



The Generalised Scheme of Preferences Regulation (No 978/2012)

European
Implementation
Assessment

STUDY

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European Implementation Assessment

On 17 April 2018, the Conference of Committee Chairs approved a request made by the Committee on International Trade (INTA) to draft an implementation report on the implementation of the Generalised Scheme of Preferences (GSP) Regulation No 978/2012 (rapporteur: Christofer Fjellner, EPP, Sweden). This European Implementation Assessment (EIA) seeks to accompany the scrutiny work of the INTA committee and the preparation of the aforementioned implementation report.

By providing preferential access to the EU market, the EU Generalised Scheme of Preferences (GSP) has aimed to help developing countries generate additional revenue through international trade in an effort to reduce poverty, and promote good governance and sustainable development.

This evaluation is organised in two parts. The first part, which has been prepared internally, focuses on the incentives in the GSP provisions that aim to push beneficiaries to comply with human rights and the extent to which these have been implemented and have had an impact on poverty reduction and good governance. In doing so, it analyses the European Commission's assessments, the European Parliament's oversight work and relevant studies prepared by the research community.

The second part, prepared by an external expert, is an economic evaluation of the GSP Regulation that examines three inter-related questions: how beneficiaries have graduated from the GSP and what role preferences have played; how trade relations between the countries that have recently graduated from the GSP and those that still benefit from it are affected; and what the impact of changes in the rules of origin has been.

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Executive summary

The EU's Generalised Scheme of Preferences (GSP), created following recommendations from the United Nations Conference on Trade and Development (UNCTAD), aims to make it easier for developing countries to export their products to the European Union. This is done through preferential (reduced) tariffs for their goods when they enter the EU. Through the additional export revenue that is generated, it is hoped that GSP Regulation 978/2012, whose implementation is analysed in this study, will lift beneficiaries out of poverty, by creating economic growth and job creation, and promote good governance and sustainable development.

The GSP Regulation provides a sliding scale of preferences within three schemes according to the different needs of developing countries:

- standard GSP for low and lower-middle income countries;
- GSP+ for vulnerable low and lower-middle income countries;
- EBA (Everything But Arms) for least developed countries.

The first part of the study, prepared in-house by the Ex-Post Evaluation Unit of DG EPRS, focuses on the use of incentives in the GSP provisions that seek to push beneficiaries to comply with social and human rights and the extent to which these provisions have had an impact on poverty reduction and good governance.

Overall, GSP Regulation 978/2012 can be considered as a facilitator of social development and a useful way of monitoring the ratification of and legalistic adherence to conventions on fundamental labour and human rights. When it comes to the actual implementation of the protection of social and human rights in beneficiary countries, impact has been mixed. The threat of temporary removal from the scheme in cases where countries fail to comply with international human rights obligations is said to have the potential to initiate change in the EU's trading partners. This has yet to be tested, however, and it has not been possible to evaluate its impact.

The GSP Regulation has also had mixed results on poverty reduction. The European Commission assessments attempt to show that increased trade flows and improved compliance requirements with international conventions have led to growth in the beneficiaries and supported poverty reduction. However, as with the case of good governance, it is difficult to attribute poverty reduction for the most vulnerable to the GSP. Although increased exports and the resulting economic growth are likely to contribute to social development and poverty reduction, this depends on whether the beneficiary countries have policies and the political will to effectively channel the extra resources to social and distribution-improving policies. In parallel, it should be noted that the European Commission-contracted evaluation, in agreement with other experts, has shown that economic growth and export opportunities can also lead to worsened social and human rights situation. It has pointed to instances of land grabbing (e.g. Ethiopia and Cambodia) and the violation of fundamental labour rights (e.g. Bangladesh).

To respond to these challenges, this first part of the study offers some recommendations for improving the implementation of the GSP Regulation. These include:

- **putting more focus on GSP+ countries:** while the GSP Regulation has provided the incentives needed for the ratification of the ILO conventions that are necessary for joining this arrangement, enforcement of the conventions still lags behind. Monitoring of the GSP+ beneficiaries needs to be further strengthened;

- **providing a better definition of which countries are vulnerable:** by wanting to focus on helping those most in need, the new GSP Regulation has defined which are the poorest countries too narrowly, using as a sole criterion the World Bank indicator of GDP for upper and middle income countries. A mix of development criteria is needed to create a more inclusive definition of the countries 'most in need', because ACP countries that are not categorised as least developed countries (LDCs) are now excluded from GSP preferences. This, however, often means that they have no fall-back option if economic partnership agreements (EPAs) leave them worse off than before, although these low-income non-LDC countries, especially in Africa, are often in an economic situation that is just as weak as their neighbouring LDCs;
- **giving civil society a more prominent role** through involvement in monitoring the effective implementation of human rights commitments set out in international conventions to help enhance transparency and accountability; and empowering civil society to carry out an impact assessment of any trade measures to be taken in response to human rights violations;
- **developing alternative sanctioning mechanisms**, placing an obligation on economic operators who want to export to the EU to uphold human rights and labour rights. Companies would be required to put in place due diligence practices, in line with the UN guiding principles on business and human rights. Another mechanism could be to modify the standard GSP and EBA schemes to blacklist companies responsible for serious human rights violations;
- **engaging the private sector** to help the bottom billion (GSP+ and EBA beneficiaries) out of the doldrums; this is not exclusively a government operation, in line with lessons that can be drawn from the experience of the Organisation for Economic Cooperation and Development (OECD) in this area;
- **continuing to mainstream human rights obligations in the EU's external action:** when the EU acts coherently and exercises its leverage through different instruments in parallel, it can be more effective. In that context, GSP suspension has been coherent with Common Foreign and Security Policy (CFSP) sanctions; EU human rights tools have been used alongside the monitoring bodies of the International Labour Organisation (ILO) and the United Nations (UN); and joint capacity-building projects supporting good governance have been developed between the EU and other relevant international donors.

