

GENERAL AGREEMENT ON TARIFFS AND TRADE

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BACKGROUND NOTE FOR REVIEW OF IMPLEMENTATION OF PART IV AND OPERATION OF THE ENABLING CLAUSE

Note by the Secretariat

1. Under its terms of reference, the Committee on Trade and Development is required to keep under continuous review the implementation of Part IV of the General Agreement and to supervise the operation of the Decision on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries (the Enabling Clause). The last review of the implementation of Part IV and of the operation of the Enabling Clause was undertaken by the Committee in November 1984 at its fifty-fourth session.

2. In the course of 1985, the Committee on Trade and Development continued its programme of consultations in pursuance of the Ministerial Decision taken at the November 1982 session of the CONTRACTING PARTIES which called for consultations to examine how individual contracting parties had responded to the requirements of Part IV. Consultations were held with Canada and Switzerland in June 1985 and with Australia and New Zealand in October 1985. In conformity with the agreement reached at the March 1983 session of the Committee, consultations undertaken in pursuance of the Ministerial Decision during the relevant period, together with the work of the Sub-Committee on Protective Measures, form part of the Committee's overall annual review of the implementation of Part IV and the operation of the Enabling Clause.

3. Contracting parties were invited, in GATT/AIR/2211, to make notifications containing information not covered in the programme of Part IV consultations undertaken in the current period and relevant to the regular annual review of the implementation of Part IV and the operation of the Enabling Clause. Notifications received will be circulated to the members of the Committee.

4. Relevant information on actions taken by contracting parties since the last review of the implementation of Part IV and the operation of the Enabling Clause is contained in the following documents:

- (a) Background material for the Part IV consultations; submissions were provided by Canada (COM.TD/W/430), Switzerland (COM.TD/W/431), Australia (COM.TD/W/435), and New Zealand (COM.TD/W/436). Information was provided by the secretariat in COM.TD/W/426 and Add.1 for Canada, in document COM.TD/W/427 and Add.1 for Switzerland, in document COM.TD/W/432 and Add.1 for Australia, and in document COM.TD/W/433 and Add.1 and Corr.1 for New Zealand. Secretariat notes on the proceedings of the Part IV consultations will be before the Committee at this session.

- (b) The note by the secretariat containing certain information of possible interest to the Sub-Committee on Protective Measures for its September 1985 meeting (COM.TD/SCPM/W/30) and the report of the Sub-Committee (COM.TD/SCPM/8).
- (c) The notes by the secretariat for the special meeting of the Council on developments in the trading system (document C/W/470/Rev.1, covering the period October 1984 to March 1985, and document C/W/485 (with any revision that may be issued) covering the period April to September 1985).

No information in relation to the application of the provisions of Part IV over and above that contained in the above-mentioned documents is available to the secretariat.

Generalized system of preferences

5. The following paragraphs summarize improvements and other modifications made in the GSP on the basis of notifications on GSP received since the Fifty-Fourth Session of the Committee.

6. With effect from 1 January 1985, Austria has reduced GSP rates on nine tariff items covering such tropical products as Piper pepper, certain spice seeds (0909), saffron, ginger and coffee extracts. GSP rates of 2-6 per cent on unground spices have been reduced to zero and those on ground spices from 6-14 per cent to 0-9 per cent. The GSP rate on coffee extracts is now 6 per cent instead of 10 per cent. Special rates applicable to least-developed countries on these products have also been reduced. Austria has also reduced GSP rates on about 1900 industrial items in connection with the implementation of its Tokyo Round concessions (6th and 7th stages). The GSP rate of Austria on industrial products is set at 50 per cent or 65 per cent of the m.f.n. rate (L/4108/Add.20).

7. In response to requests made in the tropical products consultations held pursuant to the 1982 Ministerial Decision, Canada granted GSP duty-free treatment on hand-rolled cigars, filed hockey sticks and timber, lumber and mouldings of wood. These actions entered into force on 24 May 1985 on a de facto basis pending parliamentary approval. On 24 May 1984, five countries, Djibouti, Equatorial Guinea, Sao Tome and Principe, Sierra Leone and Togo have become eligible for special tariff treatment applied to least-developed countries (L/4027/Add.20 and Add.22).

