

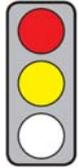
TARIFF PREFERENCES FOR DEVELOPING COUNTRIES

Status: 4 July 2011

MAIN ISSUES

Objective of the Regulation: The Generalised Scheme of Tariff Preferences (GSP) is to be revised.

Parties affected: All consumers and the majority of EU companies, all developing countries.



Pros: The new GSP slightly relaxes several requirements for preferential tariffs.

Cons: (1) Overall, the new GSP represents a considerable – protectionist – step backwards, for the preferential tariffs are being fully suspended for considerably more than half of the existing GSP countries.

(2) Therefore, the requirement relaxation is also of no use to the existing GSP countries.

(3) The general and specific safeguard clauses for EU companies provide loopholes to suspend preferential tariffs and are contradictory to the development policy motives of the APS.

CONTENT

Title

Proposal COM(2011) 241 of 10 May 2011 for a **Regulation** of the European Parliament and of the Council applying a **scheme of generalised tariff preferences**

Brief Summary

Amendments to the current scheme are marked as such.

► General

- The EU may levy customs on the import of goods unless otherwise provided for by free trade agreements.
- The Common Custom Tariff determines all EU customs. [Annex I, Part II, Regulation (EEC) No. 2658/87]. It distinguishes between:
 - ad valorem duties, which are calculated in percentage of the value of goods, and
 - specific duties, which are calculated on the basis of the goods' weight, volume, length or quantity.
- The EU grants reduced customs tariffs to developing countries in order to help them improve their performance on the global market and to aid their economic development. The basis for that is the "Scheme of Generalised Tariff Preferences" (GSP; Regulation (EC) No. 732/2008).
- The GSP provides for three preference arrangements:
 - a "general arrangement";
 - a "special incentive arrangement for sustainable development and good governance"; and
 - a "special arrangement for the least-developed countries".
- The Commission determines via delegated acts (Art. 290 TFEU; s. [CEP-Comment](#)) which goods from which countries fall subject to the above-mentioned arrangements.
- In order to safeguard national companies in the textile, agriculture and fisheries sectors, the GSP provides for both general and specific safeguard clauses.
- With the proposed Regulation, the existing Scheme of Generalised Tariff Preferences is to be substituted with a new one.

► General arrangement

- The general arrangement applies to countries (Art. 4) :
 - which have not been classified by the World Bank as an "upper-middle income country" (currently "high-income country") over three consecutive years; or
 - which cannot benefit from other special arrangements that offer at least the same benefits.
- For "non-sensitive" products whose import does not jeopardise European manufacturers, common customs tariff duties remain fully suspended, except for agricultural components (Art. 7 (1)).
- For "sensitive goods" whose imports might jeopardise European manufacturers, the following applies:
 - Ad valorem duties continue to be reduced in general by 3.5 percentage points (Art. 7 (2)).
 - Ad valorem duties on fibres and textiles continue to be reduced by 20% (Art. 7 (2)).
 - More favourable arrangements of the existing GSP remain in effect (Art. 7 (3)).