Reference should also be made to the executive summary of the annexed research paper on 'The impact of changes in the GSP Regulation No 978/2012 with a focus on the graduation of countries from the scheme, the role of preferences and rules of origin' for further recommendations of an economic nature.

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List of acronyms

ALDE	Alliance of Liberals and Democrats for Europe, European Parliament
CARIFORUM	Caribbean Forum of the African, Caribbean and Pacific Group of States
CAT	Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
CFSP	Common Foreign and Security Policy
CRC	Convention on the Rights of the Child
CSO	civil society organisation
CSR	corporate social responsibility
CTC	Change in Tariff Classification
CTH	Change in Tariff Heading
DG CLIMA	Directorate General for Climate Action, European Commission
DG DEVCO	Directorate General for International Cooperation and Development, European Commission
DG EMPL	Directorate General for Employment, Social Affairs and Inclusion, European Commission
DG ENV	Directorate General for Environment, European Commission
DG HOME	Directorate General for Migration and Home Affairs, European Commission
DG SANTE	Directorate General for Health and Consumer Protection, European Commission
DG TRADE	Directorate General for Trade, European Commission
EBA	Everything but Arms
EC	European Commission
ECR	European Conservatives and Reformists, European Parliament
EEAS	European External Action Service
EFDD	Europe of Freedom and Direct Democracy, European Parliament
EIA	European Implementation Assessment
EP	European Parliament
EPA	economic partnership agreement
EPP	European Peoples' Party
EPRS	European Parliamentary Research Service
EPZ	export processing zone
EU	European Union
FATF	Financial Action Task Force

FTA	free trade agreement
GATT	General Agreement on Tariffs and Trade
GDP	gross domestic product
Greens/EFA	European Greens/European Free Alliance, European Parliament
GSP	Generalised Scheme of Preferences
GSP+	Special Incentive Arrangement for Sustainable Development and Good Governance
GVCs	global value chains
GUE/NGL	European United Left/Nordic Green Left, European Parliament
HS	Harmonised System
ICCPR	International Covenant on Civil and Political Rights
ILO	International Labour Organisation
INTA	Committee on International Trade
LDCs	least developed countries
MEP	Member of the European Parliament
MFN	most-favoured nation
NGO	non-governmental organisation
OECD	Organisation for Economic Cooperation and Development
RMG	ready-made garments
RoO	Rules of Origin
RTA	regional trade agreement
RVCs	regional value chains
SDGs	Sustainable Development Goals
S&D	Progressive Alliance of Socialist & Democrats, European Parliament
SME	small and medium enterprise
SPI	Social Progress Index
TAO	Tariff Analysis Online, World Trade Organisation
TEU	Treaty on European Union
UN	United Nations
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme
UNODC	United Nations Office on Drugs and Crime
WTO	World Trade Organisation

1. Introduction

The European Union (EU) set up the Generalised Scheme of Preferences (GSP) with the aim of assisting vulnerable developing countries in their efforts to reduce poverty, and promote good governance and sustainable development. In order to reach this objective, the GSP provides developing countries with preferential access to the EU market to help them generate additional revenue through international trade. It is through additional export revenue that the GSP hopes to foster growth in their incomes and support economic growth and job creation.¹ To do so, following UNCTAD recommendations, the EU allows GSP beneficiaries to pay fewer or no duties on exports to the EU. The GSP is subject to World WTO law, in particular to the GATT and the so-called 'enabling clause', which allows for an exception to the WTO 'most-favoured nation' (MFN) principle (i.e. equal treatment should be accorded to all WTO members).

Regulation (EU) No 978/2012 of the European Parliament and the Council of 25 October 2012 on applying a scheme of generalised tariff preferences¹ ('the GSP Regulation') is the legal framework for the GSP. The INTA committee was the lead committee in the European Parliament when this regulation was adopted in 2012 – the first time this institution acted as a co-legislator for this regulation – and introduced several novelties compared to previous schemes. Among them was the obligation of the Commission to submit to the European Parliament and to the Council, every two years, as of 1 January 2016, an implementation report on the effects of the GSP covering all three preferential arrangements (standard GSP, GSP+ and Everything But Arms), further explained in the following section. The other obligation laid out in the new GSP Regulation was to carry out a mid-term review, which has been completed and was published in October 2018.²

The tariff preferences of this regulation have now been applicable since January 2014. While the current GSP Regulation will apply until December 2023, the European Commission will already have begun its preparatory work on a new regulation by the end of 2018. It is in this context that it commissioned an externally contracted evaluation of the regulation,³ which fed into its mid-term review with a view to preparing a new communication (but not new legislation at this point) on this regulation. In that context, the European Parliament decided to carry out its own assessment of the implementation of this regulation in parallel, in order to come up with concrete proposals on improving its functioning.

1.1. GSP structure

The GSP is a specific instrument focusing on a single dimension only: preferences for trade in goods. It does not have the ambition or the possibility to tackle other problems faced by developing countries. Yet, the GSP has the potential to feed into the EU's development policy through its three general objectives:

¹ For a short historical overview of the GSP, see Ionel Zamfir, [Human rights in EU trade policy: Unilateral measures](#), EPRS, European Parliament, January 2017, p. 2.

