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**DRAFT REPORT OF THE SPECIAL COMMITTEE ON PREFERENCES
ON ITS TWENTY-SECOND SESSION**

Rapporteur: Mr. E. Manakine (Russian Federation)

Addendum

INTRODUCTION AND ITEMS 3 and 4 (continued)

Speakers: Russian Federation
Canada
Cuba
India
New Zealand
Romania
European Community
Malta
Brazil

Note for Delegations

This draft report is a provisional text circulated for clearance by delegations.

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Chapter I

**REVIEW OF THE IMPLEMENTATION, MAINTENANCE, IMPROVEMENT AND
UTILIZATION OF THE GENERALIZED SYSTEM OF PREFERENCES, RULES
OF ORIGIN AND TECHNICAL ASSISTANCE**

(Agenda item 3)

POLICY REVIEW: TOWARDS REVITALIZATION OF THE GSP

(Agenda item 4)

(continued)

77. The representative of the Russian Federation confirmed his country's position of principle concerning its view of the generalized system of preferences as an important instrument to promote trade and economic growth of developing countries, as well as its adherence to the GSP principles of non-discrimination and non-reciprocity. His country, which was both a preference-giving and a preference-receiving country, continued to grant preferences to 150 countries despite its own economic problems connected with the transition process. The national GSP scheme of the Russian Federation provided for a 50 per cent reduction of duties for imports from beneficiary developing countries and total exemption for imports from LDCs. It also covered practically all products.

78. Russia fully supported efforts for further development of the GSP with a view to enhancing its effectiveness after the Uruguay Round. In this connection he expressed his conviction that endeavours to find mutually acceptable principles of graduation had a chance to succeed, in particular in the area of product coverage, and that the elaboration and implementation of a mutually acceptable methodology to determine the competitiveness of products included in GSP schemes would contribute to a more equitable distribution of the advantages of the GSP among recipient countries and would strengthen transparency and predictability in international trade.

79. Concerning the possibility of expanding the GSP to new areas, including services, investment and agricultural products, care must be taken to avoid situations in which the GSP could harm the national interests of any country.

80. The representative of Canada said that there was still a role for a system of tariff preferences for those developing countries in need of special measures

to help them to increase and diversify export earnings and achieve a higher level of economic development. Since 1974, Canada had extended its scheme to 180 countries and territories, and over the last 21 years, its scheme had been the subject of reviews, criticism and even occasional compliments.

81. In 1994, the Canadian Parliament had decided to extend the preferential scheme until 30 June 2004. A decision had also been taken to hold a comprehensive review of both product coverage and tariff rates under the scheme. This had been done in recognition of the fact that many of the existing margins of tariff preference would be reduced or eliminated over time as the Uruguay Round results were implemented. There were as yet no detailed results of the review because proposals to Ministers were still pending. In 1994, a public notice had been published asking for final comments on changes that would affect over 3,500 tariff lines. The final proposals to Ministers would be presented very shortly, with implementation targeted for early 1996.

82. He informed the Committee that rubber footwear and inner tire tubes had been withdrawn from the Canadian scheme effective 1 July 1994 in view of the repeated temporary withdrawals on these products which had been put in place over the past several years. With respect to rules of origin, there had been a useful exchange of views in July on the Intergovernmental Group of Experts on Rules of Origin. Following that meeting, Canada intended to delete the requirement for a consignee on Form A, and the target date for this change was 15 December 1995. Canada was also examining more broadly the overall requirement for use of Form A, particularly for the least developed countries. Canada also supported the recommendations from the Group set out in paragraph 68 of document TD/B/SCP/13 related to the direction that should be taken in work towards harmonization of rules of origin.

83. With respect to least developed countries, Canada supported the principle of fullest coverage with the most liberal treatment possible and continued to review its scheme towards these objectives.