8. To give effect to a finding of the Canadian Tariff Board that imports from GSP beneficiaries were causing injury to domestic firms, Canada withdrew GSP on rubber inner tubes (not including those for bicycles) for a three-year period effective 1 May 1985 (L/4027/Add.21). The GSP rate of 10 per cent on Red Lake C pigment dyestuff was also withdrawn on 24 May 1985. However, the m.f.n. rate on this item will be reduced from 13.1 per cent in 1985 to 12.8 per cent in 1986 and 12.5 per cent in 1987. As a general rule, Canada's GSP rate on industrial products is the British Preferential rate or the m.f.n. rate less one-third, whichever is the lower. With respect to automobiles and certain automotive parts, Canada decided to apply the latter rate rather than the former rate which is zero. Thus, the GSP rate on automobiles will be increased from zero to 6 per cent, but this measure will take effect only on 1 January 1987 in order to give exporters time for adjustment (L/4027/Add.22).

9. The EEC provided in February 1985 the EEC Official Journal L/338/84 containing full details of its GSP scheme for 1985. The notification did not give any indication of changes made from the preceding year. On the basis of available material, however, it appears that the following changes have been made in the 1985 scheme. In the agricultural sector preserved bamboo shoots (0703 ex E and 2002 ex H) have been added to the list of GSP items at the rates of 6 per cent and 11 per cent respectively. GSP rates have been reduced by 0.5-3 percentage points with respect to thirty-three agricultural/tropical items, including certain meat and edible meat offals (02.04 ex A), certain crustaceans and molluscs (03.03 A II, III, IV, V and 03.03 B II, IV 2), certain dried vegetables (07.05 B I), certain preserved fruit (08.10 ex B and 08.11 D), flour of dried leguminous vegetables and fruit (11.04 A and 11.04 B II not specified), certain prepared meat or meat offal (16.02 B II) and fish including caviar (16.04 A, ex F, G II), certain preserved fruit (20.03 ex A and B), certain jams and marmalades (20.05 C), certain roasted nuts (20.06 A I and II), coffee substitutes (21.02 D II), prepared mustard (21.03 B), prepared baking powders (21.06 C), prepared rice (21.07 A II), palm tree cores (21.07 G I (a) ex I) and malt beer (22.03).

10. With regard to industrial products, eleven chemical products have been transferred from the list of sensitive products to the list of non-sensitive products: titanium oxides, lead oxides, trichloroethylene, tetrachloroethylene, pentaerythritol, dinoseb (iso), maleic anhydride, aniline and its salts, 1,2-benzisothiazol-3-one, methenamine, certain forms of polypropylene. Items transferred from the list of non-sensitive products to the list of sensitive products included: sodium dichromate, butan-1-ol, lactic acid, isopropylamine, ethanolamine, diethanolamine, triethanolamine, furazolidone, alginic acid, automatic data processing machines, video recorders, certain ball bearings and mattress supports. As a result of transfers between the lists of non-sensitive and sensitive products, seven countries have been affected by the introduction of quota limitations and five countries have benefitted from the abolition of such limitations. Quota limitations have been eliminated in ten additional cases with respect to sensitive items not affected by the transfer. For four GSP beneficiaries, i.e. Republic of Korea, Hong Kong, Brazil and China, industrial items (other than textiles and steel products) subject to quota limitations increased from a total of eighty-four items in 1984 to ninety-one items in 1985. According to a report, ceilings for non-sensitive items have generally been increased by 10 per cent. For certain sensitive items quotas have been increased by 5-10 per cent and ceilings by 5-15 per cent. For each sensitive item some designated beneficiaries are subject to quotas and other beneficiaries are subject to more liberal ceiling limitations. The ceiling for articles of furskin and the quotas and ceilings for quartz watches have been reduced. Romania is excluded from the application of GSP on twenty-five sensitive items (twenty-seven in 1984) and eighteen non-sensitive items (twenty-one in 1984). The above information is subject to verification.