² European Commission, [Commission staff working document. Midterm Evaluation of the Generalised Scheme of Preferences accompanying the document Report from the European Commission to the European Parliament and the Council on the application of Regulation \(EU\) No 978/2012 applying a Scheme of Generalised Tariff Preferences and repealing Council Regulation \(EC\) No 732/2008](#), COM(2018) 665 final, 4 October 2018.

³ DEVELOPMENT Solutions Europe Ltd, [Mid-Term Evaluation of the EU's Generalised Scheme of Preferences \(GSP\) - Final Report](#), prepared for the European Commission, Brussels, July 2018.

- to contribute to poverty eradication by expanding exports from countries most in need;
- to promote sustainable development and good governance; and
- to ensure that the EU's financial and economic interests are safeguarded.

To do so, the EU's trade preference programme for developing countries is organised on the basis of the following three arrangements set out below:⁴

- 1 The general arrangement (**standard GSP**) grants duty reductions for approximately 66 % of all EU tariff lines to countries of low or lower-middle income that do not benefit from other preferential trade access to the EU market. There are currently 18 beneficiaries under this arrangement.⁵
- 2 The **Special Incentive Arrangement for Sustainable Development and Good Governance (GSP+)** grants complete duty suspension for essentially the same 66 % of tariff lines as the standard GSP, for countries especially vulnerable in terms of their economies' diversification and import volumes. In return, beneficiary countries must ratify and effectively implement 27 core international conventions, as listed in Annex VIII of the GSP Regulation. In that sense, GSP+ does not aim to add new obligations for the beneficiary countries, rather to support cooperation with international monitoring bodies (such as the UN and the International Labour Organisation). These conventions cover human and labour rights, environmental protection, and good governance. Nine countries currently benefit from this arrangement.⁶
- 3 The special **Everything But Arms (EBA)** arrangement grants full duty-free, quota-free access for all products except arms and ammunition, for countries classified by the UN as Least Developed Countries (LDCs).⁷ Currently, 37 countries benefit from the EBA arrangement.⁸

The list of GSP beneficiaries has been modified a number of times to reflect the exit of countries from the GSP, in accordance with the criteria of Article 4 of the GSP Regulation (i.e. countries that have been classified by the World Bank as upper-middle income countries for three consecutive

⁴ European Commission, [Report from the Commission to the European Parliament and the Council on the application of Regulation \(EU\) No 978/2012 applying a Scheme of Generalised Tariff Preferences and repealing Council Regulation \(EC\) No 732/2008](#), COM(2018) 665 final, 4 October 2018.

⁵ They are: Congo (Republic of), Cook Islands, Ivory Coast, Ghana, India, Indonesia, Kenya, Micronesia (Federate States of), Nauru, Nigeria, Niue, Tajikistan, Tonga, Syria (Arab Republic), Swaziland, Ukraine, Uzbekistan, Vietnam. See European Commission, [list of standard GSP beneficiaries](#) (last updated July 2017).

⁶ These are: Armenia, Bolivia, Cape Verde, Kyrgyzstan, Mongolia, Pakistan, Philippines, Sri Lanka, and Paraguay. See European Commission, [list of GSP+ beneficiaries](#) (last updated July 2017).

⁷ To be eligible for GSP+, GSP beneficiaries must be considered 'vulnerable' on account of to a low level of economic diversification, and a low level of integration within the international economy. Annex VII to the GSP Regulation provides two numerical criteria to determine 'vulnerability'. Firstly, the seven largest sections of a country's GSP imports into the EU must represent more than 75 % of the value of all sections of a country's GSP imports. Secondly, that country's GSP imports into the EU must represent less than 6.5 % of the value of the EU's total GSP imports from all GSP beneficiaries.

⁸ These are: Afghanistan, Angola, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia, Central African Republic, Chad, Comoros, Congo (DRC), Djibouti, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Laos, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritania, Mozambique, Myanmar/Burma, Nepal, Niger, Rwanda, Samoa, Sao Tome and Principe, Senegal, Sierra Leone, Solomon Islands, Somalia, South Sudan, Sudan, Tanzania, Timor-Leste, Togo, Tuvalu, Uganda, Vanatu, Yemen, and Zambia. European Commission, [list of EBA beneficiaries](#) (last updated in July 2017).

years, or that have started benefitting from EU preferential market access arrangements providing the same, or better, tariff preferences).

The European Commission is the main actor in the procedure for granting and withdrawing GSP+ preferences. Interested countries apply to the European Commission, which has six months from the date of submission of the GSP+ application to take a decision. Then, the European Parliament and the Council have another four months to express their positions, which means that the decision-making process on the GSP+ application lasts up to ten months in total. Applicant countries may informally consult the European Commission in order to make sure they fulfil the technical qualifications before submitting a formal application.⁹

1.2. Objectives and methodology

This study is organised in two parts. The first part, prepared internally, concentrates on the incentives in the GSP provisions aiming to push beneficiaries to comply with human rights and the extent to which these have been implemented and have had an impact. It concentrates primarily on the GSP+ arrangement, which as will become clearer in the next chapter, is the arrangement that has seen most changes. The internal analysis examines the available literature on the topic: documents prepared by the EU institutions and other relevant international organisations, research by academics and think tanks, and the reports, resolutions and written questions of Members of Parliament. Owing to time constraints, it was not possible to conduct interviews for the internal part of the study.

The second part (the annexed research paper, which was prepared by an external expert) offers an economic evaluation of the GSP Regulation, and examines three inter-related issues: first, how beneficiaries have graduated from the GSP and what role the tariff preferences have played; second, how trade relations between the countries that have recently graduated from the GSP and those that still benefit from it are affected; and third, what the impact of changes in the rules of origin has been. This annexed research paper uses data from the UN Comtrade database, the WTO's Tariff Analysis Online (TAO) and the UNCTAD dataset on utilisation rates. All the tables and figures are sourced from these datasets and are based on the author's calculations.