84. The GSP technical assistance programme had evolved from its original role of educating countries about donor country schemes. The broadening of seminars to deal with a wider range of trade-related issues had been a positive development in recent years. With reference to the final document issued in New York in late September by the High-level Intergovernmental Meeting on the Mid-Term Global Review on the Implementation of the Programme of Action for the Least Developed countries for the 1990s, paragraph 49 of the document noted the importance of refocusing efforts to increase technical assistance to the least developed countries in order to improve the capacity of these countries,

including in the area of the GSP. Canada was prepared to work with the secretariat to identify specific requirements and how better to address them through existing multilateral and complementary bilateral technical assistance channels.

85. Finally, Canada's Trade Facilitation Office continued to provide a comprehensive range of services in assisting developing countries' exporters, particularly those without a strong marketing presence in Canada, to make contact with potential importers.

86. The representative of Cuba said that her Government attached great importance to the work of the Committee, which was meeting a few months before UNCTAD IX. The GSP should be strengthened and revitalized on the basis of multilaterally agreed principles, and she agreed with document TD/B/SCP/13 where it pointed out that the three basic principles of the system had not been fully observed and that divergence from them had grown over the years. In this context, she considered that elements related not to trade issues but rather to political ones should be eliminated.

87. The need to strengthen the GSP could be seen from the real benefits it had brought in terms of increases in exports, as well as the restrictions which had been introduced and which had limited its potential. In this context, she pointed out that, according to secretariat estimates, only one-fourth of dutiable imports actually received GSP treatment. This situation could be made worse by the results of the Uruguay Round, since preferential margins on some products had been partially or completely eroded. Furthermore, there was no evidence that market access opportunities had, in the short term, been improved for agricultural products. For this reason, product coverage should be expanded in this area to respond better to the expectations of developing countries. As far as rules of origin were concerned, she supported the conclusion of the Intergovernmental Group of Experts, as reported in document TD/B/SCP/15.

88. Preference-giving countries should extend their schemes for a sufficient length of time to increase the stability and predictability of the concessions. Furthermore, in implementing graduation, it should be demonstrated that a product was competitive and sufficient time should be provided for the beneficiary to adapt to the new conditions. Denial of preferences should be accompanied by precise information and bilateral consultations.

89. With regard to her own country, it was difficult to see how it could benefit from the GSP when a preference-giving country was currently applying an economic embargo against it and did not grant it GSP preferences. Finally, there

was ample scope to improve the GSP and to examine its shortcomings in order to transform it into a real instrument of international cooperation.

90. The representative of India said that the generalized system of preferences had proved to be a useful instrument for trade creation in all countries in the more than two decades of its operation. Developing countries had benefited from GSP preferential tariffs, as was borne out by the fact that while their exports had increased at an average annual rate of about 8 per cent since 1976, their GSP exports had increased at a rate of about 13 per cent. In 1992, some US\$ 80 billion of exports from developing countries had benefited from low or zero tariffs in OECD preference-giving countries.

91. While the usefulness of the GSP was unquestionable, recent developments such as the reduction of tariffs consequent upon the implementation of the results of the Uruguay Round had eroded the GSP preferential margins by about 9 per cent in the United States, about 15 per cent in Japan and about 23 per cent in the European Union. The tariff quotas, ceilings, maximum country amounts and competitive need limitations discouraged long-term planning and investment by entrepreneurs, as a result of which the average utilization rate of GSP was about 50 per cent. Further complexities had arisen due to the concept of graduation and on account of the exclusion of a large number of products of export interest to developing countries such as textiles and clothing, footwear and leather products, and semi-processed and processed agricultural products.

92. There were considerable variations in the conception and execution of the various GSP schemes. The rules of origin were somewhat complex and stringent, and eligible GSP products were often denied benefits in the preference-giving countries on the grounds of their not meeting the criteria stipulated in the rules of origin. As a result of the reduction of many tariff rates to low levels, there was a need for a comprehensive review of the GSP rules of origin. The low levels of duties no longer justified criteria as stringent as before, since risks of trade diversion, as well as the possible use of origin to safeguard domestic products, had been substantially reduced.

