

## Partial Regulatory Impact Assessment

### Proposal

1. Revised Proposal for a Council Regulation applying a scheme of generalised tariff preferences (the Generalised Scheme of Preferences – GSP) – COM (2005) 43.

### Purpose and intended effect of measures

#### Objective

2. The primary aim of the draft Regulation is to promote the economic development and growth of developing countries (proposed beneficiaries listed at *Annex A*) by offering preferential tariff access to the European Union market for their goods. The UK and other EU Member States are bound by the EU's GSP scheme, which is part of the EU's Common Commercial Policy.

#### Background

3. Developed countries are not obliged to operate tariff preference schemes such as the GSP, but most do (the U.S, Canada, Japan all have their own schemes). The European Union's scheme is recognised as one of the most wide-ranging of schemes, in both product coverage and country eligibility, but with a low take-up rate of 51% (2002); proposals for the new ten-year period will aim for simplification and be targeted at those developing countries with greatest need.
4. The EU's GSP has traditionally operated for a series of ten-year periods. The revised draft Regulation sets out guidelines to be applied from 1 April 2005 to 31 December 2008 with a transitional period until 30 June 2005. The previous ten-year scheme was due to expire at the end of 2004, but was extended at the end of last year for a further year to allow the Accession States to participate in the renegotiation of the scheme and to take into account the outcome of the WTO ruling on one key aspect of the GSP scheme (para. 6).
5. The current scheme covers both agricultural and industrial products, some 7,000 out of a maximum of 10,000 tariff lines, with most of the exclusions being in the agricultural area. It is supplemented by four arrangements that offer an additional preferential margin to certain developing countries:
  - that comply with certain core labour standards;
  - that comply with certain environmental standards;
  - that are working to encourage wider economic development to help in the fight against the production and trafficking of illegal drugs;
  - that are least developed countries (LDCs), more usually known as Everything –but–Arms (EBA). EBA has given duty-free and quota-free

access to the EU to all exports from LDCs except arms since March 2001, although this access is being phased in for bananas (mid 2006), and rice and sugar (mid 2009).

6. The 'drugs' arrangement (currently providing duty-free access to countries of the Central American Common Market, the Andean Community and Pakistan) was subject of a recent WTO ruling against the EU, which found the lack of transparent and objective criteria for selecting beneficiaries was incompatible with WTO rules. The WTO Dispute Settlement Body determined the "reasonable period of time" for the withdrawal of the 'drugs' arrangement will expire on 1 July 2005. The draft Regulation has been developed to take into account this ruling.
7. In July 2004, the Commission adopted guidelines on the role of the GSP for the next ten-year period 2006 to 2015 - *COM (04) 461*. The Council presented its conclusions to the Communication on the ten-year guidelines in October 2004. The European Parliament and the Economic and Social Committee have similarly expressed their opinions on the guidelines. The Commission conducted a consultation exercise with interested stakeholders in July 2004.

#### Risk assessment

8. The draft Regulation aims to address a number of negative aspects of the current scheme and the implications of bringing forward the implementation date to 1 April 2005.
9. The draft Regulation proposes an increase in the range of products covered by the scheme, particularly from the agricultural and fishery sectors. This proposal addresses the need to ensure those countries whose trade is dependent on such agricultural and fishery products gain preferences through the scheme too.
10. The proposal to apply graduation (withdrawal of preferences for countries considered to be competitive) at the broader customs category level (Section level) aims to address the risk of graduating countries solely on the basis of a few competitive products in a Section. The proposed graduation mechanism will replace the current set of three criteria with one criterion (market share of GSP imports) to ensure predictability.
11. The proposal to remove from the list of beneficiaries those countries that enjoy preferential access to the EU market under the terms of a Free Trade Agreement (FTA) aims to address confusion amongst exporters and importers alike on eligibility. This proposal should not result in a loss of preferences.
12. The proposal to replace the 3 special incentive arrangements in the current scheme (labour standards, environment and 'drugs') with one

single incentive arrangement (GSP+) based on the ratification of a wide range of international conventions and additional criteria determining the vulnerability of a country aims to encourage sustainable development and good governance in developing countries by offering additional preferences. This set of criteria is considered by the Commission to be objective and transparent – addressing the risk of future challenges to the WTO.

13. The proposal includes a transitional period, which provides the application of current preference rates until 30 June 2005, where they provide for a more favourable treatment than the new GSP scheme. This addresses the legitimate expectations of both GSP beneficiaries and EU industry, given that the original Commission proposal had indicated an implementation date of 1 July 2005.

