

Brussels, 12 September 2001

OPINION

of the

Economic and Social Committee

on the

Proposal for a Council Regulation (EC) applying a scheme of generalised tariff preferences

for the period 1 January 2002 to 31 December 2004

COM(2001) 293 final - 2001/0131 (ACC)

Procedure

On 11 July 2001 the Council decided to consult the Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the:

Proposal for a Council Regulation (EC) applying a scheme of generalised tariff preferences for the period 1 January 2002 to 31 December 2004
(COM(2001) 293 final).

The Economic and Social Committee decided to appoint **Mr Kenneth Walker** as rapporteur-general to prepare its opinion.

At its 384th plenary session on 12 and 13 September 2001 (meeting of 12 September 2001), the Economic and Social Committee adopted the following opinion by 62 votes in favour and one abstention.

1. Introduction

1.1 Council Regulation (EC) No. 2820/98 of 21 December 1998¹ applying a multi-annual scheme of generalised tariff preferences will expire on 31 December 2001. In 1994, the Commission adopted some guidelines on the role of the GSP for the ten-year period 1995 to 2004². A new regulation is required in order to implement those guidelines for the remainder of the period, i.e. the years 2002 to 2004.

1.2 The guidelines of 1994 brought about a number of important changes. Since 1995, GSP schemes of the European Union replaced the traditional approach of granting duty-free market access for restricted quantities by the concept of **modulation**, which provides limited preferences for unlimited quantities. At the same time, new rules were introduced on **graduation** allowing for the exclusion of specific sectors of exports from individual beneficiary countries. Subsequently, additional preferences were offered in the framework of **special incentive arrangements**, meant to promote the objectives of sustainable development, in particular the protection of labour rights and the environment.

1.3 As most of those features were genuine innovations, it was difficult to anticipate their effects. Fortunately, many fears that had been raised prior to their adoption proved to be unfounded. Thus, the decision to abandon quotas and ceilings did not give rise to a major surge of preferential imports. To the extent that some of the provisions of the present regulation are obviously too cautious or complicated, they should be streamlined.

¹ OJ L 357 of 30.12.1998, p. 1.

² COM(94) 212 final

1.4 On the other hand, some of the expectations, on which the present rules were shaped, did not materialise. Potential beneficiaries of the special incentive arrangements were reluctant to take up the opportunities they were offered. It would therefore seem necessary to adjust the measures which are meant to put them into practice.

1.5 The present GSP regulation is the first one to combine all different arrangements and sectors, which used to be governed by different regulations. It falls short, however, of fully harmonising and unifying all rules and procedures. The 1994 guidelines clearly state a need for simplification. The better part of the proposed amendments pursues this objective and does not imply changes in terms of substance.

2. The Commission proposals

2.1 Modulation

2.1.1 At the time the present GSP regulation was adopted, the trade-weighted average preferential margin offered by the GSP was 3.68%. The present mean tariff reduction for non-sensitive products is of the same magnitude, which also seems to be sufficiently attractive. Thus, a flat-rate reduction of the MFN duty by 3.5 percentage points would seem appropriate for all sensitive products.

2.1.2 For most of them, the preferential treatment resulting from a flat-rate reduction of 3.5 percentage points would be the same or slightly better than the one they enjoy under the present regulation, while a limited number of products would enjoy a less favourable treatment.

2.1.3 However, the great variations between specific duty rates rule out reducing them by a flat rate. The present system of reducing them by a percentage should therefore remain in place. In order to simplify the scheme, a uniform reduction of 30% should be applied to all products concerned.

2.2 Graduation

2.2.1 As far as the exclusion of countries is concerned, one of the two criteria – per capita GNP – needs updating. In order to use a neutral criteria which is regularly revisited, reference should be made to the threshold according to which the World Bank classifies countries as high-income countries.

2.2.2 In order to enhance the objectivity of the regime, the list of beneficiary countries should be revised on a yearly basis.

2.2.2.1 This, however, could result in a lack of predictability. It would therefore be preferable to require that a country meet the criteria for exclusion during three consecutive years before it should be eliminated from the list of beneficiary countries.

2.2.2.2 Finally, for the sake of providing a fair treatment for all countries, those which had been eliminated should be re-admitted where they do not meet the criteria for exclusion in three consecutive years.

2.2.3 As far as graduation is concerned, both basic rules – the so-called lion's share clause and the graduation mechanism – should be maintained. In order to make graduation more neutral and automatic, it should also be applied on a more regular basis, i.e. once a year.

2.2.3.1 That amendment should be balanced by an additional requirement according to which graduation should only take place where beneficiary countries meet one of the criteria during three consecutive years. This condition should be considered to be fulfilled also where it is not the same criterion that is met during each of the three years.

2.2.4 Neither the 1994 guidelines nor the present regulation foresee the possibility of reversing graduation in cases where the criteria are no longer met. Such a possibility should be provided for the same reason as in the case of the exclusion of countries.

2.2.5 As soon as the new GSP regulation is adopted by the Council, the Commission will prepare a revision of the sectors that will have to be graduated according to the new regime. The results of that revision will enter into force on 1 January 2003.

2.3 The special incentive arrangements

2.3.1 In order to give momentum to the present trend under which the acceptance of the arrangements by potential beneficiary countries gains ground, it would seem imperative to make them more attractive. In line with the present scheme, but in order to simplify it, additional preferences should double the general preferences – i.e. they should provide an additional flat reduction by 3.5 percentage points on *ad valorem* MFN duties and an additional reduction specific duties by another 30%. Such a rule would also have the advantage of being easily understood.

