

**SPECIAL AND DIFFERENTIAL TREATMENT PROVISIONS**

Communication from Hungary

The following communication dated 27 June 2002 has been received from the above delegation.

1. The delegation of Hungary wishes to submit a number of written question concerning the proposal of Paraguay circulated as document TN/CTD/W/5 which was first discussed at the Special Session of the Committee on Trade and Development on 14 June 2002. These questions are aimed at a better understanding and clarification of certain aspects of the proposal and in no way prejudices the position of Hungary. It would be most appreciated if the answers were also given in a written form, preferably well in advance of the next Special Session in order to enable delegations to reflect on their contents.
2. As the Hungarian delegation understood from the proposal, the introductory statement as well as from answers given to the questions by the distinguished Ambassador of Paraguay, the basic goal is to ensure the implementation of the Enabling Clause (L/4903) in such a way as to prohibit any differentiation (discrimination) among developing countries in access to the benefits of national GSP regimes. Paragraph 10 of the proposal specifies six of the criteria sometimes used by GSP-providing countries for differentiation among developing countries, reliance on which is considered to be illegal. The position of Paraguay seems to mean that in contrast with the present situation when GSP regimes are shaped in an autonomous manner and the providers of such benefits decide whether and under what conditions these are provided, not just the reliance of GSP regimes on any of the six criteria would become illegal, but even the possibility to request waivers to such effect would be foreclosed.
3. Such consequences of the proposal could have major implications for Hungary for a number of reasons. Our country is at an intermediate state of economic development with a per capita GDP level of about US\$5.000; this puts Hungary above most developing countries in respect of this basic index of development, but well below developed economies and even many of the more advanced developing countries. Still, the Hungarian Government decided decades ago in an autonomous manner to operate a rather generous GSP system, with tariff preferences for a wide range of products produced by developing countries and with full duty-free access, without any limitation for all products of LDCs. However, due to our intermediate level of development, there is a limitation on the beneficiaries based on their level of development: the Hungarian legislation maintains the right not to provide GSP benefits to countries with higher levels of economic development – as measured in per capita GDP – than that of our country. Thus the Hungarian GSP regime contains at least two of the criteria mentioned in paragraph 10 of the proposal of Paraguay: the use of development indices and graduation, which is considered by the proposal to be discriminatory in nature and thus proposed to be prohibited.

4. With the above considerations in mind, the Hungarian delegation puts forward the following questions:
1. In order to prevent discrimination among developing countries by excluding any of them from the beneficiaries of national GSP regimes, does Paraguay foresee the establishment of a standard list of developing countries, having the right to receive GSP benefits?
  2. Would the present practice of self-election of the status of developing countries be retained or would there be a multilaterally agreed List of GSP Beneficiaries?
  3. How would those cases be treated when some countries on a standard list of GSP beneficiaries have a higher level of development than that of the country providing the GSP benefits? With criteria related to development indices and graduation to be prohibited, would the latter countries be under obligation, enforceable through the WTO dispute settlement system, to provide trade preferences to richer, more developed countries than themselves?
  4. If the answer to question 3 is affirmative, how could such an obligation be justified from an economic and political aspect?
  5. Does it follow from the proposal that if a GSP providing country wishes to avoid granting such preferences to richer countries, the only way is to abolish its scheme altogether, or does Paraguay see any legal way to limit the availability of preferences to those WTO Members with a lower level of economic development?
  6. Is it a correct understanding that Paraguay proposes to prohibit even the submission of a request for a waiver aimed at differentiation among developing countries? If so, is a specific change to this effect of the WTO rules governing the requests for a waiver foreseen?
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