11. With effect from 1 May 1985 Finland has added the following items to its GSP scheme: inedible palm and coconut oil (ex 1507) and jams, fruit puree, etc. of tropical fruits (ex 2005), red mullet, bass and gildhead (ex 0301) and carpets with surface of jute, manila hemp and sisal (ex 5802). GSP on the last item is applicable only to least-developed

countries. Finland has also added Djibouti, Equatorial Guinea, Sao Tome and Principe, Sierra Leone and Togo to its list of least-developed countries. Hong Kong was designated as a beneficiary of its GSP scheme. A special exceptions list applicable only to Hong Kong covers 21 CCCN headings (L/3694/Add.16).

12. Effective 1 January 1985 Hungary has added tableware and other domestic articles, of other kinds of pottery (6912) to its GSP scheme and has reduced GSP rates on thirty-nine industrial tariff items by 50-65 per cent (L/5141/Add.2).

13. Japan's GSP scheme for the 1985 fiscal year starting 1 April includes a number of improvements and other modifications. Ceilings for GSP imports of industrial products have been increased by about 8 per cent on average. Part of the increases were extra increases over and above formula increases. However, increases on sensitive items were smaller than for non-sensitive items. Japan has reduced GSP rates on six items including jute fabrics, wigs and dolls from one-half of m.f.n. rates to zero. For least-developed countries, unlimited GSP entry has been granted on jute fabrics. Japan has reduced GSP rates by 10-50 per cent on eight agricultural items including preserved meat of sheep and horses, certain preserved shrimps, canned vegetable juice, peanut butter and wine. While relaxing GSP ceiling controls on some industrial product groups, Japan has tightened such controls on some other product groups covering bovine cattle leather, wood household utensils, wool yarn, alloyed aluminium and unwrought zinc (L/4531/Add.8 and 10).

14. In September 1985 Japan notified GSP improvements which will be implemented generally in the 1986 fiscal year within the framework of the "Action Programme for Improved Market Access" announced on 30 July 1985. These are (i) extension of GSP coverage to new items and specific reduction of GSP rates with respect to twenty-four tropical and agricultural products, including bananas, macadamia nuts, papaya, palm oil, vegetables and fruits preserved by vinegar and ho oil, and (ii) reduction of GSP rates by approximately 20 per cent in line with across-the-board m.f.n. rate reductions with respect to 115 agricultural and industrial items (L/4531/Add.11).

15. In the Action Programme referred to above and circulated as document L/5858, Japan has proposed to establish the following international principles regarding GSP on industrial and mining products for the purpose of bringing about fundamental improvements to the system through the co-ordinated efforts of industrialized countries:

- (i) Freezing and reduction of product exclusions.
- (ii) Zero GSP rates.
- (iii) Special consideration for least-developed countries.

With regard to agricultural and fishery products, the Programme stated that the Japanese Government would make efforts to expand the product coverage and to reduce GSP rates, bearing in mind the relevance of such action to the new round of multilateral trade negotiations.

16. Following a major review of its GSP scheme, the New Zealand Government announced in December 1984 some changes which would be put into force on 1 July 1985 (L/3466/Add.15). While adopting a threshold above which countries would no longer qualify for GSP (70 per cent of New Zealand's per capita GNP, published in the World Bank Atlas), New Zealand has introduced a system of duty-free treatment for thirty-six least-developed countries. Duty-free treatment for least-developed countries are applicable to all products except baler twine and certain items covered by Schedule 3 of SPARTECA, including passion fruit products, coconut cream, lime juice, articles of apparel and footwear. Hungary, whose per capita GNP is below the threshold, has been designated as a GSP beneficiary. Following consultations with certain contracting parties which have been disqualified from New Zealand's GSP, the New Zealand government notified on 25 July 1985 that it was prepared to consider requests from any contracting party affected by implementation of the 70 per cent per capita GNP threshold for possible reinstatement of GSP on individual tariff items (L/3466/Add.16).

17. Following a major review of its GSP scheme carried out with a view to further trade liberalization for developing countries, Norway has added thirty-four agricultural and thirteen industrial tariff positions or sub-positions to the scheme with effect from 15 March 1985. These GSP improvements, which were made in response to the Part IV consultations and the consultations on tropical products, included cut flowers, flower bulbs, natural honey, fresh, frozen, dried and preserved vegetables, manioc, various fresh, dried and preserved fruits, fruit juices, wheat gluten, olive oil, boiled linseed oil, sugar confectionary, beer, tyre cord fabrics, flax and ramie fabrics, carpets, narrow woven fabrics, domestic articles of porcelain, china or pottery, motor vehicles, and motor cycles (L/4242/Add.25).

