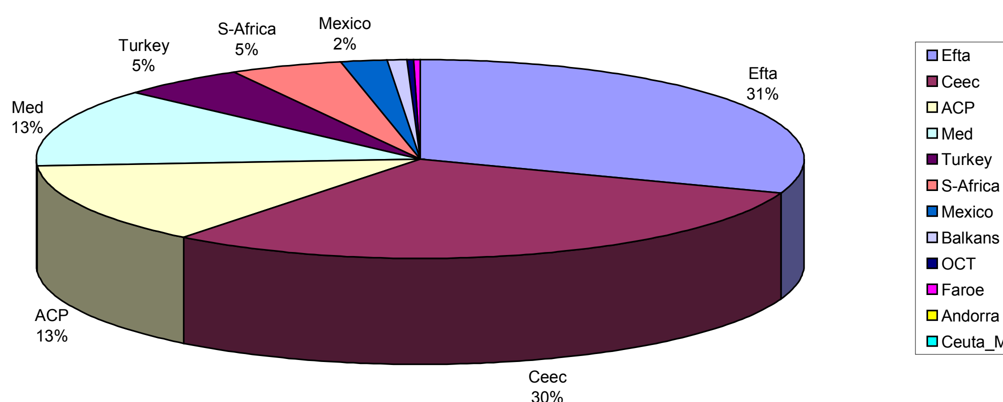
partly as external Community trade. As far as preferential imports are concerned, given their current volume of trade with the Community and their high proportion of preferential trade (around 60%, according to table T4), it is, however, likely that the increase in current preferential imports into the new Member States from outside the Community will not offset the fall in preferential imports caused by their accession to the EU.

– Imports totalling **less than 1%** were not shown on the charts.

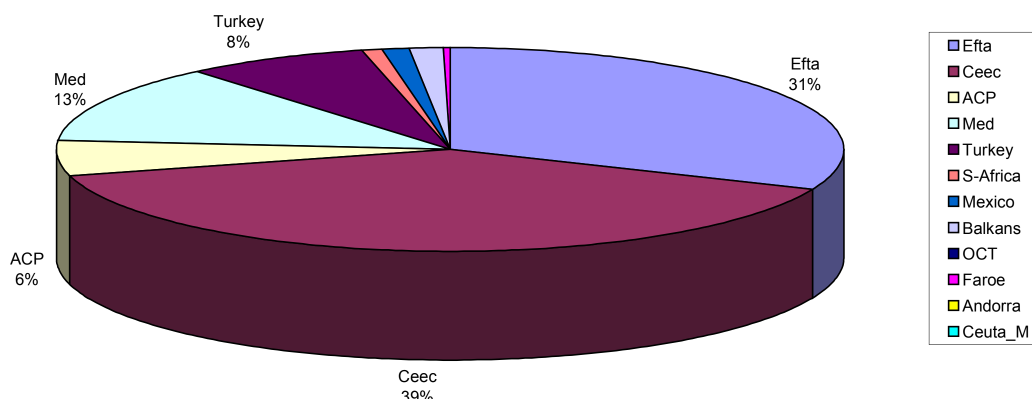
2.2. Breakdown between preferential arrangements other than the GSP

Based on **table T4, charts C5a and C5b** allow a comparison of the respective shares of different non-GSP beneficiary countries or groups of countries in total imports and preferential imports from those countries in 2001.

C5a - BREAKDOWN IN VALUE OF TOTAL IMPORTS BY NON GSP REGIME IN 2001



C5b - BREAKDOWN IN VALUE OF PREFERENTIAL IMPORTS BY NON GSP REGIME IN 2001



Comments:

– Excluding the GSP, the share of European partners is even more striking at **66%** of total imports and **78%** of preferential imports.

– Imports totalling **less than 1%** were not shown on the charts.

3. PREFERENTIAL IMPORTS AS A PROPORTION OF TOTAL IMPORTS BY REGIME OR PRODUCT CATEGORY

3.1. Preferential imports as a proportion of total imports by preferential regime

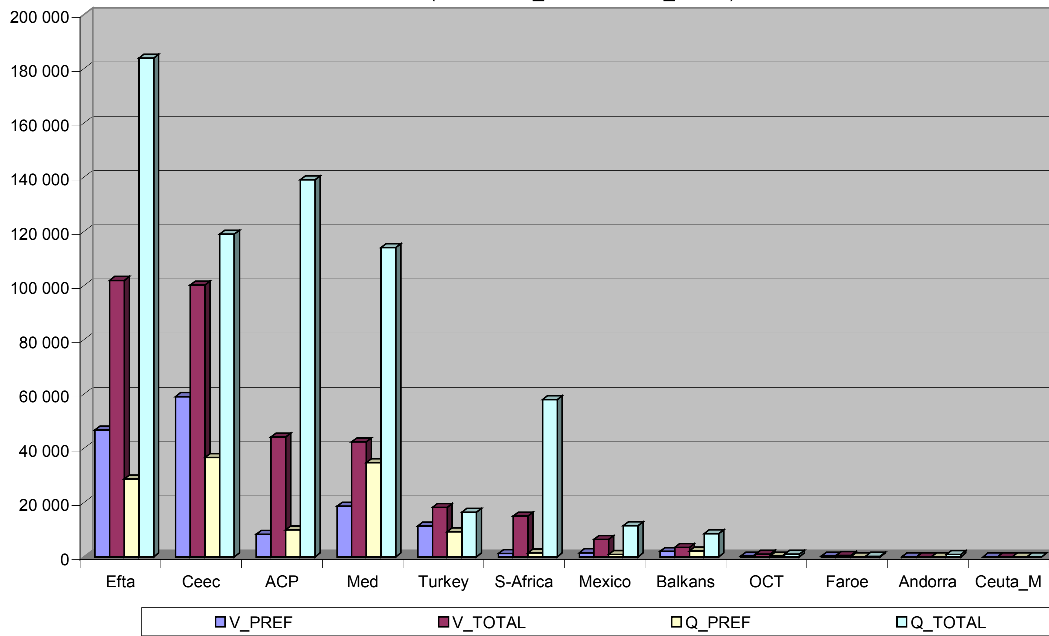
Table T4 also shows preferential imports for each country or group of countries covered by a particular preferential regime as a percentage of its total imports.

For the GSP, it distinguishes between preferential imports as a percentage of imports eligible for GSP preference (GSP/ELIG: "rate of utilisation of preferences") and preferential imports as a percentage of total imports from GSP countries (GSP/TOTAL).