1.3. Key definitions

Graduation means that imports of particular groups of products and originating in a given GSP beneficiary country lose GSP preferences. Under the current scheme, graduation applies when the average imports of a section of products from a country exceed 17.5 % of GSP imports of the same products from all GSP beneficiary countries for three years (the trigger is 14.5 % for textiles and clothing). Graduation therefore concerns imports that are competitive on the EU market and so no longer need the GSP to boost their exports to the EU.¹⁰

Rules of Origin (RoO) refer to the criteria that must be fulfilled for determining the origin of a product in order for partners to grant preferential treatment in regional trade agreements (RTAs). The objective of preferential RoO is to promote intra-regional trade and to prevent trade deflection or simple trans-shipment. RoO can also play a developmental role for RTA partners. By design they enforce value addition in the exporting country and increase intra-RTA trade through the provisions

⁹ European Commission, [Civil Society Dialogue: The Reformed EU Generalised Scheme of Preferences \(GSP\), One Year On](#), DG TRADE, p. 2.

¹⁰ European Commission, [The EU's new Generalised Scheme of Preferences \(GSP\)](#), December 2012, p. 6.

of cumulation, thereby leading to greater economic activity in RTA partners. The RoO therefore connect RTA partners and promote regional value chains through two-way industry linkages.

Change in Tariff Classification (CTC): the origin of manufactured goods is determined on the basis of a number of manufacturing requirements guaranteeing that a certain amount of manufacturing has taken place in the country that is party to the RTA. Substantial transformation is often called 'sufficient manufacturing or processing'. In most RTAs substantial transformation is usually defined in terms of a minimum value added content that must be met by the exporting country so as to grant origin. Another criterion used is the Change in Tariff Classification between non-originating inputs and export product. The most common CTC is a Change in Tariff Heading (CTH), which means that a change at the four-digit Harmonised System (HS) level.¹¹ Several RTAs use a combination of these two criteria, which is treated as the most stringent.

Cumulation: the concept of cumulation plays a crucial part in the RoO, increasing intra-regional trade and facilitating sourcing patterns within the region, in the context of an RTA. Cumulation is an instrument that allows producers to import materials from another RTA partner country without undermining the origin of the product. It extends the possibility of using low cost inputs, without changing the originating status of a final export product when the intermediate products are sourced from an RTA partner. Regional integration, especially in terms of cumulation and value added criteria, not only enables the exporting country to source cheaper raw material/inputs from the RTA partner, but also facilitates the flow of technological know-how via two-way linkages between industries. This is said to enhance production efficiency for individual countries, in turn enhancing their potential to get onto the global market, since it enables them to diversify their production of high quality products. Simultaneously, the RTA partners create supply chains among themselves for the finished product that is aimed for the international market — that is, outside the RTA zone. This arrangement also facilitates global supply chains.

Regional value chains can be established through the process of cumulation, which allows trade in raw materials and intermediate products among the RTA partners in order to meet the substantial transformation criteria. Requirements relating to checking import content or value addition have the potential to generate a higher number of manufacturing operations among the RTA partners, which sometimes facilitates higher intra-industry trade. In order to meet the substantial transformation criteria, especially if these are value added criteria (where a ceiling on a percentage of non-originating inputs is prescribed), a country seeking preferences for its export products must ensure that a higher manufacturing process takes place in that country. This manufacturing process has to go beyond simple operations, such as simple assembly operations, packing and repacking, etc. The presence of small and medium enterprises (SMEs) and the fragmentation of production can create tremendous opportunities to join international production networks within RTA member countries.

The objective of **preferential market access** is to reduce the cost of trade for RTA members, something that can also be achieved through the cumulation provisions of the RoO over and above tariff reductions. RTA partners can promote the development of certain productive activities (sectors) by making them more cost-efficient. The RoO can therefore be used as a tool to promote the establishment of a value chain within the region, as they can ensure the supply of cheaper and/or higher quality intermediate inputs. RTAs between economies of differing sizes can grant greater benefits to the smaller partner-country as they can effectively become a part of a regional value chain. This is because their industries can be linked to the industries of the larger economy.

¹¹ The Harmonised Commodity Description and Coding System, also known as the Harmonised System (HS) of tariff nomenclature, is an internationally standardised system of names and numbers used to classify traded products.

Countries that suffer from limited supply capacity in terms of quantity, quality and variability of products, can benefit from the expansion of intra-RTA trade and resulting integration through the cumulation provisions in the RoO. The most basic form is bilateral cumulation, which applies to materials provided by either of two partners of an RTA.

The concepts explained above are the key variables used in the economic evaluation annexed to this study and are used to evaluate whether the GSP Regulation was able to impact on poverty reduction and good governance (and in that context, social development) in beneficiary countries.

2. Changes introduced by GSP Regulation 978/2012

According to the European Commission's interim assessment report, the share of imports under GSP Regulation 978/2012 has fallen compared with the situation noted under the 2008 regulation. More specifically, total imports fell from 6.1 % in 2013 to 4.1 % in 2016. Of these, the share of the standard GSP fell, while the share of the EBA regime, on the other hand, grew considerably. Furthermore, the value of imports of European origin to the GSP+ countries has risen considerably since 2013.

