



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 30.11.2006
COM(2006) 764 final

2006/0255 (ACC)

Proposal for a

COUNCIL REGULATION

**temporarily withdrawing access to the generalised tariff preferences from the Republic
of Belarus**

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. The Community's generalised system of preferences ("GSP") makes provision for the partial or total removal of the preferential arrangements for products originating in a beneficiary country under certain circumstances, including for serious and systematic violations of the principles laid down in the "core human and labour rights" conventions of the United Nations and the International Labour Organization (ILO).
2. The Republic of Belarus is included in the list of GSP beneficiary countries.
3. At the end of 2003, at the instigation of international trade unions, the Commission published its decision to initiate an investigation into alleged violations of the freedom of association and the right to collective bargaining in Belarus.
4. The Commission investigated the institutional framework, the key institutions, the structure of social partnership and the relevant Belorussian legislation, compared them to international standards, and made use of the conclusions and recommendations of the ILO's Committee on Freedom of Association and its Committee of Experts, as well as of UN reports. The recommendations of these two ILO Committees are the main reference on interpretation of international labour law and rules of correlation between national and international standards. Testimonies provided by the primary national stakeholders, and their partner organisations at the international level were supplemented by interviews with representatives of government and employers' organisations, as well as all relevant international agencies, NGOs and European Commission staff.
5. The investigation found that Belarus is impeding the right to establish trade union organisations freely, the right to organise, the right to choose among trade union organisations, and the right of such organisations to legal recognition and to external funding. Belarus is promoting anti-union discrimination and the dissolution or suspension of trade unions.
6. In parallel to the Commission's investigation, the ILO set up a 'Commission of Inquiry' which, in its report of July 2004, formulated twelve recommendations with which the Belarus Government needed to comply before June 2005, in order to remedy the unsatisfactory application of the ILO's Convention No 87 concerning Freedom of Association and Protection of the Right to Organise, and Convention No 98 concerning the Application of the Principles of the Right to Organise and to Bargain Collectively.
7. In accordance with the procedure laid down in the GSP regulation, the Commission decided to open a six-month period for monitoring and evaluating the situation in Belarus and, in so doing, granted Belarus further time in which to make the commitment to take the necessary measures to conform with the Fundamental Principles and Rights at Work, as expressed in the twelve recommendations in the report of July 2004 by the ILO Commission of Inquiry.
8. Belarus has not made the requisite commitment within this six-month period of monitoring and evaluation (until March 2006). The Commission nevertheless continued to review the situation in Belarus, but, as explained in the recitals to the

draft decision, until October 2006, Belarus did not make a satisfying commitment. The reasons for a temporary withdrawal of the preferential arrangement for products originating in Belarus therefore persist and, given the continued violation of the rights specified above, continue to be more and more urgent every day.

9. In accordance with the procedure set out in Article 20(4) and (5) of Regulation (EC) No 980/2005, the Council should decide within one month by a qualified majority on the proposal from the Commission. If the Council decides in favour of the temporary withdrawal, the Regulation should enter into force six months after the decision is taken, unless the situation changes before then.
10. The situation should be kept under review, to enable the re-establishment of the preferential arrangement for products originating in Belarus if the violations of the freedom of association and of the right of collective bargaining in Belarus no longer exist.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof,

Having regard to the proposal from the Commission,

Having regard to Council Regulation (EC) No 980/2005 of 27 June 2005 applying a scheme of generalised tariff preferences ¹, and in particular Article 20(4) thereof,

Whereas:

- (1) Pursuant to Regulation (EC) No 980/2005, the Republic of Belarus (hereinafter referred to as 'Belarus') is a beneficiary country of the Community's scheme of generalised tariff preferences.
- (2) On 29 January 2003, the International Confederation of Free Trade Unions (ICFTU), the European Trade Union Confederation (ETUC) and the World Confederation of Labour (WCL) made a joint request, to the Commission, for an investigation to be made under Article 27 of Regulation (EC) No 2501/2001 into alleged violations of the freedom of association and of the right to collective bargaining in Belarus.
- (3) The Commission examined the request, in consultation with the Generalised Preferences Committee, and decided, by Decision of 29 December 2003 ², to initiate an investigation. Information from interested parties was sought, by means of a published notice ³.
- (4) The Belorussian authorities were formally notified of the opening of the investigation. They denied any violations of International Labour Organisation (ILO) Conventions No 87 (concerning Freedom of Association and Protection of the Right to Organise) and No 98 (concerning the Application of the Principles of the Right to Organise and to Bargain Collectively).
- (5) The information collected by the Commission during the course of the investigation conducted in consultation with the Generalised Preferences Committee however

¹ OJ L 169, 30.6.2005, p. 1.

² OJ L 5, 9.1.2004, p. 90.

³ OJ C 40, 14.2.2004, p. 4.

corroborated the existence of serious and systematic violations of the freedom of association and of the right to collective bargaining under ILO Conventions No 87 and No 98. Among other things, the Commission learned that the International Labour Organisation examined the situation in Belarus with respect to the two conventions and had started its own respective investigation in November 2003. The resulting ILO Commission of Inquiry report of July 2004 contained 12 recommendations to undertake specific steps to improve the situation in Belarus. Belarus was urged to implement these recommendations by 1 June 2005, which did not occur. On the grounds of this information and its own review, the Commission considered that a temporary withdrawal of the preferential arrangement was justified.