This comparison of preferential imports and total/eligible imports is also shown in **charts C3a** and **C3b** (GSP), **C6a** (non-GSP) and **C6b** (giving percentages for all preferential arrangements, by value).

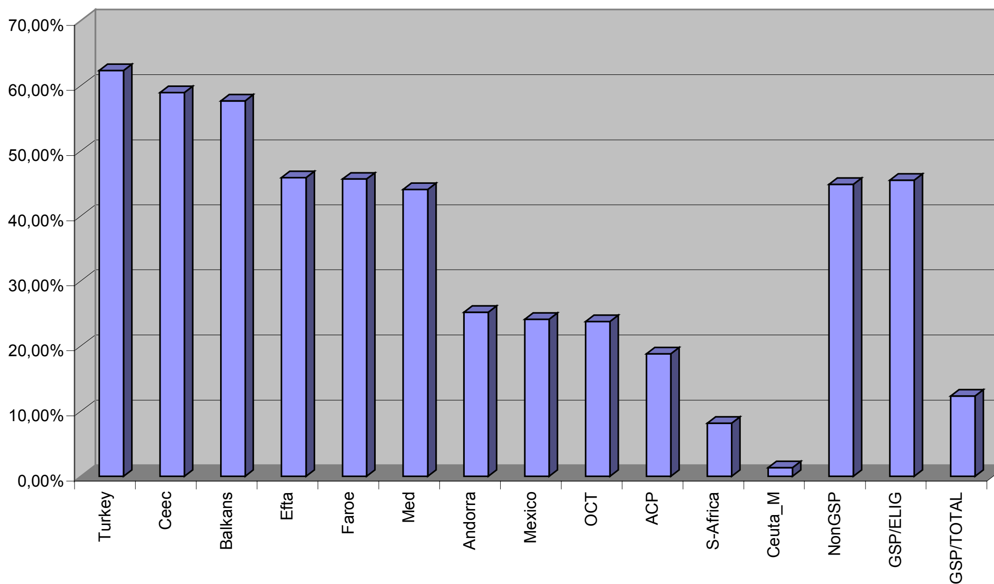
C6a - BREAKDOWN OF PREFERENTIAL/TOTAL IMPORTS FROM NON GSP BENEFICIARY COUNTRIES BY REGIME IN 2001

(V=000.000_EUR - Q=000_TONS)



C6b - RATES OF PREFERENTIAL IMPORTS COMPARED TO TOTAL IMPORTS FROM BENEFICIARY COUNTRIES BY REGIME IN 2001

(based on Values)



Comments:

– The tables and charts show the marked disparity in percentages of preferential imports between beneficiary countries and groups of countries.

– Groups such as EFTA, the CEEC, the Mediterranean countries, the Balkans and countries or territories such as Turkey and the Faeroe Islands account for a very large share of preferential imports. This might be because of the scope of the preferences,

which cover large product sectors, or the level of preference, which may make them extra attractive to importers.

- The data for the countries with which the Community has a customs union are of particular interest:

  - Turkey has a very high proportion of preferential imports (62.35%). In theory, preferential arrangements between the Community and Turkey only cover agricultural products, former ECSC products and any industrial products declared as originating in Turkey on the strength of pan-European cumulation of origin rules. However, it is likely that a substantial proportion of imports classed as "preferential" (box 36, code 3), including industrial products, do in fact qualify for free circulation in the customs union (box 36, code 099) and that a mistake has been made in the code.

  - Andorra has a rather lower proportion of preferential imports (25.18%), which seems to correlate better with the breakdown of imports between agricultural products, which are the only products subject to preferential arrangements, and industrial products subject to the customs union. However, here too, coding errors cannot be ruled out.

- By contrast, the proportion of preferential imports for countries such as the ACP countries and South Africa is very low, even taking into account the fact that some of their preferential imports are covered by the GSP.

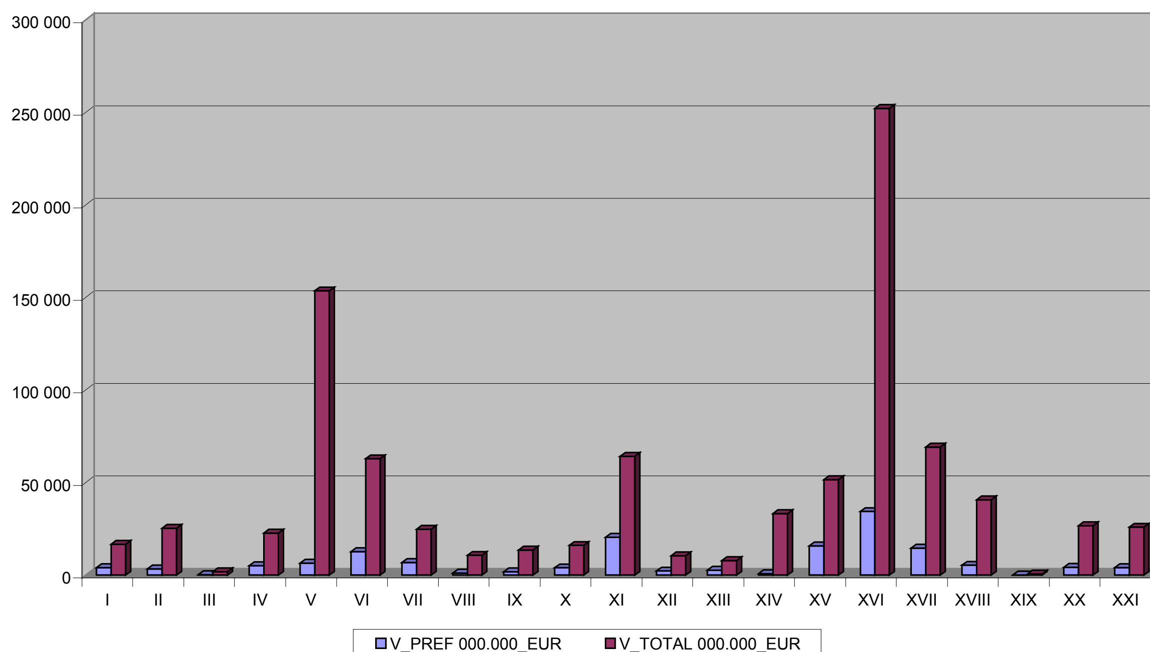
3.2. Preferential imports as a proportion of total imports by product category