93. In the GSP context, two different sets of rules, i.e. the process criterion and the percentage criterion, governed the rules of origin. Adoption of a single criterion applicable under all GSP schemes would be a major step towards simplification. In the Uruguay Round a single rule had been agreed for non-preferential trade, and it should similarly be possible to adopt a single rule for preferential trade. A single criterion based on domestic content might not be in tune with developments in the post-Uruguay Round situation in view of the increased trade flows, while the criterion based on change in tariff heading

might also not be free from difficulties. The work undertaken by WCO might be made use of, in a phased manner, to adopt similar criteria, with suitable modifications and amendments where necessary, for the GSP rules of origin.

94. The improved functioning of the GSP required enhanced administrative cooperation between preference-giving and preference-receiving countries for ex-post controls, meeting deadlines and ensuring the reliability of the information provided in origin certificates.

95. An important improvement in certain GSP schemes could be the inclusion of a number of products of export interest to developing countries, such as textiles and clothing, footwear and leather products, and semi-processed and processed agricultural products.

96. Many developing countries were attempting structural adjustments and economic reforms. The success of these programmes would depend, to a great extent, on the market access they were able to obtain. A strengthened, improved and expanded GSP preferential system would be a measure of support for their trade liberation policies which, apart from benefiting the developing countries themselves, would also stimulate global growth.

97. The representative of New Zealand said that the GSP had a very useful place in the world economy. New Zealand had launched its GSP scheme in 1974, and since then there had been four reviews of the scheme and a number of changes in tariff and industry policies. As a result of these reviews, New Zealand had moved to a negative list concept where the tariff was covered by the GSP without any quantitative limits. The need for official declarations or forms had been removed, and GSP rates were 80 per cent of the normal rate. In 1985 a special scheme for least developed countries had been introduced granting duty-free entry over most of the tariff except for textiles and apparel.

98. Since 1985, New Zealand had been concerned with removing barriers to competition, and the average tariff, previously 40 per cent, would be down to 5 per cent by the year 2000. Under the programme announced by the Government in December 1994, there would only be three tariff levels by the year 2000: 5, 10 and 15 per cent, the last two applicable to textiles, clothing, footwear and motor vehicles. The Uruguay Round outcome implied a drastic reduction of GSP margins, but as access to the New Zealand market had been drastically improved for all countries, this would not be a big problem. Since 1985, New Zealand had introduced graduation under which countries were graduated either when their per capita GNP reached 70 per cent of the New Zealand level, which

was currently US\$ 8,600, or when a country supplied more than 25 per cent of imports of goods under a particular tariff item.

99. While 148 countries benefited from New Zealand's GSP scheme, most of the benefits went to a limited number of countries. In fact, least developed countries, notwithstanding duty-free entry, provided less than 1 per cent of imports under the scheme.

100. New Zealand would commence a review of the GSP shortly which would take into account several issues such as product coverage, graduation criteria, depth of tariff cuts, the limited use of the scheme by least developed countries, direct shipment and other forms of assistance. With regard to product graduation, it was necessary to achieve transparency and predictability. Some proposals had been made in the Special Committee to extend GSP coverage. In agriculture, New Zealand had long been an advocate of reducing barriers and tariffs, and it followed that policy itself. In textiles and clothing, New Zealand had removed the last quantitative restrictions in 1992. In that connection, however, it must be emphasized that New Zealand now had less than half the number of people employed in these industries than six years previously. New Zealand had a very open services market and did not have investment incentive programmes, hoping that barriers in these areas might continue to be reduced. He stressed that any proposal to introduce preferences in this area would require very careful assessment in terms of the thrust of the Uruguay Round and the implications for the distortion of investment decisions. With regard to rules of origin, New Zealand had no problem with the concept of a harmonized approach.

101. The representative of Romania recognized the need to harmonize the rules of origin for the GSP schemes in order to make the system more predictable and easier to use for exporters, particularly small and medium-sized private exporters. Romania had used the GSP in order to develop economically and was grateful for the advantages it had been granted. In that connection, she welcomed the improvements made to the Japanese scheme.