- The specific duties continue to be reduced by 30% (Art. 7 (4)).
- Where Common Customs Tariff duties comprise both ad valorem duties and specific duties, only ad valorem duties are reduced (Art. 7 (5)).
- If the market share of a good of a GSP beneficiary country over three consecutive years exceeds 17.5% (currently 15%), the tariff preference for the product concerned is withdrawn from this country. For fibres and textiles the threshold is 14.5% (currently: 12.5%). (Art. 8 (1) in conjunction with Annex VI)
- ▶ **Special incentive arrangement for sustainable development and good governance (“GSP+ Arrangement”)**
 - The “GSP+ Arrangement” is granted to a developing country upon its request (Art. 10 (1) lit. a) if
 - such a country is eligible for the general arrangement;
 - more than 75% of the imports from this country over three consecutive years originate from 7 (currently: 5) of its largest product groups;
 - the share of imports from such a country does not exceed 2% (currently: 1%) of all imports from GSP beneficiary countries (Art. 9 (1) lit. a in conjunction with Annex VII) and
 - (as was the case to date) the country ratified certain international conventions ([Annex VIII, Part A](#)), in particular on human rights and labour rights as well as environmental protection, and promises to maintain the ratifications and to allow for a monitoring of the implementation of the conventions (Art. 9 (1) lit. b, c).
 - Ad valorem duties and specific duties for certain goods (Annex IX) from GSP+-beneficiary countries are to be suspended. If ad valorem duties and specific duties are levied on a good, the ad valorem duties are to be suspended. (Art. 12)
 - If a GSP+ beneficiary country infringes its obligations stipulated under one of the international conventions, the preferences granted to it are to be withdrawn until it resumes compliance (Art. 15).
- ▶ **Special arrangement for the least-developed countries**
 - The special arrangement applies to countries categorised by the United Nations as the least developed countries (Art. 17 (1)).
 - The Common Customs Tariff duties for all goods are to be suspended, except for weapons and ammunition (Art. 18 (1)).
 - An import license is required for cane and beet sugar and chemically pure sucrose (Art. 18 (2)).
- ▶ **Temporary withdrawal provisions common to all preferences**
 - Preferences granted to a beneficiary country may be withdrawn in respect of all or single goods for the following reasons (Art. 19):
 - serious or systematic infringements of relevant international conventions ([Annex VIII, Part A](#));
 - export of goods made by prison labour;
 - serious shortcomings in customs controls to combat drugs dealing;
 - infringements of international conventions on anti-terrorism and money laundering;
 - serious or systemic unfair trading practices which have a negative impact on the economic EU sector concerned;
 - unfair trading practices detected by a WTO body.
 - The details regarding the withdrawal procedure are stipulated by the Commission through a delegated act (Art. 290 TFEU; s. [CEP-Comment](#)).
- ▶ **Safeguard and surveillance provisions**
 - **General safeguard provision**
 - As was the case to date, tariff preferences for single goods can be suspended if the import of such goods under preferential conditions jeopardises or causes “serious difficulties” to European manufacturers of comparable goods (Art. 22 (1)).
 - The Commission investigates either on its own accord or at the request of a Member State, a legal entity or an association without legal capacity, whether or not the case of serious difficulties is actually given. In so doing, it takes into account the market share, the production capacity and utilization, the stocks, number of insolvencies, employment, import volumes and the prices and profitability of the European manufacturers affected (Art. 23).
 - **Special safeguard provisions for the textile, agriculture and fisheries sectors**
 - On 1 January of each year the Commission can suspend the preferences granted to a country for textiles if the imports from such country (Art. 29)
 - increased by at least 15% (currently: 20%) in the previous year or
 - during any period of twelve months the share of these goods is more than 14.5% (currently: 12.5%) of all beneficiary goods.

- Tariff preferences for clothes and accessories for clothes are not suspended if the country
- belongs to the least developed countries, or
- its total import share does not exceed 8% compared to all beneficiary good imports of all countries (Art. 29 (2)).
- Where imports of products from the agriculture and fisheries sectors (pursuant to Annex I TFEU) lead to “serious disturbance to European Union markets”, the Commission may suspend preferences for said goods (Art. 30).

► **GSP validity**

The new GSP is of unlimited validity (currently: expiry of GSP on 31 December 2012).

Statement on Subsidiarity by the Commission

The principle of subsidiarity is not addressed here as the scope of competence is subject to the EU exclusively (Art. 5 (3) TEU).

Policy Context

The EU has been granting tariff preferences to developing countries since 1971. The current Common Custom Tariff Scheme [Regulation (EC) No. 732/2008] will remain in effect until 31 December 2012. The new scheme is to enter into force as of 1 January 2014. Until then, the existing rules will remain in effect. The Regulation Proposal is a follow-up to a public consultation in 2010.

Legislative Procedure

10 May 2011	Adoption by Commission
Open	Adoption by the European Parliament and the Council, publication in the Official Journal, entry into force.

Options for Influencing the Political Process

Leading Directorate General:	DG Trade
Committees of the European Parliament:	Economic and Monetary Affairs (in charge); Development
Committees of the German Bundestag:	Not yet known.
Decision mode in the Council:	Qualified majority (approval by a majority of Member States and at least 255 out of 345 votes; Germany: 29 votes)

Formalities

Legal competence:	Art. 207 TFEU (Common Commercial Policy)
Form of legislative competence:	Exclusive competence (Art. 3 (1) TFEU)
Legislative procedure:	Art. 294 TFEU (ordinary legislative procedure)

ASSESSMENT

Economic Impact Assessment

Ordoliberal Assessment

Tariff trade barriers such as customs **restrict the free international trade of goods. With the Scheme of Generalized Tariff Preferences this shortcoming is at least reduced for developing countries.** By trading with the EU, they are to create profits and thus combat poverty in their own countries. Naturally, **free trade agreements** with such countries **would be a much better choice**, for they fully remove custom barriers for developing countries and, at the same time, improve export possibilities for European companies.

Although the preferential tariffs for “sensitive products”, which remain significantly lower than those of “non-sensitive” products, protect less competitive business sectors in the EU, the positive impact of imports is overlooked: consumers benefit from lower consumer goods prices and a wider choice of products while companies benefit from cheaper components. Moreover, the competition through imports creates efficiency and innovation incentives.