3.2.1. Non-GSP preferences

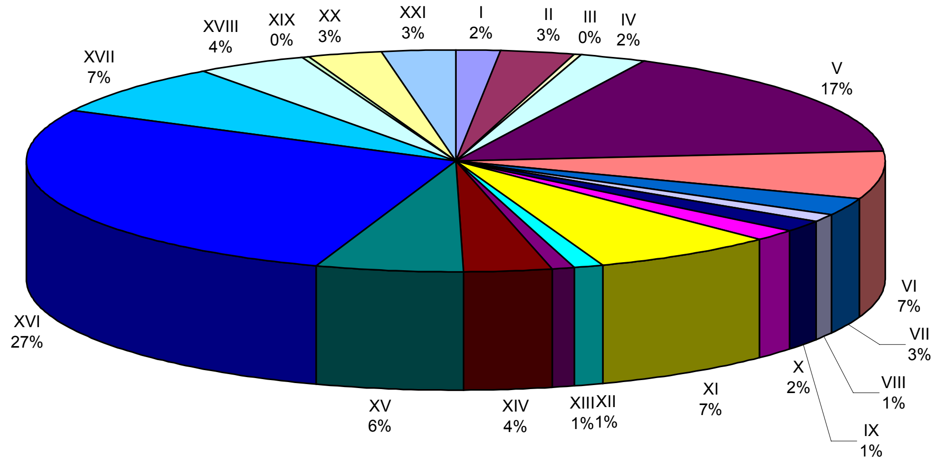
Table T5 and **charts C7a to C7c** give a breakdown of preferential imports from non-GSP beneficiary countries by product category, defined according to the Sections of the Harmonised System (listed in the **Appendix**), and as a percentage of total imports of such products from those countries.

T5 - NON GSP PREFERENTIAL IMPORTS BY HS SECTIONS IN 2001						
2001	**V_PREF**	**V_TOTAL**	**Q_PREF**	**Q_TOTAL**	**V_RATE**	**Q_RATE**
HS SECTION	*000.000_EUR*	*000.000_EUR*	*000_TONS*	*000_TONS*	*%*	*%*
I	4 032	16 660	1 154	5 604	24,20%	20,60%
II	3 283	25 281	3 620	51 467	12,99%	7,03%
III	203	1 837	377	4 335	11,04%	8,70%
IV	5 133	22 655	4 302	44 933	22,66%	9,58%
V	6 372	153 575	43 795	1 041 689	4,15%	4,20%
VI	12 656	62 897	17 999	44 908	20,12%	40,08%
VII	6 738	24 769	3 465	11 513	27,20%	30,09%
VIII	1 021	10 730	63	1 593	9,52%	3,95%
IX	1 806	13 631	4 466	53 722	13,25%	8,31%
X	3 895	16 063	4 340	18 866	24,25%	23,01%
XI	20 489	64 158	1 827	9 428	31,93%	19,38%
XII	2 214	10 339	140	1 333	21,41%	10,54%
XIII	2 648	7 841	2 988	8 263	33,76%	36,17%
XIV	771	33 166	6	51	2,33%	11,21%
XV	15 808	51 469	17 171	55 096	30,71%	31,17%
XVI	34 392	252 166	3 938	13 429	13,64%	29,33%
XVII	14 533	69 141	2 422	8 282	21,02%	29,25%
XVIII	5 340	40 650	60	609	13,14%	9,86%
XIX	77	540	10	21	14,20%	45,59%
XX	4 195	26 644	1 170	6 280	15,74%	18,64%
XXI	4 039	25 864	17 619	36 745	15,61%	47,95%
TOTAL	**149 642**	**929 754**	**130 932**	**1 417 630**	**16,09%**	**9,24%**

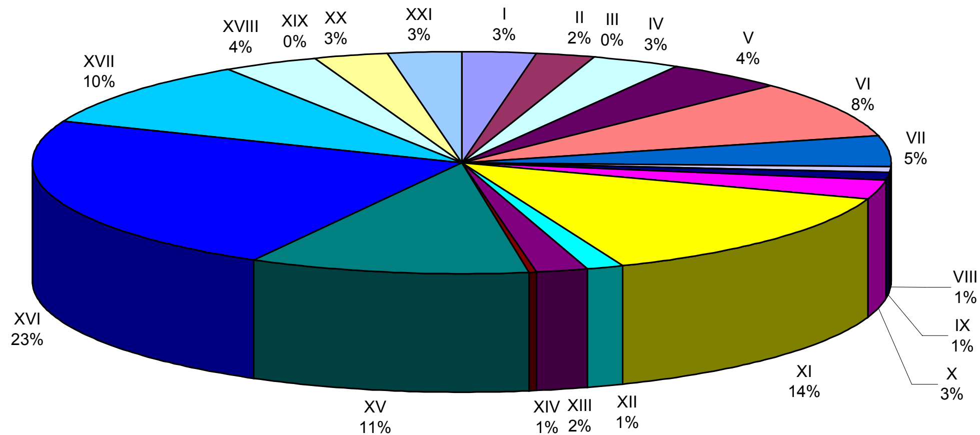
C7a - BREAKDOWN IN VALUE OF PREFERENTIAL/TOTAL IMPORTS FROM NON GSP BENEFICIARY COUNTRIES BY HS SECTIONS in 2001



C7b - BREAKDOWN IN VALUE OF TOTAL IMPORTS FROM NON GSP BENEFICIARY COUNTRIES BY HS SECTIONS IN 2001



C7c - BREAKDOWN IN VALUE OF PREFERENTIAL IMPORTS FROM NON GSP BENEFICIARY COUNTRIES BY HS SECTIONS IN 2001



Comments:

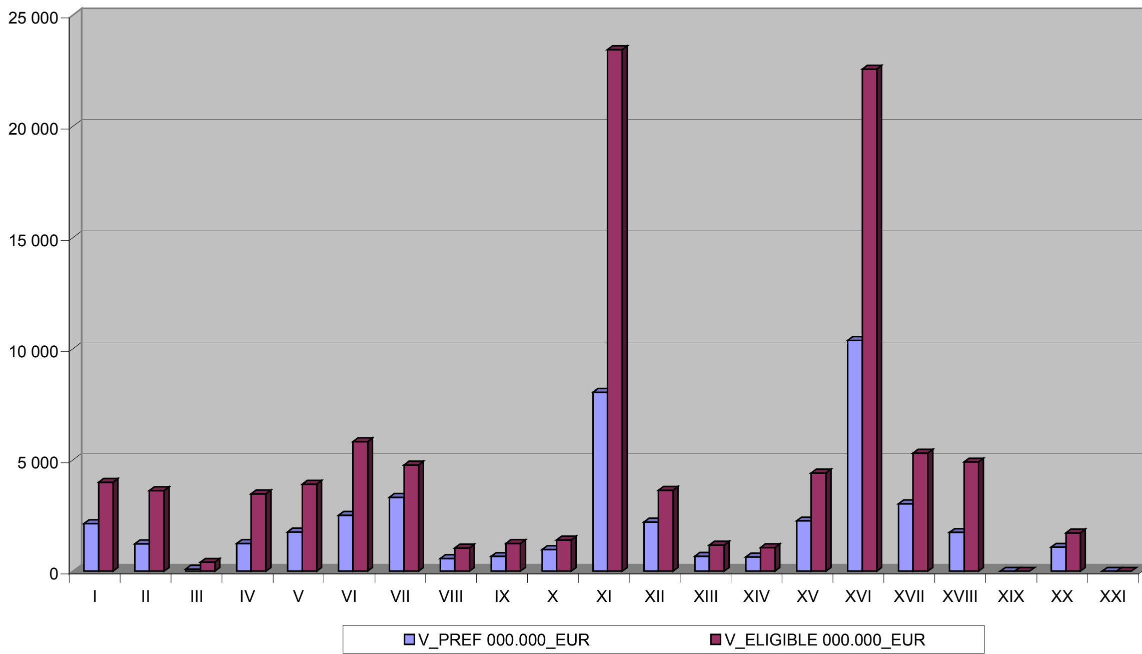
– Sections **VI** (chemicals), **XI** (textiles), **XV** (metals), **XVI** (machinery) and **XVII** (vehicles) account for the lion's share of both preferential imports and total imports from non-GSP beneficiary countries. The poor showing of Section V (minerals) in preferential imports relative to total imports is solely due to the fact that such products are exempt from duty and therefore do not need any preferential treatment.

3.2.2. Generalised system of preferences

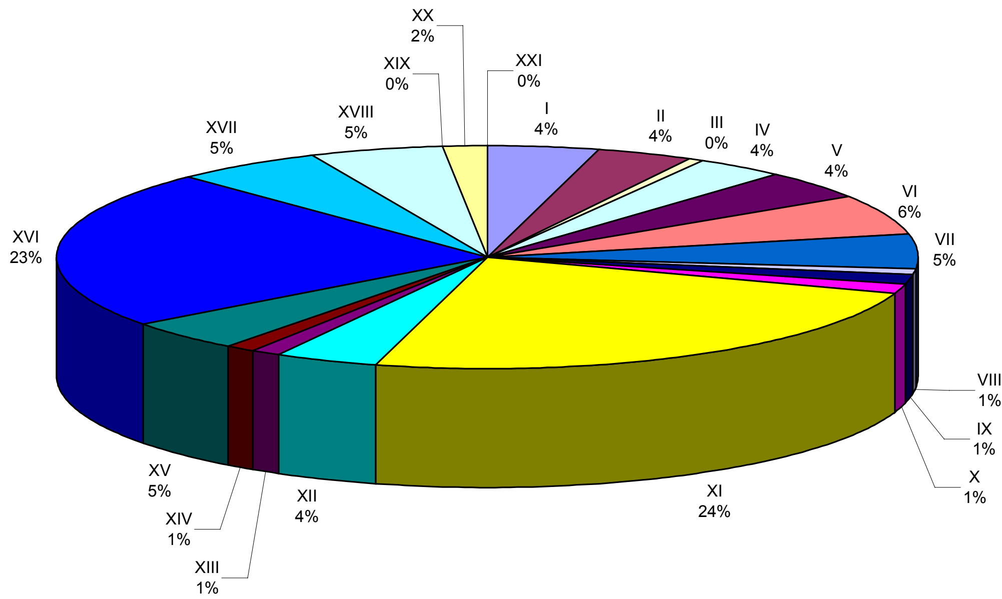
Table T6 and **charts C8a to C8c** give a breakdown of preferential imports from GSP beneficiary countries by product category, defined according to the Sections of the Harmonised System, and as a percentage of total imports of such products from those countries.

T6 - GSP PREFERENTIAL IMPORTS BY HS SECTIONS IN 2001						
2001	**V_ELIGIBLE**	**V_PREF**	**Q_ELIGIBLE**	**Q_PREF**	**% VALUE**	**% QUANT**
HS SECTIONS	*000.000_EUR*	*000.000_EUR*	*000_TONS*	*000_TONS*	*%*	*%*
I	4 001	2 138	1 098	639	53,44%	58,19%
II	3 624	1 232	2 623	871	34,00%	33,19%
III	401	93	824	156	23,14%	18,93%
IV	3 469	1 236	2 133	664	35,62%	31,12%
V	3 912	1 765	17 523	8 669	45,12%	49,47%
VI	5 831	2 517	14 073	5 053	43,17%	35,91%
VII	4 775	3 321	2 526	1 900	69,55%	75,24%
VIII	1 043	561	70	37	53,85%	53,54%
IX	1 250	664	1 627	890	53,10%	54,70%
X	1 404	971	1 242	959	69,19%	77,23%
XI	23 448	8 041	3 785	1 168	34,29%	30,87%
XII	3 630	2 200	386	204	60,59%	52,91%
XIII	1 165	666	1 242	828	57,14%	66,69%
XIV	1 056	644	14	8	60,95%	57,16%
XV	4 411	2 260	6 473	3 570	51,23%	55,15%
XVI	22 566	10 375	3 175	2 073	45,98%	65,28%
XVII	5 301	3 037	867	514	57,29%	59,33%
XVIII	4 907	1 739	166	85	35,45%	50,99%
XIX	0	0	0	0		
XX	1 725	1 075	293	182	62,30%	61,99%
XXI	0	0	0	0		
TOTAL	**97 918**	**44 534**	**60 138**	**28 470**	**45,48%**	**47,34%**