- (6) On 17 August 2005, the Commission decided to monitor and evaluate the labour rights' situation in Belarus⁴. The announcement of the start of the six-month period for such monitoring and evaluation⁵ included a statement of the Commission's intention to submit a proposal to the Council for the temporary withdrawal of the trade preferences, unless, before the end of the period, Belarus had made a commitment to take the measures necessary to conform with the principles referred to in the 1998 ILO Declaration on Fundamental Principles and Rights at Work, as expressed in the twelve recommendations in the ILO Commission of Inquiry report of July 2004. The Belorussian authorities were notified officially of the decision and of the announcement.
- (7) Belarus has not made the requisite commitment within the six-month period of monitoring and evaluation, nor, as described below, during the following months. Instead, on 30 March 2006, Belarussian authorities presented to the Commission a submission on the situation of freedom of association rights in Belarus. The Commission analyzed that submission but concluded that it did not provide sufficient evidence of commitment.
- (8) In the meantime, the ILO Governing Body adopted the Committee on Freedom of Association (CFA) follow-up report in March 2006, in which it pointed to the actual worsening of the situation of trade unions rights in Belarus and urged the Belorussian authorities to take concrete measures immediately.
- (9) Further, the Commission received a communication, dated 16 May 2006, from the Belorussian authorities on the situation of freedom of association rights in Belarus. Just as with the submission of 30 March 2006, after a careful analysis the Commission came to the conclusion that that submission did not provide any sign of commitment or a convincing indication that the situation improved. This assessment of the situation in Belarus was shared in the June 2006 report of the ILO Committee on the Application of Standards of the International Labour Conference, which deplored the continued failure by the Belorussian Government to implement the recommendations and stressed the necessity of rapid actions so that real and tangible progress could be noted. Also the June 2006 International Labour Conference, organized under the auspices of ILO, classified the lack of implementation of the 12 recommendations, which Belarus continued to ignore since July 2004, as a case of continued failure. This

⁴ OJ L 213, 18.8.2005, p. 16.

⁵ OJ C 240, 30.9.2005, p. 41.

exceptional classification is only used for very serious and systematic cases of non compliance with a ratified convention.

- (10) The Commission has carefully analysed up to date developments in Belarus, including a letter from Belarus dated 14 October 2006 and submitted to the Commission on the 17 October 2006. Instead of producing any effective commitment or clear evidence of improved situation, that letter, once again, puts forward possible intentions but lacks indications of effective implementation of the principles of ILO Conventions No 87 and No 98. The violations of principles laid down in the ILO Conventions No 87 and 98 continue to exist.
- (11) In the light of the foregoing the preferential arrangement for products originating in Belarus should be withdrawn temporarily, until it is decided that the reasons justifying the temporary withdrawal no longer prevail.
- (12) This Regulation should enter into force six months after its adoption, unless it is decided before then that the reasons justifying it no longer prevail,

HAS ADOPTED THIS REGULATION:

Article 1

The preferential arrangement for products originating in Belarus provided for in Regulation (EC) No 980/2005 are withdrawn temporarily.

Article 2

The Council, acting by qualified majority, on a proposal from the Commission, shall re-establish the preferential arrangement for products originating in Belarus, if the violations of the freedom of association and of the right to collective bargaining in Belarus no longer exist.

Article 3

This Regulation shall enter into force six months after the date of its adoption.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Council
The President

**LEGISLATIVE FINANCIAL STATEMENT FOR PROPOSALS HAVING A
BUDGETARY IMPACT EXCLUSIVELY LIMITED TO THE REVENUE SIDE**

FINANCIAL STATEMENT			[...]	
			DATE: [...]	
1.	BUDGET HEADING: 120 - € 12 905.4 million		APPROPRIATIONS: [...]	
2.	TITLE: Proposal for a Council Regulation temporarily withdrawing access to the generalised tariff preferences from the Republic of Belarus			
3.	LEGAL BASIS: [...]			
4.	AIMS: Application of Article 26(1)(b) of Regulation (EC) No 2501/2001 [corresponding to Article 16(1)(a) of Regulation (EC) No 980/2005] - the GSP regulation - withdrawing the preferential arrangements from Belarus for serious and systematic violations of the freedom of association			
5.	FINANCIAL IMPLICATIONS	12 MONTH PERIOD (EUR million)	CURRENT FINANCIAL YEAR [n] (EUR million)	FOLLOWING FINANCIAL YEAR [n+1] (EUR million)
5.0	EXPENDITURE	[...]	[...]	[...]
	- CHARGED TO THE EC BUDGET (REFUNDS/INTERVENTIONS)			
	- NATIONAL AUTHORITIES			
	- OTHER			
5.1	REVENUE	[9,0]	[0]	[4,5]
	- OWN RESOURCES OF THE EC (LEVIES/CUSTOMS DUTIES)			
	- NATIONAL			
		[n+2]	[n+3]	[n+4]
5.0.1	ESTIMATED EXPENDITURE	[...]	[...]	[...]
5.1.1	ESTIMATED REVENUE	[...]	[...]	[...]
5.2	METHOD OF CALCULATION: [...]			
6.0	CAN THE PROJECT BE FINANCED FROM APPROPRIATIONS ENTERED IN THE RELEVANT CHAPTER OF THE CURRENT BUDGET?			YES NO
6.1	CAN THE PROJECT BE FINANCED BY TRANSFER BETWEEN CHAPTERS OF THE CURRENT BUDGET?			YES NO
6.2	WILL A SUPPLEMENTARY BUDGET BE NECESSARY?			YES NO
6.3	WILL APPROPRIATIONS NEED TO BE ENTERED IN FUTURE BUDGETS?			YES NO
OBSERVATIONS:				
From Belarus under the GSP:				
	year	imports (EUR)		
	2002	190 million		
	2003	224 million		
	2004	285 million		
	2005	388 million		
Loss of own-resources for 2005 estimated at less than EUR 12 million (on the basis of the cif values for imports of the seventy most significant products)				