The new GSP represents a considerable – protectionist – step backwards from the existing GSP. The Commission considers many of the 176 countries that have to date been GSP beneficiaries now able to compete at global level. To this end, middle and high-income countries will no longer be eligible for the preference scheme. **The suspension of customs preferences for almost 100 of the hitherto GSP beneficiary countries that this will bring about will lead to collapses in the economic development of these countries and to price increases of import goods** for EU companies and consumers. For without free trade agreements, goods from these countries are levied with the full import duty.

The proposed simplifications of the GSP+ rule are completely misguided. Certainly, the applying countries may now be allowed to make up 75% of their imports to the EU with seven of their largest goods groups rather than with the previously allowed five, and in future, their import share may amount to 2% instead of 1% of all

imports from developing countries; both increase the number of GSP+-beneficiary countries. However, **the increased threshold values** are counteracted **by the fact that simultaneously the total number of GSP beneficiary countries** – meaning also those countries which are eligible for the GSP+ rule at all – is **reduced by almost 100**, in other words by considerably more than half.

Besides, demanding from these countries that they comply with international agreements that have not even been ratified by all Member States remains somewhat questionable. For instance, in Ireland, Austria and Portugal the Convention Against Torture (CAT 1984) is not in force.

The maintenance of the general safeguard clause to protect European companies “with serious difficulties” continues to provide jeopardized local manufacturers, Member States and the Commission **with loopholes which can reserve already granted trade liberalisation.**

The specific safeguard clauses for the textile, agriculture and fisheries sectors are not only protectionist but also **contradictory to the GSP development policy motives.** In general, import duties for the textile, agriculture and fisheries sectors are very high. The new GSP does not fundamentally change this protectionist EU approach.

Although the import share threshold for fibres and textiles can now be 14.5% instead of 12.5% as it was before, according to the new scheme, it may increase per year by only 15% instead of 20% so as not to lose preference eligibility. This restricts not only the importers’ planning certainty but also the development potential of the textile industry in developing countries. Although tariff reductions for textiles are relatively high at 20% of the ad valorem duty, this advantage is nullified by the costs incurred by making use of GSP preferences, for example for certificates of origin. Therefore, such preferences will not be used much in the future either.

Despite massive subsidies, European agriculture is not competitive compared to that of developing countries, as they have comparative cost advantages, particularly in the agricultural sector. However, through high import duties and safeguard clauses, the EU denies developing countries, except the least developed countries, access to the EU agricultural market. As in terms of industry developing countries are either less or not at all developed, and in the medium-term they have little touristic potential, access to the global market is crucial, especially for their agricultural goods, in order to develop economically.

Impact on Efficiency and Individual Freedom of Choice

Imports increase competition for domestic companies: the intensity of competition is enhanced and this creates innovation and efficiency incentives. Through the suspension of already granted trade liberalizations for almost 100 countries, competitive pressure in the EU is reduced and thus innovation and efficiency incentive are lost. This leads to higher prices and a leaner product range.

Impact on Growth and Employment

With the suspension of preferences for the major part of the hitherto beneficiary countries, the EU creates massive trade barriers. This also weakens economic growth in the EU: although companies subject to strong import competition are protected, this also results in labour and capital being steered towards less competitive sectors and deployed there inefficiently.

Legal Assessment

Legislative Competence

All proposed regulations are covered by Art. 207 TFEU (Common Commercial Policy).

Subsidiarity

The principle of subsidiarity is not affected due to the exclusive competence of the EU (Art. 5 (3) TEU).

Alternative Action

Through free trade agreements with GSP beneficiary countries, trade liberalisations would have bilateral impacts which would open up new markets to export-oriented companies in the EU.

Conclusion

The Generalised Scheme of Tariff Preferences (GSP scheme) has been granting trade preferences to developing countries through preferential tariffs since 1971. The new GSP represents a considerable – protectionist – step backwards from the existing GSP, as it means suspending preferential tariffs for more than half of the countries which until now have been GSP beneficiaries. In the EU, this leads to price increases in import goods for companies and consumers and a reduction in innovation and efficiency incentives for jeopardised domestic manufacturers. Due to the drastic cut in the number of GSP countries, even the relaxation of GSP+ requirements is seriously misguided. The general safeguard clause to protect European producers with “serious difficulties” provides loopholes through which already granted trade liberalisation can be reversed. The specific measures to protect the textile, agriculture and fisheries sectors are contradictory to the development policy motives of the GSP scheme, as they deny developing countries access to the free market, especially with regard to those products for which these countries have comparative competitive advantages.