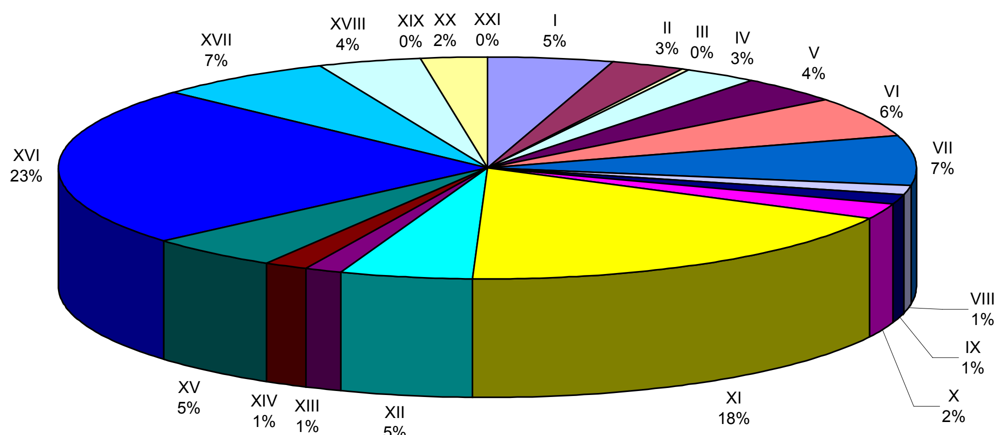
C8a - BREAKDOWN IN VALUE OF PREFERENTIAL/ELIGIBLE GSP IMPORTS BY HS SECTIONS IN 2001



C8b - BREAKDOWN IN VALUE OF ELIGIBLE GSP IMPORTS BY HS SECTIONS IN 2001



C8c - BREAKDOWN IN VALUE OF PREFERENTIAL GSP IMPORTS BY HS SECTIONS IN 2001



Comments:

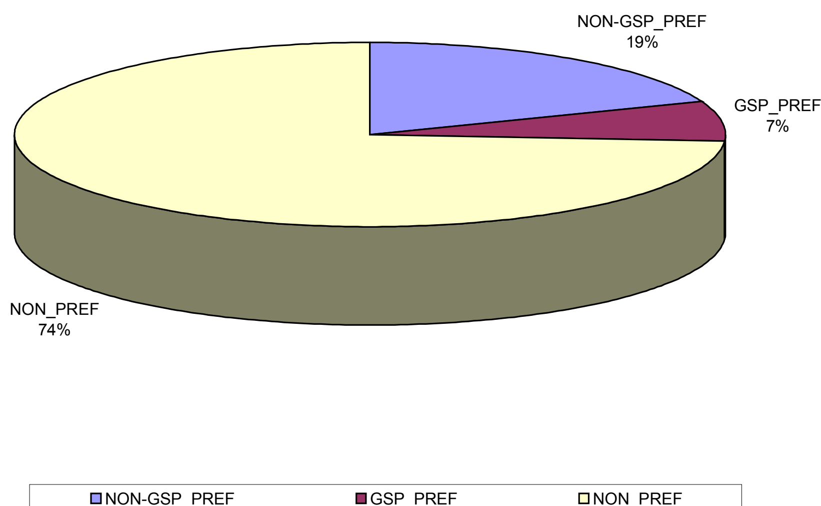
– There is a very clear correlation between the distribution of products for eligible imports and that for preferential imports. Sections **XI** (textiles) and **XVI** (machinery) are very heavily represented. Sections **VI** (chemicals), **VII** (plastic and rubber), **XII** (footwear), **XV** (metals), **XVII** (vehicles) and **XVIII** (optical instruments, etc.) are also significant, each accounting for at least **5%** of imports.

3.2.3. *Agricultural imports*

Table T7 and **chart C9** show preferential imports as a proportion of imports of agricultural products of **Sections I to IV** (Chapters 1 to 24) of the HS in 2001.

T7 - AGRI PREFERENTIAL IMPORTS IN 2001		
HS Sections I to IV (Chapters 1 to 24)	**VALUE** *000.000_EUR*	**QUANTITY** *000_TONS*
WORLD	**66 432**	**106 339**
NON-GSP_PREF	**12 651**	**9 454**
NON-GSP_PREF/WORLD	*19,04%*	*8,89%*
GSP_PREF	**4 608**	**2 297**
GSP_PREF/WORLD	*6,94%*	*2,16%*
CUMUL_PREF	**17 259**	**11 752**
CUMUL_PREF/WORLD	*25,98%*	*11,05%*
NON_PREF	**49 174**	**94 587**
NON-PREF/WORLD	*74,02%*	*88,95%*

C9 - BREAKDOWN IN VALUE OF PREF/NON PREF AGRI IMPORTS IN 2001



Comments:

– The data presented in the previous sections revealed the relatively low figure for agricultural products (Sections I to IV, Chapters 1 to 24 of the HS), as a proportion not only of total imports from non-GSP beneficiary countries (7%) but of eligible imports from GSP countries (12%) and preferential imports from beneficiary countries (8% for non-GSP countries and 11% for GSP countries).

– Preferential imports of agricultural products nonetheless account for **26%** by value of total imports, which is proportionally higher than the average for preferential imports as a whole, taking all products together (**21%**: see **table T1** and **chart C1**). The same applies to agricultural imports from GSP countries (7% as against 5%).

4. SOURCES, TERMINOLOGY AND METHODOLOGY

4.1. Sources

This Annex was drafted using statistical data available for the four years 1998-2001 from EUROSTAT databases.

The statistics are compiled from customs declarations for the release of goods for free circulation in the Community, which give:

- the Combined Nomenclature code of the goods (box 33 of the declaration);

- their (customs) value;

- the quantity (net mass, in box 38);

- the country of origin (box 16 or 34a, as appropriate)

- the tariff arrangements applied for, preferential or otherwise (box 36 "*Preference*").

The latter information, "*Preference*", uses the following code for the first of the three digits:

Code 1	*Erga omnes* tariff arrangements (MFN treatment, no preference)
Code 2	Generalised system of preferences (GSP)
Code 3	Other tariff preferences
Code 0	Other cases, including non-collection of customs duties under Community provisions or customs union agreements concluded by the Community (three-digit code: 099).

The declarant is obliged to provide this information under the implementing provisions of the Community customs code, even if no preference applies, and the Member States send it to EUROSTAT in accordance with the regulations on statistics.

However, a number of anomalies have been identified. Box 36 is not always used as it should be with regard to the intended tariff arrangements (for example, Code 2 (GSP) is selected for imports for which the country of origin is stated to be the US, or Code 3 ("Other preferences") is used for imports within a customs union. Since the Member States do not filter the statistical information before sending it to EUROSTAT, such anomalies still exist in the aggregate Community data. However, EUROSTAT does filter out the most blatant inconsistencies regarding the GSP, in addition to identifying those imports eligible for GSP preferences from the figures for imports from the GSP countries (see below).

In some Member States, box 36 is not used at all, which creates uncertainty as to which tariff arrangements actually applied to the product. In this analysis, such "indeterminate" imports have been treated as "non-preferential" (Code 1).