## **Options**

### Option 1 – No GSP scheme for the EU.

14. A decision not to operate a GSP scheme will make gaining market access for developing countries more difficult, leading to a reduction in its exports to the EU market and possibly diverting exports to those developed markets which do have a GSP scheme (e.g. U.S., Canada and Japan). UK importers and consumers are likely to face an increase in prices for goods. UK producers and manufacturers will compete on the same terms as developing countries for the EU market and prices are likely to be set accordingly.

### Option 2 – Current GSP scheme and criteria to be carried forward for another ten-year period.

15. Operating the current scheme for another ten-year period will provide a reduction in tariffs for those developing countries which are not competitive at Chapter level. Countries benefiting from the 'drugs' arrangement (Bolivia, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Nicaragua, Honduras, Pakistan, Panama, Peru and Venezuela) will lose duty free access on 1 July 2005, as a result of the WTO panel ruling with exports attracting a higher and less favourable GSP rate of preference. Product coverage for GSP will be limited to 90% of dutiable products, excluding many agricultural and fishery products. Special incentive arrangements for labour standards and the environment will continue to be in place but have limited take-up due to the low level of preference offered (currently only Sri Lanka and Moldova have qualified for the special incentive for labour standards).

### Option 3 – To fully implement proposals of the GSP scheme set out in the revised draft Regulation.

16. Full implementation of the draft Regulation in its current form will remove preferences for those countries competitive across a number of Custom chapters. It will also extend the product coverage of the GSP scheme to include agricultural and fishery products and remove those countries that enjoy equal preferential access to the EU market under the terms of a Free Trade Agreement (FTA). The special incentive arrangement will provide duty free access to 'vulnerable' countries which have satisfied a range of criteria, including the ratification of 23 international conventions. Ratification of all 27 conventions will be required by 31 December 2008.

Option 4 – Qualified support for the draft Regulation, with the basis for support and required amendments to be determined through the consultation and further consideration and analysis undertaken at EU Council Working Group level. Adopt the revised Regulation.

#### Business sectors affected

17. The draft Regulation covers a wide range of products, including some agricultural and fishery products. All business sectors which rely on imports of these products or produce similar products in direct competition with GSP producers will be affected by these proposals. As part of initial soundings, the main trade associations with an interest in these proposals have been contacted. Feedback from this consultation will assist in the development of this Regulatory Impact Assessment detailing costs and benefits to the private sector.

#### Issues of equity and fairness

18. The WTO Enabling Clause, allowing differentiation between developing countries, justifies inequalities proposed in this draft Regulation.
19. The draft proposal aims to correct a number of inequalities. The graduation criteria has been revised to address anomalies in the current scheme where some countries considered not to be economically diverse have had preferences removed (Chapter graduation). The countries which will now have preferences removed (Section graduation) are listed at Column C of Annex I of the draft Regulation. The special incentive arrangement criteria have been revised to ensure transparency and objectivity. Based on internal analysis, countries likely to qualify for GSP+ (proposed 0% duty on most goods) include Colombia, Costa Rica, Ecuador, Nicaragua, Panama, Peru and Sri Lanka. Other countries, which are close to meeting the GSP+ criteria, are Bolivia, Guatemala, Venezuela, Georgia and Mongolia. The draft proposal sets out additional criteria for GSP+, which aims to limit GSP+ to countries which are not considered a 'large economy'. This will result in the exclusion of China, India, Thailand, Indonesia, Brazil, South Africa, Tunisia, Russia, Morocco, Malaysia, Vietnam, Bangladesh, Pakistan, Argentina, Ukraine, Saudi Arabia, UAE,

Philippines, Mexico and Egypt from GSP+.

### **Consultation with Small Business Service: the Small Firms' impact test**

20. As part of our initial soundings, we have contacted the main trade associations, which might have an interest in the proposals. These were: the Federation of Small Businesses, Forum of Private Business, Institute of Export, Asian Business Federation, British International Freight Association, Confederation of British Industry, British Chambers of Commerce, British Exporters' Association, Asian Trades Link Association, SITPRO and British Importers' Bureau
21. Initial contact with the organisations above has indicated that small firms are unlikely to suffer any significant impact. However, if as a result of formal consultation we identify any as yet unidentified or unintended impacts for small firms, we will consult further with the Small Business Service.

### **Competition Assessment**

22. Although the draft Regulation is unlikely to have a significant detrimental effect on competition, it is likely to stop some firms providing products that they would otherwise provide due to the increased competitive positions of some firms from developing countries assisted by the tariff preference scheme.