18. In parallel with the advanced implementation of its Tokyo Round concessions (7th stage), Switzerland reduced on 1 January 1985 its positive GSP rates. Swiss GSP rates are positive with respect to certain agricultural products, textiles, clothing, footwear, umbrellas, unworked aluminium and dry-cell batteries (L/4020/Add.12).

19. In November 1984 the United States provided a summary of the provisions regarding GSP in the Trade and Tariff Act of 1984 (L/5153/Add.4). Under the new legislation the US GSP scheme has been extended until 4 July 1993 with some modifications, including the following:

Graduation: The President is required to complete within two years a general review in which he will determine which products from which countries are "sufficiently competitive". In those instances where the determination is affirmative, lower competitive need limits set at 25 per cent and \$25 million will be applied. Otherwise, the current limits (50 per cent and \$57.7 million) will continue to apply. The \$25 million limit, like the current \$57.7 million limit, will be indexed to changes in the nominal US gross national product (GNP). In making these determinations, the President will be required to take into consideration a number of factors including (1) the competitiveness of the beneficiary in the particular product, (2) the general level of development of the beneficiary and, (3) the market access considerations described below. If a country's per capita GNP exceeds \$8,500, its GSP benefits will be terminated after a two-year phase-out period. The \$8,500 figure will be indexed to one-half of the increase in nominal US GNP.

Waiver from competitive need limits: All least-developed countries will be fully exempted from all competitive need limits. It will be possible for other beneficiaries to obtain a full waiver of competitive need limits on a product-specific basis. In deciding whether to grant the waiver, the President is directed to give great weight to the market access factors. The amount of de minimus waiver will be increased from \$1 million to \$5 million (in both instances, 1979 is the base year). Whenever the value of total US imports of a product is below this limit, the President can waive the competitive need limit.

Discretionary considerations: In all GSP determinations, the President is required to take into account, inter alia, several discretionary criteria relating to market access. Specifically, he is required to examine: (1) the extent to which the country provides reasonable access to its markets and the extent to which it is refraining from unreasonable export practices, (2) the extent to which it is providing adequate protection to US intellectual property rights (e.g. patents, copyrights and trademarks), (3) the extent to which it is reducing trade-distorting investment practices (e.g. export performance requirements) and barriers to trade in services, and (4) the extent to which it is affording internationally recognized worker rights to its workers.

20. Under the new US legislation on GSP, the following changes were made to the United States GSP scheme on 1 July 1985 (L/5153/Add.5).

Changes resulting from the 1984 GSP product reviews: As a result of the annual product review, four new items (CB radios, except hand-held, clock cases, infant pants of rubber or plastic and preserved cabbage) representing \$41 million in newly-eligible trade have been added to the list of GSP items. One item (trifluralin) has been removed from the list. Four beneficiaries have been graduated from GSP eligibility on certain products in response to petitions filed by US producers: Taiwan Province (locks, certain plumbing goods and acrylic sheet), Republic of Korea (Saccharin and steel hangers), Israel (bromide compounds) and Mexico (concrete block).

Other modifications: Individual countries previously excluded from receiving GSP treatment for particular products may be redesignated as GSP beneficiaries if their 1984 shipments in individual items fell below last year's competitive need limits. Some 12 per cent of the total amount of trade eligible for redesignation - forty-two products valued at \$246 million - has been redesignated and the remaining 88 per cent has been graduated. In 1984, 87 per cent of trade eligible for redesignation was graduated. As a result of a substantial increase in the amount of de minimis waiver from the 50 per cent competitive need to \$7,583,785, imports of 285 products valued at \$251 million from individual beneficiaries have been exempt from the 50 per cent competitive need rule. The value of trade benefiting from this provision was only \$52 million in 1984. New competitive need country exclusions covered \$1.8 billion of trade (base year: 1984). The total amount of such exclusions reached \$13.8 billion, as compared to \$10.7 billion affected by the statutory exclusions last year. Taiwan Province, Mexico, Hong Kong, Republic of Korea, Singapore and Brazil accounted for 91 per cent of the total amount.