2.3.2 The benefit of the special incentive arrangements is, at present, also available for sectors in which the country concerned is graduated but only where graduation took place under the graduation mechanism (and not under the lion's share clause). In order to make the arrangements more attractive for more-advanced developing countries (which are more likely to be graduated and to fulfil the requirements of the social clause) the benefit should also be given where graduation took place on grounds of the lion's share clause.

2.3.3 In its present shape, the social incentive arrangements establish a double conditionality, where a country has to qualify for being granted the status of a beneficiary country of the arrangements and where exports from that country have to be certified as being manufactured in accordance with the labour standards concerned. This includes all inputs, even imported ones. Such a requirement is not viable, since the beneficiary country is not in a position to control compliance in that respect. Therefore, the requirement should be dropped.

2.3.4 The special incentive arrangements for the protection of labour rights initially referred to ILO conventions Nos. 87, 98 and 138. In order to bring the special incentive arrangements into line with the concept of “core labour standards”, beneficiary countries should also be asked to comply effectively with ILO conventions Nos. 29, 100, 105, 111 and 182.

2.3.5 As far as the special arrangements for the protection of the environment are concerned, internationally-agreed standards and an internationally-recognised system of certification are still not in place. On the other hand, some national certification schemes have acquired a certain degree of international recognition. In order to take this into account, the wording of the draft proposal uses more general terms than the present regulation.

2.4 Special arrangements supporting Least Developed Countries

2.4.1 The present draft proposal takes into account the new regulation granting duty-free access for essentially all products from Least Developed Countries.

2.5 Special arrangements to combat drug production and trafficking

2.5.1 The Commission should have a clear picture of the extent to which these arrangements actually achieve their objectives. It should therefore monitor the application of the arrangements, as well as their effects, taking into account the assessments conducted by independent international organisations and agencies, and it should have an exchange of views with the beneficiary countries on those assessments. While the evaluations should not lead to discontinuing the arrangements before 2004, they should help to answer the question whether it is appropriate to maintain the arrangements beyond that date.

2.6 Withdrawal

2.6.1 In general, the GSP should be used to a larger extent as a means for promoting the protection of core labour standards. It is therefore proposed to include serious and systematic violation of those standards as a reason for temporary withdrawal of GSP benefits. Similarly, it is proposed to include significant detrimental effects on the environment arising from the production of certain products as such reason.

3. Comments

3.1 The Committee welcomes the Commission’s proposals for a regulation modifying the scheme of generalised tariff preferences to extend the implementation of the 1994 guidelines on the role of the GSP for the period 1995 – 2004 to the end of that period. In the light of the experience gained in the interim, some refining of these guidelines is manifestly required.

3.2 The Committee accepts that preferences which are determined as a percentage of the MFN duty are bound to shrink where the MFN duty rate is lowered. It therefore supports the concept of a flat reduction of the MFN duty rate by 3.5 percentage points for all sensitive products.

3.2.1 The Committee agrees that the great variations between specific duty rates makes it impractical to apply a flat rate in these cases and that a uniform reduction of 30% should apply to all products concerned.

3.3 With reference to the exclusion of countries, the Committee notes that the criterion of per capita GNP needs to be updated; it approves the principle of using a criterion which is neutral and regularly revisited and accepts that the World Bank threshold meets these requirements.

3.4 The Committee shares the Commission's concern that revising the list of beneficiary countries on an annual basis could lead to a lack of predictability which could undermine support for the process. It therefore agrees that it would be preferable that countries should have to meet the criteria for exclusion for three consecutive years before being eliminated from the list of beneficiary countries and that they should be readmitted where they have not met the criteria for exclusion during three consecutive years.

3.5 The Committee approves the proposal to retain both of the basic rules for graduation – the lion's share clause and the graduation mechanism. It also agrees that graduation should be made more neutral and automatic by being placed on an annual basis.

3.5.1 The Committee supports the concept that graduation should only take place where beneficiary countries meet one of the criteria in three consecutive years, which need not necessarily be the same criterion in each of those years.

3.6 The Committee notes that the special incentive arrangements have not fulfilled their expectations and agrees that it would seem imperative to make them more attractive. In view of the lack of success with this initiative to date, it wonders whether the Commission has gone far enough in this direction.

3.6.1 The Committee approves the principle of removing the element of double conditionality.

3.6.2 The Committee welcomes the proposal that beneficiary countries should be required to effectively comply with ILO Conventions Nos. 29, 100, 105, 111 and 182, in addition to the existing requirements.

3.7 The Committee notes with approval that the present draft regulation takes into account the new regulation granting duty-free access for essentially all products from Least Developed Countries but would point out that this is subject to a number of conditions and exceptions.

3.8 The Committee welcomes the fact that the Commission is reviewing the special arrangements to combat drug production and trafficking in order to gauge their effectiveness. It hopes that the results of this exercise will be incorporated into the Commission's proposals for the continuation of the GSP system after 2004.

3.9 The Committee notes that the Commission proposes that, in future, serious and systematic violation of core labour standards or significant detrimental effects on the environment will be made grounds for the temporary withdrawal of GSP benefits. While it understands and approves of the reasoning behind this proposal, it is concerned that an element of subjectivity may be brought into play; who, for instance, is to define the terms, "serious", "systematic" and "significant" and how will it be possible to ensure that these criteria are applied with equal rigour in each case?

3.10 The Committee welcomes the fact that the Commission has taken the opportunity afforded by this regulation to pursue the objective of simplification but notes that it has stopped short of fully harmonising and unifying all rules and procedures. While it accepts that the imminence of a major revision in 2004 would militate against making drastic changes at this juncture, it hopes that on that occasion full prominence will be given to the need to simplify, harmonise, streamline, codify, reduce and unify the entire system.

Brussels, 12 September 2001.

The President
of the
Economic and Social Committee

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of the
Economic and Social Committee

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