Of the products imported to the EU under the GSP scheme, the share of textiles has more than doubled (to around 46 % of imports) under the GSP+ scheme. Imports of shoes have risen from 4 % to around 8 %. Imports of plastic products, on the other hand, have roughly halved, to 10 %. It is also worth noting that there is increased diversification among the categories of exports from countries under the GSP+ and EBA regimes, although the portfolio of exports from these countries overall is not very diversified.¹²

Against this backdrop, this section examines the changes introduced by new GSP Regulation 978/2012, against which the rest of the study examines the impact of the regulation on reducing poverty and improving the governance of beneficiary countries. It first outlines in brief all the changes and then analyses the two changes to the legislation that are addressed in most detail in this study: the change in preferences and GSP+ monitoring.

2.1. Context of change

GSP Regulation 978/2012 introduced major changes in line with needs that had been identified in the 2011 Commission impact assessment¹³ and to ensure that the GSP Regulation was fit for the current global landscape. These needs included:

- 1 to focus preferences more effectively on the countries most in need: low and lower middle income countries;
- 2 to remove disincentives to diversification for countries most in need;
- 3 to enhance consistency with overall trade objectives, whether bilateral or multilateral;
- 4 to strengthen support for sustainable development and good governance;
- 5 to improve the efficiency of safeguard mechanisms ensuring that the EU's financial and economic interests are protected; and
- 6 to enhance the legal certainty, stability and predictability of the scheme.

An additional reason for the GSP reform was the entry into force of the Lisbon Treaty, which changed the EU's institutional environment and reinforced the role of the European Parliament.

¹² DEVELOPMENT Solutions Ltd, [Mid-Term Evaluation of the EU's Generalised Scheme of Preferences \(GSP\), Final Interim Report](#), prepared for the European Commission, Brussels, 21 September 2017.

¹³ European Commission, [Impact Assessment Accompanying the Proposal for a Regulation on Applying a Scheme of Generalised Tariff Preferences \(SEC \(2011\) 536 final\)](#), 2011, pp. 18-19.

Box 1 – Summary of the changes made to GSP Regulation 978/2012

1. **Period** of validity– Extended from 3 to 10 years for the GSP and GSP+ schemes, while the EBA scheme has no period of validity.
2. **Number of beneficiary countries** – Reduced from 177 to 88 countries, in accordance with the country graduation criteria.
3. **Tariff rates** – The current scheme differentiates between sensitive and non-sensitive products and builds this distinction into the method for calculating tariff rates.
4. **Graduation mechanisms** – The reformed GSP scheme expands the set of criteria for the removal of beneficiary countries from the list, and for the removal of certain product sections for a given beneficiary country. Likewise, the thresholds for these criteria have been increased.
5. **Product coverage** – Slightly expanded from 21 to 32, increasing preference margins for the products included, mainly raw materials.
6. **GSP+ scheme** – Further incentives were introduced in the reformed scheme for countries to join the GSP+. Monitoring measures to ensure compliance with international conventions are enhanced in the current scheme.
7. The **procedural requirements** for temporary withdrawal and safeguard mechanism have been amended, empowering the Commission to act rapidly in urgent cases.

Source: DEVELOPMENT Solutions, [Mid-Term Evaluation of the EU's Generalised Scheme of Preferences \(GSP\), Final Inception Report](#), prepared for the European Commission, Brussels, April 2017.

2.2. Change in preferences

Under the EU GSP rules, as revised and made effective from 2012, the cumulation rules prescribe a concept of 'regional origin' as opposed to a single country origin or 'global cumulation', especially in the context of least developed countries. The products are deemed to originate in the last country (in the group) of final processing. Regional cumulation between countries in the same regional group applies only when the working or processing carried out in the beneficiary country, where the materials are further processed or incorporated, goes beyond 'minimal' operations. Under the EU rules for partial and regional cumulation, materials or parts imported by a member country of one of the four notified groupings¹⁴ from another member country of the same grouping for further manufacture are considered as originating products of the country of manufacture and not as third-country inputs, provided that the materials or parts are already 'originating products' of the exporting member country of the grouping.

Originating products are those that have acquired origin by fulfilling the individual origin requirements under the basic rules of origin for GSP purposes. For example, European Union rules of origin require cotton jackets (HS 6203) to be produced from 'originating' yarn. With regional cumulation, however, preference-receiving country A may utilise imported fabrics from country B (note that these fabrics must already have originating status B). Country B must be a member of the same regional grouping, and the finished jacket will be considered an originating product. This is because the imported fabric, which, again, must have come from an originating producer in the

¹⁴ The four regional groupings of the GSP within which regional cumulation is laid down, are set out here: <http://trade.ec.europa.eu/tradehelp/rules-origin-generalised-scheme-preferences>

same grouping, is counted under the cumulation rules as a domestic input and not as an imported input.¹⁵

The impact of the change in preferences is analysed by Stefano Inama in the annexed research paper.

2.3. Increased emphasis on social and human rights

Since 1995, the GSP has included a negative conditionality clause, which has developed over time. New GSP Regulation 978/2012 added increased support for sustainable development and good governance. According to this regulation, all GSP countries must comply with the principles laid down in core human rights and labour rights conventions in 27 international conventions listed in an annex to the regulation. These include:

- seven conventions on human rights, including prohibition of genocide and torture, protection of the rights of children, elimination of discrimination against women and minorities, protection of freedom of expression and association, the right to a fair trial, and judicial independence, and economic, social and cultural rights;
- eight fundamental conventions of the International Labour Organisation (ILO), including conventions prohibiting forced and child labour, ensuring workers' rights to freedom of association and collective organisation and bargaining, and two conventions that protect workers from discrimination at work, and ensure that women and men receive the same remuneration for work of equal value;
- eight conventions on environmental protection and climate change, including the monitoring of hazardous waste and harmful pollutants, safeguarding of biodiversity and endangered species, as well as UN commitments to tackle climate change;
- four conventions on good governance, namely the UN Convention against Corruption and three UN conventions seeking to control illegal drugs.

