

Public Consultation exercise on the revision and updating of the European Union's scheme of Generalised System of Preferences (the GSP scheme)

This document does not represent an official position of the European Commission and its contents do not prejudge the future proposal by the Commission.

INTRODUCTION

This issues paper is provided for the purposes of a public consultation exercise on the revision and updating of the European Union's scheme of Generalised System of Preferences (the GSP scheme). This scheme presently operates on the basis of Council Regulation (EC) No 732/2008 of 22 July 2008 applying a scheme of generalised tariff preferences for the period from 1 January 2009 to 31 December 2011 (OJ L211, 6.8.2008). The GSP scheme is an important element in the EU's active support for the sustainable development of developing countries. Preferential access to the EU market under the scheme supports developing countries in their own efforts to reduce poverty and promote good governance and sustainable development by helping them generate additional revenue through international trade, which can then be re-invested in their own development.

The present GSP Regulation expires on 31 December 2011. In the absence of new legislative action to provide for the maintenance of GSP beyond that point, imports from developing countries under the scheme would revert to standard MFN treatment, except for those from LDC's which would still be covered by the open-ended Everything But Arms (EBA) regime. The purpose of the present consultation exercise is to seek comments from interested parties as inputs to the Commission's work to prepare a future proposal to the Council and Parliament on a successor Regulation. The future Commission proposal should take appropriately into account all relevant considerations on the effectiveness of the current GSP in achieving its objectives and incorporate such amendments to the scheme as would ensure its continued effectiveness in the future.

Following entry into force of the Lisbon Treaty, measures defining the framework of the common commercial policy are now to be adopted by the European Parliament and the Council acting jointly under the ordinary legislative procedure (previously, GSP Regulations were decided by the Council alone). The duration of the legislative process on a successor GSP Regulation cannot be predicted with certainty. But it is already clear that the remaining period of application of the current GSP Regulation until 31 December 2011 is insufficient to permit the preparation of a substantive Commission proposal for a successor Regulation, for the Council and Parliament to reach agreement on a new Regulation through the Ordinary Legislative Procedure and for affected parties, including economic actors and beneficiary countries, to be given adequate advance notice of any changes before their entry into force. Consequently, in order to ensure continuity in the operation of the scheme beyond 31

December 2011 until such time as a successor Regulation is ready, the Commission intends to propose to the Council and Parliament a time-limited extension of the current Regulation so as to create sufficient space in which to decide on a new Regulation.

The Objectives of the current GSP

Both the current GSP Regulation and its immediate predecessor for 2006-08 (Council Regulation (EC) No 980/2005 of 27 June 2005) were envisaged as building blocks for achievement of a 10-year vision for the GSP over the years 2006-15. This was based on a Commission communication adopted on 7 June 2004, following a wide and substantial debate at that time ("Communication from the Commission to the Council, the European Parliament and the Economic and Social Committee, on the function of the Community's generalised system of preferences for the ten year period from 2006-2015" - COM(2004) 461 final)). This document set out the main objectives and the new implementing instruments of the GSP schemes which were intended to apply in the years 2006-2015, with the view to provide greater continuity and stability in the GSP scheme, thereby making it more attractive to the beneficiary countries.

Encouraging trade and helping poor countries to improve their infrastructure, manage their natural resources, develop their productive potential in a sustainable manner, expand good governance practices and make their public administration and institutions more efficient remain an important focus in the EU's development strategy. With Aid for Trade support, of which the EU is the largest global provider, an increasing number of GSP beneficiary countries should be able to grasp additional trade opportunities and secure more inward investment so as to broaden their economic base and make their export capacity and performance more competitive, sustainable and diversified. This is essential in enabling more countries to integrate successfully into the global economy and achieve sustainable growth and development. These objectives for the GSP – essentially to contribute to combating global poverty, promote sustainable development and enhance good governance practices - remain highly topical and indeed have become even more important in the context of an increasingly globalised and interdependent world, in which developing countries have recently been affected by a number of significant crises (food, fuel, financial and economic). At the same time, preparation of a successor GSP Regulation provides an opportunity to take stock of the achievements of the current scheme and refine and fine-tune it as appropriate. In light of the new legislative framework provided by Lisbon, it is also necessary to consider how to ensure that the next GSP Regulation is designed in a way that will enable future responsiveness to changing circumstances in the EU and global markets while still ensuring appropriate stability and predictability for beneficiary countries and economic actors, including both traders and investors, and avoiding a continuous legislative cycle.

