

**EUROPEAN COMMUNITIES – CONDITIONS FOR THE GRANTING  
OF TARIFF PREFERENCES TO DEVELOPING COUNTRIES**

Request for Consultations by India

The following communication, dated 5 March 2002, from the Permanent Mission of India to the Permanent Delegation of the European Commission and to the Chairman of the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

My authorities have instructed me to request consultations with the European Communities (the EC) pursuant to Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes, Article XXIII:1 of the General Agreement on Tariffs and Trade 1994 (the GATT 1994) and paragraph 4(b) of the Decision of 28 November 1979 of the GATT Contracting Parties on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries (L/4903, BISD 26S/203) (the Enabling Clause) regarding the conditions under which the EC accords tariff preferences to the developing countries under its current scheme of generalized tariff preferences (the GSP scheme).<sup>1</sup>

India is particularly concerned about the following conditions:

1. The tariff preferences accorded under the special tariff arrangements for combating drug production and trafficking are available only to specified countries selected by the EC; and
2. The tariff preferences accorded under the special incentive arrangements for the protection of labour rights and the environment are accorded only to countries that meet labour and environmental policy standards determined by the EC.

India considers that the tariff preferences accorded under these special arrangements create undue difficulties for India's exports to the EC, including for those under the general arrangements of the EC's GSP scheme, and nullify or impair the benefits accruing to India under the most-favoured-nation provisions of Article I:1 of the GATT 1994 and paragraphs 2(a), 3(a) and 3(c) of the Enabling Clause.

India notes that there are two important requirements that tariff preferences to products originating in developing countries must meet under WTO law. First, according to paragraph 2(a) of the Enabling Clause, the preferences must be granted in accordance with the Generalized System of Preferences described in the waiver that CONTRACTING PARTIES to the GATT 1947 adopted on 25 June 1971.<sup>2</sup> This decision refers to the UNCTAD agreement on the establishment of a system

<sup>1</sup> Council Regulation (EC) No. 2501/2001 of 10 December 2001 applying a scheme of generalized tariff preferences for the period from 1 January 2002 to 31 December 2004 (Official Journal L346, 31/12/2001).

<sup>2</sup> Para. 2(a) and footnote 3 of the Enabling Clause.

providing for "generalized, non-reciprocal and non-discriminatory preferences beneficial to the developing countries in order to increase the export earnings, to promote the industrialization and to accelerate the rates of economic growth of these countries".<sup>3</sup> Second, according to paragraphs 3(a) and 3(c) of the Enabling Clause, the preferences "shall be designed to facilitate and promote the trade of developing countries" and "respond positively to the development, financial and trade needs of developing countries". It appears to India that the conditions under which the EC accords tariff preferences under the special arrangements cannot be reconciled with these two requirements.

India requests for these reasons consultations with the EC on the question of the compatibility of the special arrangements under the EC's GSP scheme with Article I:1 of the GATT 1994 and paragraphs 2(a), 3(a) and 3(c) of the Enabling Clause. India reserves its right to raise further factual or legal issues during the course of the consultations.

India looks forward to receiving your reply to this request. I propose that the date and venue of these consultations be agreed between our two Missions.

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<sup>3</sup> Third clause of the preamble of the Decision of 25 June 1971 on the Generalized System of Preferences (L/3545, BISD 18S/24, 25).