The new GSP Regulation hopes to have a positive impact on the ratification of these conventions and provide stronger incentives for additional countries to sign up to and implement relevant conventions. These human rights requirements have become common in EU trade agreements signed with the same third countries.¹⁶

¹⁵ Rajan Sudesh Ratna, 'Preferential RoO – Facilitators of Regional and Global Value Chains', *Journal of International Trade*, 2016, Volume 1, p. 34.

¹⁶ Article 1 of the [Cooperation agreement between the European Community and the People's Republic of Bangladesh on partnership and development](#) states that, 'Respect for human rights and democratic principles as laid down in the Universal Declaration on Human Rights underpins the domestic and international policies of the Parties, and constitutes an essential element of this Agreement'; Article 2 of the [Comprehensive and enhanced partnership agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Armenia, of the other part](#) states that, 'Respect for the democratic principles, the rule of law, human rights and fundamental freedoms, as enshrined in particular in the UN Charter, the OSCE Helsinki Final Act and the Charter of Paris for a New Europe of 1990, as well as other relevant human rights instruments such as the UN Universal Declaration on Human Rights and the European Convention on Human Rights, shall form the basis of the domestic and external policies of the Parties and constitute an essential element of this Agreement'; Article 2 of the [Economic partnership agreement between the European Union and its Member States, of the one](#)

In addition, Article 9 of the regulation provides for GSP beneficiaries to apply for GSP+ status if they ratify and implement 15 international conventions on core human and labour rights plus another 12 international conventions on sustainable development, environment, drugs control and anti-corruption.¹⁷ GSP+ makes the validity of commercial benefits dependent on meeting environmental, labour and human rights standards (e.g. focusing preferences on the countries 'most in need' and placing a stronger emphasis on sustainable development).

Box 2 – New incentives to join GSP+ and implement the 27 core conventions

1. There should be less competition from more advanced developing economies and sectors that lose preferences.
2. GSP+ countries are no longer 'graduated' by sections.
3. The so-called 'vulnerability criterion' (one of two economic conditions a country needs to fulfil in order to be eligible for GSP+) has been relaxed (increased from 1 % to 2 %) so that more countries can apply. Pakistan, the Philippines and Ukraine have thus become eligible.
4. Applications can be accepted at any time—not just every 1.5 years.
5. The number of core conventions has not been expanded, allowing countries a realistic chance to focus on the essentials.

Source: European Commission, [The EU's new Generalised Scheme of Preferences \(GSP\)](#), December 2012, p. 8.

2.4. Stricter GSP+ monitoring

With the new regulation there has also been a revision of the monitoring procedure. The European Commission prepares biennial reports on the status of the ratification of the conventions in the GSP+ beneficiaries (rather than every three years, which was the case under the previous regulation). It has also increased monitoring and dialogues, while in parallel producing Commission scorecards, aiming at consistent monitoring of GSP implementation, allowing long-term track records and feeding into the biennial reports.

The new GSP Regulation gives ownership to the beneficiary countries to improve engagement efforts on implementing human/social rights protection. GSP+ applicants must accept without reservation the reporting requirements and monitoring imposed by those conventions. They must also agree to participate in and co-operate with EU GSP+ monitoring led by the European Commission. This cooperation enables the Commission to monitor beneficiaries' compliance with their commitments under the GSP+.¹⁸

[part, and the SADC EPA States, of the other part](#) is based on Article 9 of the [Cotonou Agreement](#), which contains the essential elements 'regarding human rights, democratic principles and the rule of law, and fundamental elements regarding good governance'.

¹⁷ All the 27 international conventions are listed in Annex VIII of [Regulation \(EU\) No 978/2012 of the European Parliament and of the Council of 25 October 2012 applying a scheme of generalised tariff preferences and repealing Council Regulation \(EC\) No 732/2008](#).

¹⁸ European Commission and High Representative of the Union for Foreign Affairs and Security Policy, [Joint staff working document, The EU Special Incentive Arrangement for Sustainable Development and Good Governance \('GSP+'\) covering the period 2014 – 2015, Accompanying the document Report from the Commission to the European Parliament and the Council Report on the Generalised Scheme of Preferences during the period 2014–2015 \(COM\(2016\) 29 final\)](#), SWD(2016) 8 final, 28 January 2016, p. 7.

Realisation of the challenges faced by GSP+ beneficiaries when implementing the necessary reforms linked to human/social rights was also one of the reasons for prolonging the life of the GSP Regulation to a 10-year initial lifespan. These challenges are often underpinned by long-term and complex problems that cannot be solved overnight and that are far-reaching and require sustained government action over time. This implied that the GSP Regulation also needed to be designed to offer long-term support through its continuous monitoring process.¹⁹ Moreover, in the interests of stability and predictability (something that stakeholders have appreciated, as will be analysed further on in this study), transition periods for changes in the original set of beneficiaries list (listed in Annex V) now last at least one year; and removals from the beneficiary lists happen only if countries are listed as high or upper-middle income for three years in a row.