### **Enforcement and sanctions**

23. The proposed Regulation is based on Article 133 of the EC Treaty. The proposals set out provisions for developing countries to export goods into the EU market at a reduced tariff or tariff-free rate. EU importers can obtain a GSP rate on eligible goods providing that relevant EU customs documentation is presented when goods leave the originating country. There are no penalties or sanctions for EU importers, which choose not to apply for a GSP rate on goods eligible for GSP.

### **Monitoring and review**

24. The Regulation will be monitored by the Commission, assisted by a Generalised Preferences Committee (composed of representatives of the EU Member States) and chaired by the representative of the Commission. The Committee shall examine the effects of the Regulation on the basis of a report from the Commission (time period for which this report will cover is still to be agreed).

## **Consultation within Government**

25. Other Government Departments (particularly DFID, FCO, DWP, DEFRA, HMT and Cabinet Office) are being consulted about these proposals during this consultation.

## **Public Consultation**

26. The Consultation Document will be sent to a wide range of interested organisations and individuals. The consultation will run for 12 weeks.

## **Summary and Recommendation**

27. The precise impact of the Regulation will depend to a large extent on the outcome of the negotiations. Option 4 is therefore considered to be the preferred option to take forward the draft Regulation. The consultation should inform the UK's negotiating stance as to which parts of the draft Regulation we think should be deleted or improved, or which additions should be made.

## ANNEX A

### LIST OF GSP BENEFICIARIES (LDCs marked with \*)

Afghanistan*	Egypt	Mexico	Tajikstan
Algeria	El Salvador	Moldova (Rep.of)	Tanzania (United Rep. Of)*
American Samoa	Equitorial Guinea*	Mongolia	Thailand
Angola*	Eritrea*	Montserrat	Togo*
Anguilla	Ethiopia*	Morocco	Tokelau Islands
Antartica	Failkland Islands	Mozambique*	Tonga
Antigua & Barbuda	Federated States of Micronesia	Myanmar*	Trinidad & Tobago
Argentina	Fiji	Namibia	Tunisia
Armenia	French Polynesia	Naura	Turkmenistan
Aruba	French Southern Territories	Nepal*	Turks & Caicos Islands
Azerbaijan	Gabon	Netherlands Antilles	Tuvalu*
Bahamas	Gambia*	New Caledonia	Uganda*
Bahrain	Georgia	Nicaragua	Ukraine
Bangladesh*	Ghana	Niger*	United Arab Emirates
Barbados	Gibraltar	Nigeria	United States Minor outlying Islands
Belarus	Greenland	Niue Island	Uruguay
Belize	Grenada	Norfolk Island	Uzbekistan
Benin*	Guam	Northern Mariana Islands	Vanuatu*
Bermuda	Guatemala	Oman	Venezuela
Bhutan*	Guinea*	Pakistan	Viet Nam
Bolivia	Guinea-Bissau*	Palau	Virgin Islands (British)
Botswana	Guyana	Panama	Wallis & Fortuna
Bouvet Island	Haiti*	Papua New Guinea	Yemen*
Brazil	Heard Island & McDonald Islands	Paraguay	Zambia*
British Indian Ocean Territory	Honduras	Peoples Republic of China	Zimbabwe
Brunei Darussalem	India	Peru	
Burkino Faso*	Indonesia	Philippines	
Burundi*	Iran (Islamic Rep. of)	Pitcairn	
Cambodia*	Iraq	Qatar	
Cameroon	Jamaica	Russian Federation	
Cape Verde*	Jordan	Rwanda*	
Caymen Islands	Kazakhstan	Samoa*	
Central African Republic*	Kenya	Santa Helena	
Chad*	Kiribati*	Sao Tome Principe*	
Chile	Kuwait	Saudi Arabia	
Christmas Islands	Kyrgyzstan	Senegal*	
Cocos Islands (Keeling Islands)	Lao Peoples Dem. Rep.*	Seychelles	
Colombia	Lebanon	Sierra Leone*	
Comoros*	Lesotho*	Solomon Islands*	
Congo	Liberia*	Somalia*	
Cook Islands	Libyan Arab Jamahiriya	South Africa	
Costa Rica	Macao	South Georgia & South Sandwich Islands	
Cote d'Ivoire	Madagascar*	Sri Lanka	
Cuba	Malawi*	St Kitts & Nevis	
Cyprus	Malaysia	St Lucia	
Dem.Rep. Congo*	Maldives*	St Pierre & Miquelon	
Djibouti*	Mali*	St Vincent & Northern Grenadines	
Dominica	Marshall Islands	Sudan*	
Dominican Republic	Mauritania *	Suriname	
East Timor	Mauritius	Swaziland	
Ecuador	Mayotte	Syrian Arab Republic	