The special incentive arrangement to encourage sustainable development and good governance (GSP+) makes available additional tariff preferences to developing countries which, due to a lack of diversification and insufficient integration into the international trading system, are vulnerable while at the same time are assuming the special burdens and

responsibilities resulting from the ratification and effective implementation of core international conventions on human and labour rights, environmental protection and good governance. The review of the Regulation provides an opportunity to ensure that the incentives provided under this arrangement are tied to the most relevant conventions and that provisions for monitoring ongoing implementation are refined.

The new Regulation provides the opportunity to review and update the scheme's objectives in the light of new challenges and requirements of the changing economic environment and development needs and at the same time to consider whether the implementing measures remain appropriate and relevant for achieving these objectives effectively. These implementing measures were set out in the 2004 Communication and cover:

- a simple and easy access to preferences
- continuity of generous tariff rates in access to the EU market
- preferences targeted on countries that most need them
- transparent graduation mechanism targeted on the prime beneficiaries
- a special incentive arrangement to encourage sustainable development and good governance
- reinforced temporary withdrawal instruments, safeguard measures and antifraud measures.

Issues not covered in this Consultation

This consultation exercise does not concern issues related to the rules of origin applied under GSP as these are set out in a separate legal instrument, have been already the subject of public consultation in 2006 and are currently under an ongoing reform.

The international legal framework for GSP

The EU attaches great importance to ensuring that its GSP scheme is consistent with its international legal obligations under relevant GATT and WTO agreements. GSP preferences operate as an exception to the most-favoured nation principle under the GATT/WTO. The operation of GSP schemes and the discriminatory treatment they imply in favour of developing countries has been expressly permitted under the GATT Enabling Clause of 1979. As subsequently interpreted by the WTO Appellate Body in 2004, these rules provide that any GSP scheme must be “generalized, non-reciprocal and non-discriminatory”. It needs to be designed to facilitate and promote the trade of developing countries, and to respond positively to their development, financial and trade needs. This does not mean that identical preferential treatment must be provided in all circumstances to imports from all developing countries, but it does imply that preferential treatment under the EU GSP and within its individual regimes should be based on transparent and objective criteria and avoid situations where comparably-situated developing countries would be treated in a different manner.

Supporting material

Apart from the present issues paper, the following material is of relevance for the present exercise and is all available on the relevant web pages of DG Trade:

- external evaluation of the current scheme (expected to be finalised in April 2010)
- statistical data on GSP imports (for years up to 2008)
- current and previous EU GSP Regulations and associated legal instruments

Target Groups

The present consultation is aimed at all parties with an interest in the operation of the EU GSP scheme, including stakeholders within the EU and in third countries, including beneficiaries. EU stakeholders are expected to include importers, wholesalers and retailers of goods imported under the scheme; producers of like and competitive products to those imported under the scheme; investors in beneficiary countries exporting goods to the EU under the scheme; civil society groups, including NGOs, academia, business and private sector associations, EU consultative committees and trade unions. Non-EU stakeholders are expected to include governments, manufacturers, producers and exporters associations for goods exported under the scheme and civil society groupings. Any other interested parties are also welcome to respond.

Treatment of Replies to the Consultation and next Steps in the legislative process

This public consultation will be open until 31 May 2010. The Commission services will prepare a report on the Consultation which will be published on the DG Trade website. This report will provide a consolidated analysis of inputs received in the public consultation, as well as through other relevant channels such as specific meetings with interested parties, and give an indication of how the Commission will take them into account in the preparation of its future proposal to the Council and Parliament. Following an internal impact assessment to be undertaken during the autumn, it is expected that the Commission will be in a position to present its proposal to the Council and Parliament in early 2011.

[Go to the online questionnaire](http://ec.europa.eu/yourvoice/ipm/forms/dispatch?form=NEXTGSPSCHEME&lang=en)¹

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