Furthermore, the temporary withdrawal mechanism was revised in Chapter V of 978/2012 so that the preferences for all GSP arrangements are conditional upon adherence to international conventions, with any 'serious and systemic violation of principles laid down in the conventions listed in Part A of Annex VIII' resulting in temporary withdrawal (Article 19). Withdrawal mechanisms are now more objective. To complement the reports of international monitoring bodies, the EU can also use other sources of accurate information. Furthermore, the burden of proof has been reversed: when evidence points to problems with implementation it is up to the country to show a positive record.²⁰

¹⁹ European Commission, [Report from the Commission to the European Parliament and the Council, Report on the Generalised Scheme of Preferences covering the period 2016-2017](#), COM(2018) 36 final, 19 January 2018.

²⁰ European Commission, [The EU's new Generalised Scheme of Preferences \(GSP\)](#), December 2012, p. 9.

3. European Commission evaluation of the GSP Regulation

This section analyses the assessments of the reformed GSP Regulation that the European Commission has conducted. The sections below assess the ongoing monitoring of the regulation by means of the European Commission biennial reports and the outcome of the mid-term review process, which consists of an analysis of the European Commission-contracted evaluation of the GSP Regulation²¹ and the internally prepared European Commission mid-term evaluation.²² More specifically and in line with the objectives of Part 1 of this study (internal analysis), this section summarises and discusses the conclusions relating to the impact of the GSP on two aspects: poverty eradication and sustainable development. It focuses on three GSP key operational instruments used for increasing human and labour rights standards and good governance in the beneficiary countries. These are tariff preferences, conditionality and monitoring. As will be discussed in the next section (Section 4), the use of these three instruments has been at the centre of the parliamentary debate on the effectiveness of the GSP. For the sake of consistency, the case studies discussed in this section concern the countries addressed most frequently by Parliament's reports and resolutions and/or Members' questions.

3.1. Ongoing European Commission monitoring of the GSP Regulation

The GSP Regulation requires the Commission to submit a report to the European Parliament and the Council on the functioning of the GSP scheme once every two years as of 1 January 2016 (Articles 14 and 40). It must cover the effects of all three preferential arrangements of the GSP over the previous two years, with a particular focus on the GSP+. The report should detail beneficiary countries' ratification, reporting, and effective implementation of the relevant conventions that cover a large field of issues, such as human and labour rights, the protection of the environment, climate change, and the fight against drug trafficking and corruption. This report is also accompanied by a staff working document that consists of country-specific analyses of the state of implementation in GSP+ beneficiaries. Both documents are jointly prepared by the European Commission and the European External Action Service (EEAS). The subsections below outline the GSP+ monitoring process that the European Commission has carried out in cooperation with the EEAS. It then reviews the two biannual reports for the periods 2014 to 2015 and 2016 to 2017.

3.1.1. The GSP+ monitoring process

The factors hampering effective implementation of the necessary international conventions linked to GSP status often relate to shortcomings that require mid- to long-term solutions. As developing countries, it is expected that all beneficiaries experience challenges with the implementation of reforms on respect for human rights and sustainable development, especially in the short- to medium-term.²³ The European Commission therefore aims to engage increasingly with the relevant

²¹ DEVELOPMENT Solutions Europe Ltd, [Mid-Term Evaluation of the EU's Generalised Scheme of Preferences \(GSP\) - Final Report](#), prepared for the European Commission, Brussels, July 2018.

²² European Commission, [Commission staff working document, Midterm Evaluation of the Generalised Scheme of Preferences accompanying the document Report from the European Commission to the European Parliament and the Council on the application of Regulation \(EU\) No 978/2012 applying a Scheme of Generalised Tariff Preferences and repealing Council Regulation \(EC\) No 732/2008](#), SWD(2018) 430 final, 4 October 2018.

²³ European Commission, [Report from the Commission to the European Parliament and the Council, Report on the Generalised Scheme of Preferences covering the period 2014-2015 {SWD\(2016\) 8 final}](#), COM(2016) 29 final, 28 January 2016, p. 10.

international organisations (e.g. the ILO and the UN), since the EU assessment relies primarily on the most recent reports and recommendations from these international monitoring bodies. In that context, close contact with the local offices of relevant international organisations in the beneficiary countries is important. However, 'the burden of proof for compliance with the GSP+ binding undertakings rests with the beneficiary country. Beneficiary countries should provide all information necessary to allow the EU to assess their GSP+ compliance'.²⁴

Together with the EEAS, the European Commission services have therefore set up a structured monitoring process that includes two tools: an ongoing 'GSP+ dialogue' with the beneficiary authorities and annual lists of problem areas (known as scorecards)²⁵ where beneficiaries are asked to respond to the shortcomings listed. No additional structures have been created to implement this dialogue. Rather, it is based on existing channels of communication: bilateral meetings with the relevant European Commission services,²⁶ the EEAS, and the EU delegations; and the written exchange of notes and documentation. Monitoring covers all aspects of the implementation of the 27 required conventions, including discussions on capacity constraints or on progress achieved. Furthermore, GSP+ monitoring takes into account the pre-existing legal and administrative framework in the beneficiary countries, which constitutes the baseline. It is not a punitive tool; rather, it is designed to support a country's efforts to implement the conventions. At the same time, however, 'The EU expects a GSP+ country to show genuine progress and serious commitment from the political leadership and public authorities in addressing and solving those problems'.²⁷

More specifically, when a beneficiary enters the GSP+, the European Commission compiles an initial assessment of the beneficiary's compliance with its GSP+ commitments (the first formal scorecard). This formal scorecard notes the salient shortcomings identified by the monitoring bodies for the international conventions. This launches the ongoing GSP+ dialogue, during which the European Commission draws the beneficiary's attention to the areas listed on the scorecard. As part of its monitoring, the European Commission can take part in local workshops or carry out field visits to industries. It considers it important to reach out to local stakeholders, particularly during GSP+ monitoring visits, not only to gather first-hand information, but also to improve the understanding of how the GSP+ works, and of the EU's expectations of beneficiaries. Furthermore, this process helps local stakeholders play a constructive role in assisting local, regional and central authorities to meet their commitments under the conventions. In particular, as direct beneficiaries of tariff preferences, economic operators are expected to play a key role in supporting the implementation of the conventions.²⁸

²⁴ European Commission, [Report from the Commission to the European Parliament and the Council, Report on the Generalised Scheme of Preferences covering the period 2016-2017](#), COM(2018) 36 final, 19 January 2018, p. 8.