4.2. Terminology and methodology

The data were grouped *by country or group of countries* benefiting from identical or similar autonomous or contractual preferential arrangements (GSP, ACP, OCT, EFTA, CEEC, MED, Balkans) and *by Sections in the Combined Nomenclature (CN)*, which are the same as those in the *Harmonised Commodity Description and Coding System (HS)* (the list of Sections is given in the Appendix). They were given *by value* (customs value expressed in EUR thousands) and *quantity* (net mass in tonnes).

With regard to the data in the tables and charts, the following applies:

- *preferential imports* means imports for which preferential tariff treatment based on the origin of the products (Code 2 or 3) was requested; imports qualifying for free circulation by virtue of a customs union (i.e. from Turkey, Andorra, and San Marino: Code 099) are therefore not included;

- *total imports from a beneficiary country or a group of countries* means all imports from that country or group of countries whether or not preferential treatment was requested for them;

- *non-preferential imports from a beneficiary country or group of countries* means the difference between total imports and preferential imports from the relevant countries;

- *world imports* (total Community imports) means all imports from outside the EC, i.e. the sum of *total imports from preference-receiving and non-preference-receiving countries*.

As regards the generalised system of preferences, one must also distinguish between:

- *total imports from GSP beneficiary countries*, which covers all imports from such countries, whether or not preference is available and whatever preferential arrangement is ultimately applied;

- *GSP-eligible imports from GSP beneficiary countries*, which only covers products for which a GSP preference has been established for the country concerned, whether or not it is requested for the goods;

- *preferential imports (Code 2) from GSP beneficiary countries*, for which GSP preference has been established and requested; GSP countries have been treated as a single group, rather than subdividing them into special schemes, which would have made presentation too complicated; the special scheme for least developed countries ("Everything But Arms") was not singled out as it is too recent, particularly as regards agricultural products, to enable any significant change to be measured, and

- the *rate of utilisation of generalised preferences*, which represents the ratio of preferential imports to eligible imports.

It was not always possible to give an overall picture of the situation of preferential imports in relation to total imports from beneficiary countries or total Community imports, as certain countries or originating products from those countries may be covered by both a particular preferential arrangement and the GSP. This applies for example to ACP countries and the OCT, South Africa, Mexico and most Mediterranean countries. While exporters from such countries generally prefer their own specific preferential arrangement, which is more favourable than the GSP, the fact that they qualify for both means that in total Community imports from those countries, preferential imports may fall partly under the GSP and partly under another preferential scheme. Total imports from such "dual preferential regime" countries are therefore counted in total imports from both GSP countries and non-GSP countries, which means that the two figures cannot be combined.

APPENDIX
COVERAGE OF THE HARMONISED SYSTEM SECTIONS

SECTION	(ABRIDGED) TITLE
I	Live animals and animal products
II	Vegetable products
III	Animal or vegetable fats and oils, etc.; prepared edible fats; animal or vegetable waxes
IV	Prepared foodstuffs; beverages, spirits and vinegar; tobacco etc.
V	Mineral products
VI	Products of the chemical or allied industries
VII	Plastics and articles thereof; rubber and articles thereof
VIII	Raw hides and skins, etc.; saddlery and harness; travel goods, etc.
IX	Wood and articles of wood, wood charcoal; cork, etc.; manufactures of straw, basketwork etc.
X	Pulp of wood or other fibrous cellulosic material; etc. paper and paperboard and articles thereof
XI	Textiles and textile articles
XII	Footwear, headgear, umbrellas, sun umbrellas, walking sticks, seat-sticks, whips, etc.; prepared feathers, etc.; artificial flowers; …
XIII	Articles of stone, plaster, cement, etc.; ceramic products; glass and glassware
XIV	Natural or cultured pearls, ... stones, precious metals, etc.; imitation jewellery; coin
XV	Base metals and articles of base metal
XVI	Machinery and mechanical appliances; electrical equipment; parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers, etc.
XVII	Vehicles, aircraft, vessels and associated transport equipment
XVIII	Optical, photographic, cinematographic, measuring, checking, precision, medical and surgical instruments and apparatus; clocks and watches; musical instruments; …
XIX	Arms and ammunition, parts and accessories thereof
XX	Miscellaneous manufactured articles
XXI	Works of art, collectors pieces and antiques

ANNEX II

List of preferential arrangements - Zones and types of cumulation of origin

(Situation at 1/09/2003)

BRIEF INTRODUCTION TO THE PREFERENTIAL RULES OF ORIGIN

Preferential arrangements

This Annex lists autonomous and contractual preferential arrangements (agreements establishing free trade areas) introduced by the Community. These arrangements are based on the origin of the products benefiting from tariff preferences; the Annex therefore excludes customs union agreements concluded by the Community with Turkey, Andorra and San Marino.

For each **preferential arrangement** the first column cites the country or group of countries, legal framework and OJ publication references and the second column cites the text of the relevant **rules of origin** and the **type of cumulation of origin** applicable.

Given that it relates to the current situation of preferential arrangements, the Annex is not organised to reflect the fact that some of the countries with which the Community has concluded preferential agreements may be candidates for EU membership.

The origin of a product

Rules of origin are the means of determining the country from which the goods originate, i.e. not the country from which there were dispatched but where they are considered to have been produced or manufactured, for the purpose of applying certain tariff or non-tariff measures. **Preferential rules of origin** are applied to ensure that a product qualifies for preferential tariff treatment (autonomous or contractual) and that preferential treatment is given only to products from the countries intended.

Some products clearly originate in a given country, because they are wholly obtained there from local raw materials. In most cases, however, the goods are the product of working or processing of non-originating, imported goods in the country concerned. If the product is to obtain originating status, the processing must be substantial enough to establish a genuine link between the product and the country. Criteria have therefore been established for each category of products (a change in the HS tariff heading, the percentage of value added, the specific process, or a combination of these criteria) to determine whether the operations carried out in a given country on non-originating materials used to obtain the products are sufficient to consider them as originating from that country. Certain minor operations ("minimal processes") never confer originating status on the goods.

Cumulation of Origin

The criteria for sufficient working or processing used to determine the origin of a product apply in principle to all materials imported from a third country for use in obtaining the product in the country of export. In order to encourage regional economic integration, however, systems of cumulation of origin enable materials originating in partner countries to be exempted from the criteria, so as to make it easier for producers to draw on those countries for their supplies. Assuming the finished product acquires originating status, it is allocated to one or other of the partner countries involved in the operation according to specific provisions:

- **bilateral cumulation** involves two partners and allows an operator in country A to use materials originating in country B as if they originated in A, and vice versa, with the origin criteria applying only to non-originating goods; it is therefore sufficient for the operation carried out in A to have been "more than minimal" to obtain A origin for the goods; this form of cumulation is applied in all the bilateral agreements concluded by the Community and in its autonomous preferential arrangements (GSP, Western Balkans, OCT).