102. She understood the concern of preference-giving countries with respect to differentiating among beneficiaries. However, she felt that graduation should be tackled cautiously, and any graduation scheme must be carefully designed and properly managed. Her delegation's point of view was that graduation must not limit the existing advantages or affect the development efforts of the beneficiary countries. Furthermore, the economic criteria to be taken into consideration when considering graduation of certain products covered by the GSP schemes should include not only their direct weight in the total imports of the donor country but also their weight in the national output of the beneficiary.

Should graduation become the rule of GSP, her delegation would support the idea that economic criteria alone should be taken into consideration, and such economic criteria should be multilaterally determined and accepted.

103. Now that the Uruguay Round had been successfully concluded and new areas of trade were covered by the Agreements, there was a need to review the GSP in order to revitalize it. This revitalization must have as its aim the promotion of trade and economic development.

104. The representative of the European Community informed the Committee that the Community's new industrial scheme of generalized preferences had been adopted on 19 December 1994. The guiding light of the new scheme was to return the GSP to its basic objective as conceived by UNCTAD itself. The analysis of the old scheme had made it clear that the old mechanism of quotas and ceilings had produced a situation where each product/country pairing was dealt with on a case-by-case basis using individual criteria of sensitivity/competitiveness which were trade policy criteria. The situation had been redressed by viewing the new scheme from a global industrial development perspective and therefore by abolishing completely the system of quotas, fixed zero-duty amounts and ceilings, and at the same time abolishing the extreme complexity of management that it had entailed. The old system had been replaced by a system of modulated preferential duties, which was much simpler to manage for operators and administrations alike, because it was applied in a uniform way for all recipients and according to a hierarchy of percentages of reduction, involving four categories of degree of sensitivity, which were easily identifiable.

105. The uniform application of the modulation system for all beneficiary countries illustrated the will of the Community to eliminate from the scheme any form of discrimination between beneficiaries based on product competitiveness. While the modulation of the preferential duties reflected the differences in sensitivity of the products, this sensitivity was now analysed on the basis of the Community market situation, irrespective of the origin of the product. In the new European Community scheme, the only differentiation between beneficiary countries was based on industrial level of development. This involved a radical change in the concept of the scheme resulting in two types of exceptions to the principle of the uniform application of the basic plan for all beneficiaries: one positive, applicable to countries which overall had not reached a sufficient level of development (LDCs) or where the individual situation due to the drug problem seriously handicapped development; the other, negative, applicable to countries which had reached a high level of development at least in certain sectors. This latter type of exception took the form of a graduation mechanism. The objective of the graduation mechanism should not be seen as a penalty

sanctioning excessive performances, but rather as recognition of the level of development reached by certain countries which enabled them to face international competition under the common rules. For the other countries, where the level of development was still low and which were therefore not affected by the graduation mechanism, the effect of the graduation could be very positive. The European Community's graduation mechanism would be applied with discernment, without haste and in a transparent and objective way. This could be seen from the fact that the European Union had opted for a graduation mechanism by major production sectors and by country, and not, as had happened in certain large donor countries, for all the exports of a country as a whole or for a whole sector of all beneficiary countries. Any haste had been excluded by utilizing a progressive approach that allowed the affected countries to adapt to the new situation by granting them a longer or shorter timetable according to their income level: this meant delaying the application of full and complete graduation until 1 January 1998 for the majority of the affected countries. Transparency and neutrality had been ensured by providing for the complete publication of the full methods of calculating the various criteria used.

106. The new European Community scheme for the industrial sector would have a duration of four years instead of one, which ensured more stability for the commercial operators. The Community was fully aware of the concerns which had been raised on the specific effects that the new modulated preferential duties or the application of graduation could have on beneficiaries. The fact that in some cases it would be possible that some imports would have to pay higher customs duties than under the old regime must not be interpreted dramatically, because the different treatment given to different competitors reflected, under the new EU GSP scheme, the different strength of competitors. In this context, the establishment of an annual report within the framework of the newly established Management Committee for Generalized Preferences would provide for clarity and keep the partners informed of the results of the scheme.

