

duties shall be refunded in proportion to the volume returned.'

3.6.1.1. Paragraphs 10, 11 and 12 would become 11, 12 and 13 respectively.

Done at Brussels, 20 October 1994.

*The President*  
*of the Economic and Social Committee*  
Carlos FERRER

**Opinion on:**

- the proposal for a Council Regulation (EC) applying a three-year scheme of generalized tariff preferences (1995-97) in respect of certain industrial products originating in developing countries, and
- the proposal for a Council Regulation (EC) extending into 1995 the application of Regulations (EEC) No 3833/90, (EEC) No 3835/90 and (EEC) No 3900/91 applying generalized tariff preferences in respect of certain agricultural products originating in developing countries

(94/C 397/02)

On 11 October 1994 the Council decided to consult the Economic and Social Committee, under Article 198 of the Treaty establishing the European Community, on the abovementioned proposals.

The Economic and Social Committee decided to appoint Mr Giesecke as Rapporteur-General for its Opinion.

At its 319th Plenary Session (meeting of 20 October 1994), the Economic and Social Committee adopted the following Opinion unanimously.

1. The Committee welcomes the proposal to undertake a thorough revision of the Generalized System of Preferences. This time the emphasis is to be on giving priority to the poorest countries.

2. The proposal to achieve this goal, whilst at the same time adhering to the principle of 'overall neutrality' whereby the total volume of preferential imports would remain the same but there would be a switch of emphasis in favour of the poorer countries, is considered to be a particularly positive development.

3. The Committee emphatically endorses the Community's efforts to likewise simplify procedures in undertaking a revision of this kind. Simplification is in the interests both of the poorer countries, whose administrations wish to concentrate their export drive

on transparent markets, and of European importers, who need adequate incentives if they are to build up new networks of suppliers. All proposed new measures must therefore satisfy criteria of simplification, as compared with the old system. Given that the new rules (graduation; solidarity mechanism; special incentives for positive action) are complicated, the Committee fears that this important objective will not be achieved.

4. From this point of view the Committee therefore welcomes the Commission's proposal to introduce a three-year time-scale for the operation of each general tariff preferences scheme. This time-scale will enable both the beneficiary countries and the firms concerned to engage in forward planning.

5. For the same reasons the Committee is pleased that the present system, which is based on customs quotas and ceilings, is to be replaced by a graduated system of preferences linked to the sensitivity of the products in question.

Following the conclusion of the Uruguay Round, most industrial products have a relatively narrow customs margin. The Committee therefore considers that, for the development of a clear and transparent system, the division of products into categories is correct, but that three such categories are entirely adequate, i.e.:

- particularly sensitive products;
- sensitive products;
- non-sensitive products.

In the case of particularly sensitive and sensitive products, customs duties should be reduced as appropriate; duties on non-sensitive products should in principle be suspended.

6. The Committee considers that the introduction by the Commission of a safeguard clause to protect the European Community's industries is absolutely essential given that individual measures will now be valid for a longer period of time, i.e. three years.

In this connection there is every justification for introducing safeguard mechanisms whenever there is a threat of serious damage — and not just when serious damage has already occurred.

The criteria used in testing for serious damage should however be purely objective, which means ignoring criteria relating to the profitability of Community manufacturing industries.

The Committee considers it important that the Regulation contains provisions not only on the introduction of safeguard mechanisms, but also on their duration and periodic revision. Under no circumstances must safeguard mechanisms be allowed to run indefinitely; this is to prevent certain sectors of the European market from sheltering behind protective walls.

7. Given that the tariff preferences scheme is intended to be only a temporary incentive for developing countries, the Committee welcomes the introduction of a graduation and solidarity mechanism (Art. 4).

The aim of the graduation mechanism is to ensure that developing countries which have reached a higher standard in terms of gross national product and export capacity, gradually lose their GSP entitlement and are treated as industrialized countries.

Under the solidarity mechanism, developing countries would no longer receive preferential treatment (and justifiably so) if they are particularly advanced in a specific sector by comparison with other developing countries. The Committee accordingly recommends

exclusion from the GSP if a developing country's exports in a given sector amount to 25% of the total exports of all developing countries in that sector.

The Committee believes that clear verification and decision-making rules are needed before the graduation and solidarity mechanism can be put in place. This is particularly true of the reference period used to determine the level of development of a country and the export volume on which the solidarity mechanism is based.

The Regulation in question should also stipulate that both the graduation and solidarity mechanisms apply exclusively to the current three-year period. They must not, particularly in the future, be introduced for, or calculated in relation to, any other period.

The precondition for the functioning of this system is an accurate and rapidly available statistical record of such imports into all EU Member States.

8. The Committee agrees with the Commission that it should be possible for preferential treatment to be totally or partially withdrawn for a limited period if beneficiary countries engage in certain improper activities (Art. 9 et seq.). The Committee agrees here with the criteria listed by the Commission. The Committee nevertheless believes that, in the case of goods made by prison labour, it would help if the exclusion criterion were drafted more clearly; the focus of attention should be on non-observance of the UN's fundamental principles governing the treatment of prisoners in prisons.

9. The Committee is pleased that special incentive arrangements in the form of an additional preferential margin (Art. 5 et seq.) are to be introduced in the case of particularly positive action.

In the view of the Committee these special arrangements should not apply to advanced developing countries, but rather provide an additional incentive for developing countries which no longer benefit from the full suspension of duties.

However, since the revision of the whole GSP scheme will lead to substantial changes, including changes in the behaviour of the developing countries, the Committee feels that it is questionable whether special incentives intended to come into force in two years' time should be laid down and made binding now. It would seem more appropriate to decide on details of the special arrangements only after the new system has been in operation for some time. The decision can then take into account the findings of any reports ordered in the meantime by the Commission.

10. The Committee also recognizes the great importance of the rules on the cumulation of origin, particularly for the less-developed countries. Such countries should be able to enjoy the advantages of bilateral cumulation in cooperation with EU Member States, as well as multilateral cumulation within regional groupings, even if some individual countries in the region are already more advanced.

The criteria of origin, which are to be adopted in accordance with the rules of the Customs Code, should at all events be easy for administrations and importers

to apply and should be closely modelled on current EU preferential rules of origin.

Done at Brussels, 20 October 1994.

*The President*  
*of the Economic and Social Committee*  
Carlos FERRER

---