- **diagoal cumulation** is based on the same principle but involves at least three partners who must have established a network of free trade agreements among themselves incorporating the same rules of origin and providing for this type of cumulation; the prototype of this form of cumulation is "pan-European" cumulation, involving the Community, the EFTA countries, the CEECs and Turkey.

- **regional GSP cumulation** is a form of diagonal cumulation involving members of a regional group of beneficiary countries (ASEAN, for example) with a view to conferring originating status on products intended for export to the Community with a view to obtaining generalised preference; in this case, originating status is allocated to the country in which the "more than minimal" operation was carried out and where value was added at least equal to the customs value of the originating materials from the other countries in the group which were used in manufacture.

- **full cumulation**, on the other hand, is based on "cumulation of working"; the originating status of the goods is determined with reference to a package of working or processing operations carried out in the area formed by the countries involved; for this purpose, the processing carried out in country A is treated as having been carried out in country B if the non-originating product obtained in A is then reprocessed in B; this type of cumulation, or some variant of it, is found in preferential arrangements with the ACP, OCT, Maghreb and EEA (in the latter, the European Economic Area is treated as one territory in which products may acquire EEA originating status through full cumulation.

PREFERENTIAL ARRANGEMENTS BASED ON THE ORIGIN OF THE PRODUCTS

PREFERENTIAL AGREEMENTS	RULES OF ORIGIN/CUMULATION
EFTA countries	
SWITZERLAND - Industrial products (01.01.1973)(Free Trade Agreement of 22.07.1972, OJ L 300, 31.12.1972) - Agricultural products (01.06.2002)- (Agreement of 21 June 1999 on trade in agricultural products, OJ L 114, 30.4.2002)	Protocol No 3 *"Pan-European" diagonal cumulation [a]* Article 4 of the Agreement on agriculture (reference to EFTA Protocol No 3)
ICELAND (01.04.1973) (Free Trade Agreement of 22 July 1972, OJ L 301, 31.12.1972)	Protocol No 3 *"Pan-European" diagonal cumulation [a]*
NORWAY (01.07.1973) (Free Trade Agreement of 14 May 1973, OJ L 300, 27.06.1973)	Protocol No 3 *"Pan-European" diagonal cumulation [a]*
EUROPEAN ECONOMIC AREA (EC-IS-NO-LI) (Association Agreement of 2 May 1992, OJ L 1, 03.01.1994)	Protocol 4 *Total and "Pan-European" diagonal cumulation [a]*
Central and Eastern European Countries	
HUNGARY (01.03.1992) (Europe (Association) Agreement of 16 December 1991, OJ L 347, 31.12.1993)	Protocol No 4 *"Pan-European" diagonal cumulation [a]*
POLAND (01.03.1992) (Europe (Association) Agreement of 16 December 1991, OJ L 348, 31.12.1993)	Protocol No 4 *"Pan-European" diagonal cumulation [a]*
CZECH REPUBLIC (01.03.1992) (Europe (Association) Agreement of 4 October 1993, OJ L 360, 31.12.1994)	Protocol No 4 *"Pan-European" diagonal cumulation [a]*
SLOVAK REPUBLIC (01.03.1992) (Europe (Association) Agreement of 4 October 1993, OJ L 359, 31.12.1994)	Protocol No 4 *"Pan-European" diagonal cumulation [a]*
BULGARIA (31.12.1993) (Europe (Association) Agreement of 8 March 1993, OJ L 348, 31.12.1994)	Protocol No 4 *"Pan-European" diagonal cumulation [a]*
ROMANIA (01.05.1993) (Europe (Association) Agreement of 1 March 1993, OJ L 357, 31.12.1994)	Protocol No 4 *"Pan-European" diagonal cumulation [a]*
ESTONIA (01.01.1995) (Europe (Association) Agreement of 12 June 1995, OJ L 68, 09.03.1998)	Protocol No 3 *"Pan-European" diagonal cumulation [a]*
LATVIA (01.01.1995) (Europe (Association) Agreement of 12 June 1995, OJ L 26, 02.02.1998)	Protocol No 3 *"Pan-European" diagonal cumulation [a]*
LITHUANIA (01.01.1995) (Europe (Association) Agreement of 12 June 1995, OJ L 51, 20.02.1998)	Protocol No 3 *"Pan-European" diagonal cumulation [a]*
SLOVENIA (01.01.1997) (Europe (Association) Agreement of 10 June 1996, OJ L 51, 26.02.1999)	Protocol No 4 *"Pan-European" diagonal cumulation [a]*
Western Balkan countries	
MACEDONIA (Former Yugoslav Republic of) (01.06.2001) (Interim Agreement of 9 April 2001, OJ L 124, 04.05.2001)	Protocol No 4 *Bilateral cumulation*