107. He also drew the Committee's attention to the possible increasing benefits deriving from the additional offer which might be set up as from 1998 in the form of the special encouragement schemes. He rejected the criticisms of protectionism and interference addressed to these arrangements, because the new offer would allow a preferential margin which would be added to the existing advantages with the aim of encouraging policies aimed at improving social and environmental aspects in accordance with the GSP's basic objective. There could be no question of interference, since the application of a measure depended on the clearly demonstrated willingness of the country which wished to benefit from it.

108. The attitude of the European Community in this area was of openness, cooperation and dialogue, because the application of these measures would be put into effect after having listened to the debates on the issue in the WTO and in ILO, OECD or UNCTAD.

109. Even in cases where basic human rights were in question, for example in the context of slavery and forced labour, the European Community had shown its attitude of cooperation. In fact, the procedure envisaged on this matter involved three phases entailing preliminary consultations of a confidential nature, a public survey with hearings and, finally, classification of the complaint or withdrawal of the preferences GSP. Withdrawal would be decided upon only in the event of failure of the previous phases.

110. With regard to the rules of origin, he stressed the importance of the introduction of donor country content that would stimulate both cooperation between companies of the beneficiary countries and of the European Community and the use of the GSP. Furthermore, the Community was fully aware of the need to simplify and harmonize these rules of origin, and he appreciated the agreed conclusions of the Intergovernmental Group of Experts on Rules of Origin, in particular those concerning the follow-up to the work on harmonization started under the auspices of the WTO.

111. Finally, a new agricultural scheme based on the 10-year guidelines which were the basis of the industrial scheme was being prepared and should apply until the same date as the industrial scheme.

112. The representative of Malta said that, although beneficiary countries had been facing increasing obstacles in the utilization of the scheme, the GSP remained a very important instrument in assisting and promoting trade between donor and developing countries. The GSP should be general, non-reciprocal and non-discriminatory, and it should increase the export earnings of the developing countries, promote their industrialization and accelerate their rate of economic growth. There was clearly scope for improving the effectiveness of the GSP, especially for the least developed countries, by extending the product coverage to cover more agricultural products.

113. The GSP had been very effective in attracting foreign private investment into Malta, and the incentives created by the system had permitted the diversification of the portfolio of exportable products. For example, there had been a consistent upward trend in Maltese exports to the United States of America for the last seven years, particularly of electrical machinery, rubber articles, plastic products and jewellery items. The previous year had also seen enhanced

exports to other GSP donor countries, especially Canada, Switzerland and Australia. She appreciated the support of all the GSP donor countries that had permitted, over the last 20 years, the reconstruction of her country's export-oriented industrial base.

114. With regard to rules of origin, she appreciated the work of the Intergovernmental Group of Experts on Rules of Origin, since the diversity of the rules of origin acted as an obstacle to exporters and gave rise to the need for the harmonization of the origin criteria, whether full or partial.

115. The representative of Brazil emphasized the important role that had been played by GSP schemes in creating better opportunities for developing countries in terms of market access in developed countries. Brazil had benefited considerably from these opportunities.

116. His country's first preoccupation was the question of graduation, as Brazilian exports in various fields, such as capital goods, leather and paper products, had been seriously affected by abrupt loss of preferences. This issue would have to be discussed in the context of the principles of the GSP in order to establish a fair set of criteria which would not be harmful to preference-receiving countries.

117. With regard to conditionalities inserted in GSP schemes, he was of the opinion that they were in clear contradiction with the general principles of the GSP and might create a dangerous precedent for the emergence of concepts bearing a protectionist bias.

118. He stressed the need for harmonization and simplification of the criteria employed in determining the origin of goods by preference-giving countries. In this regard he appreciated the adoption by some preference-giving countries of the rules of "donor country content" and "full global cumulation".

119. Finally, even though the schemes were voluntary and autonomous, decisions related to changes in them should be conducted in a transparent manner that took account of the views and needs of preference-receiving countries.