CROATIA (01.01.2002) (Interim Agreement of 29 October 2001, OJ L 330, 14.12.2001)	Protocol No 4 *Bilateral cumulation*
Mediterranean Countries	
TURKEY (products outside the scope of the customs union) - ECSC products (01.01.1997) (Agreement of 25 July 1996, OJ L 227, 07.09.1996) - Agricultural products (01.01.1998) (Decision No 1/98 of the Association Council, of 25 February 1998, OJ L 86, 20.03.1998)	 Protocol No 1 *"Pan-European" diagonal cumulation* Protocol No 3 *Bilateral cumulation*
MALTA (01.04.1971) (Association Agreement of 5 December 1970, OJ L 61, 14.03.1971)	Protocol *Bilateral cumulation*
CYPRUS (01.06.1973) (Association Agreement of 19 December 1972, OJ L 133, 21.05.1973)	Protocol *Bilateral cumulation*
ALGERIA (01.07.1976) [c] (Cooperation Agreement of 26 April 1976, OJ L 263, 27.09.1978)	Protocol No 2 *Bilateral cumulation*
TUNISIA (01.03.1998) (Euro-Mediterranean Association Agreement of 17 July 1995, OJ L 97, 30.03.1998)	Protocol No 4 *"Maghreb" bilateral, diagonal and full cumulation*
MOROCCO (01.03.2000) (Euro-Mediterranean Association Agreement of 26 February 1996, OJ L 70, 18.03.2000)	Protocol No 4 *"Maghreb" bilateral, diagonal and full cumulation*
ISRAEL (01.06.2000) (Euro-Mediterranean Association Agreement of 20 November 1995, OJ L 147, 21.06.2000)	Protocol No 4 *Bilateral cumulation*
PALESTINIAN AUTHORITY (01.07.1997) (Euro-Mediterranean Association Agreement of 24 February 1997, OJ L 187, 16.07.1997)	Protocol No 3 *Bilateral cumulation*
EGYPT (01.07.1977) [b] (Cooperation Agreement of 18 January 1977, OJ L 266, 27.09.1978)	Protocol No 2 *Bilateral cumulation*
JORDAN (01.05.2002) (Euro-Mediterranean Association Agreement of 24 November 1997, OJ L 129, 15.05.2002)	Protocol No 3 *Bilateral cumulation*
LEBANON (01.03.2003) (Euro-Mediterranean Association Agreement of 17 June 2002, OJ L 262, 30.09.2002)	Protocol No 2 *Bilateral cumulation*
SYRIA (01.07.1977) [c] (Cooperation Agreement of 18 January 1977, OJ L 269, 27.09.1978)	Protocol No 2 *Bilateral cumulation*
Other countries and territories	
ANDORRA (agricultural products outside the scope of the customs union) (Agreement, OJ L 374, 31.12.1990)	Appendix to the Agreement *Bilateral cumulation*
FAEROE ISLANDS/Denmark (01.01.1997) (Agreement of 6 December 1996, OJ L 53, 22.02.1997)	Protocol No 3 *Bilateral cumulation*

AFRICA, THE CARIBBEAN AND THE PACIFIC (ACP) (01.04.2003) (Partnership Agreement between ACP, EC and Member States, signed in Cotonou on 23 June 2000, OJ L 65, 808.03.2003; OJ L 83, 01.04.2003; provisional application from 01.03.2000)	Protocol 1 to Annex V *"EC-ACP-OCT" bilateral and full cumulation [f]*
SOUTH AFRICA (01.01.2000) (Trade, Development and Cooperation Agreement: provisional application, OJ L 311, 4.12.1999)	Protocol 1 *Bilateral cumulation [g]*
MEXICO (01.07.2000) (Decision 2/2000 of the EC-Mexico Joint Council: provisional application of the Partnership Agreement, OJ L 157, 30.06.2000 and OJ L 245, 29.09.2000)	Annex III to the Decision *Bilateral cumulation*
CHILE (01.02.2003) (Provisional application of the Association Agreement, OJ L 352, 30.12.2002; OJ L 26, 31.1.2003)	Annex III to the Agreement *Bilateral cumulation*
AUTONOMOUS PREFERENTIAL ARRANGEMENTS	**RULES OF ORIGIN/CUMULATION**
OVERSEAS COUNTRIES AND TERRITORIES (02.12.2001) (Council Decision No 2001/822/EC of 27 November 2001, OJ L 314, 30.11.2001; OJ L 324, 7.12.2001: Appendix II to Annex III)	Annex III to the Decision *"EC-OCT-ACP" bilateral and full cumulation*
GENERALISED SYSTEM OF PREFERENCES (Council Regulation (EC) No 2501/2001 of 10 December 2001, OJ L 346, 31.12.2001)	Articles 66 to 97 (Commission Reg. (EEC) No 2454/93 of 2 July 1993) *"EC-NO-CH" bilateral, regional and diagonal cumulation [h]*
WESTERN BALKAN COUNTRIES (Albania, Bosnia-Herzegovina, Serbia and Montenegro) (Council Regulation (EC) No 2007/2000 of 18 September 2000, OJ L 240, 23.09.2000)	Articles 66 and 98 to 123 (Commission Reg. (EEC) No 2454/93 of 2 July 1993) *Bilateral cumulation*
CEUTA AND MELILLA (Protocol No 2 to the Act of Accession of Spain)	Council Reg. (EC) No 82/2001 of 5 December 2000 (OJ L 20, 20.01.2001) *Bilateral cumulation with the EC and diagonal or full cumulation, as appropriate, with partner countries of the EC [i]*

Notes :

(a) "Pan-European" diagonal cumulation covers products originating in the Community, Bulgaria, Switzerland (including Liechtenstein), the Czech Republic, Estonia, Hungary, Iceland, Lithuania, Latvia, Norway, Poland, Romania, Slovenia, the Slovak Republic and Turkey (with the exception of agricultural products covered by Annex 1 of the EC Treaty) (for the state of agreements enabling cumulation, see OJ C 100, 25.4.2002, p.5); it also covers industrial products of Chapters 25 to 97 of the HS originating in the Principality of Andorra and products originating in the Republic of San Marino.

[b] This new Euro-Mediterranean Association Agreement has been signed but has not yet been ratified or entered into force.

[c] New Euro-Mediterranean Association Agreement subject to negotiation.

[d] Cumulation of origin with South Africa is also provided for by this Agreement but has not yet entered into force.

[e] Cumulation of origin with the ACP States is also provided for by this Agreement but has not yet entered into force.

[f] Bilateral GSP cumulation applies between the EC and the beneficiary country, diagonal cumulation applies between the EC, Norway and Switzerland and the beneficiary country and regional cumulation applies between the beneficiary country belonging to one of the four GSP regional cumulation groups (the Association of South-East Asian Nations, the Central American Common Market, the Andean Community, and the South Asian Association for Regional Cooperation). These types of cumulation may be combined for a single operation.

[g] These different types of cumulation apply under Regulation No 82/2001, in trade between the Community and Ceuta and Melilla, but under the rules of origin of the preferential arrangements established by the Community with third countries they also apply to trade with those third countries and Ceuta and Melilla (for the list of countries with which the various types of cumulation are allowed, see OJ C 108, 4.5.2002, p.3).

FINANCIAL STATEMENT

This Green Paper is not a legislative proposal but a discussion paper aimed at opening up the debate. It therefore has no immediate financial impact.

IMPACT ASSESSMENT FORM

THE IMPACT OF THE PROPOSAL ON BUSINESS WITH SPECIAL REFERENCE TO SMALL AND MEDIUM-SIZED ENTERPRISES (SMEs)

This Green Paper is not a legislative proposal but a discussion paper aimed at opening up the debate. It therefore has no immediate impact on business, and in particular SMEs.

The consultations launched by the Green Paper on the future of the rules of origin in preferential arrangements will, however, be targeted primarily on business circles. Business, whether in the form of individual firms or representative organisations, will be able to contribute to the discussion and state its needs in the matter.