²⁵ This is a living document that clarifies salient shortcomings in implementing effectively the 27 relevant conventions. Scorecards have an identical format for all countries, but are country-specific in their content; are updated regularly (once a year); are essential to show the progress in the implementation; and are based on reports prepared by relevant monitoring bodies and other 'accurate and reliable' sources. See slide 29 of European Commission, [Highlights of the EU Generalised Scheme of Preferences \(GSP\)](#), presented at the Civil Society Dialogue on GSP, DG Trade, 5 March 2015.

²⁶ These include: DG EMPL (Labour Rights Conventions); DG CLIMA, DG ENV and DG SANTE (multilateral environmental agreements); DG HOME (good governance conventions); DG DEVCO (overall development policy, addressing capacity constraints); the Legal Service to oversee that the EU laws are applied correctly and consistently.

²⁷ European Commission, [Highlights of the EU Generalised Scheme of Preferences \(GSP\)](#), presented at the Civil Society Dialogue on GSP, DG Trade, 5 March 2015.

²⁸ European Commission, [Report from the Commission to the European Parliament and the Council, Report on the Generalised Scheme of Preferences covering the period 2014-2015 \(SWD\(2016\) 8 final\)](#), COM(2016) 29 final, 28 January 2016, p. 11.

Box 3 – The GSP suspension mechanism

According to Article 19.1(a) of the 2012 regulation, all three GSP arrangements can be withdrawn in the event 'of serious and systematic violation of principles laid down in the conventions listed in Part A of Annex VIII' (the UN and ILO conventions on core human rights and labour rights). For GSP+ countries, failure to fulfil their more complex obligations with respect to a wider range of conventions (including governance and environmental norms) can lead to suspension. The withdrawal of preferences is a gradual process that aims to provide the GSP beneficiary country under investigation with enough time to respond to concerns related to violations of human rights and labour rights and possibly to remedy them.

When considering the possibility of suspending preferences, the European Commission assesses all the evidence available. The shortcomings identified in the implementation of the relevant conventions are included in a so-called scorecard and addressed through a regular dialogue with the authorities of the beneficiary countries. If, through this process, the European Commission establishes violations justifying the suspension, it issues a note on the initiation of a withdrawal procedure. As a first stage, it monitors the situation in the beneficiary country concerned for six months. During this time, the country concerned can submit its observations. Within a further six months, if no remedial measures have been taken by the country in question, the European Commission can withdraw the trade preferences by means of a delegated act.

The suspension mechanism for GSP Regulation 978/2012 has not been used during the period under review. It is therefore not possible to provide an evaluation of this tool.

3.1.2. Implementing the GSP Regulation

In line with Articles 14 and 40 of the GSP Regulation, the European Commission has assessed the effects of the GSP biennially, focusing on the performance of GSP+ beneficiaries. The results were presented in two reports, analysed below. The first covered the 2014 to 2015 period and was published on 28 January 2016 and the second was published on 19 January 2018 and covered the 2016 to 2017 period.

The European Commission's report for the first monitoring period (2014 to 2015) noted that this period 'was a learning process for all beneficiaries, and for the Commission'.²⁹ It concentrated on GSP+ monitoring rather than conducting a legislative review of the entire GSP scheme.³⁰ Nevertheless, it argued that all beneficiaries had shown strong commitment to the GSP+ process, both in terms of political will and in introducing institutional and legislative reforms. In particular, beneficiaries had demonstrated their engagement by responding in time to the annual scorecard documents, by allowing specific GSP+ monitoring visits, and by setting up specific GSP+ governance structures. Moreover, all beneficiaries had taken steps – albeit sometimes incrementally – towards improving implementation of their commitments under the GSP+ conventions on the ground, including by submitting several overdue country reports.³¹

²⁹ European Commission, [Report from the Commission to the European Parliament and the Council, Report on the Generalised Scheme of Preferences covering the period 2014-2015 \(SWD\(2016\) 8 final\)](#), COM(2016) 29 final, 28 January 2016, p. 13.

³⁰ European Commission, [Civil Society Dialogue: The Reformed EU Generalised Scheme of Preferences \(GSP\), One Year On](#), DG TRADE, 5 March 2015, p. 2.

³¹ European Commission, [Report from the Commission to the European Parliament and the Council, Report on the Generalised Scheme of Preferences covering the period 2014-2015 \(SWD\(2016\) 8 final\)](#), COM(2016) 29 final, 28 January 2016, p. 13.

The European Commission/EEAS joint staff working document accompanying the 2016 biennial report shows that most of the GSP+ countries monitored faced similar challenges.³² The most recurrent problems included discrimination against women, the transgression of children's rights, limited freedom of association, drug trafficking and corruption.³³ Discrimination against ethnic minorities, the absence of an independent judiciary and money laundering were also quite prevalent in the countries monitored.³⁴ For this first biennial report, the European Commission used as a benchmark for progress the initiatives and measures a beneficiary had put in place to comply with international conventions rather than their actual implementation and enforcement. This choice was justified by the short time lapse that the states had to align their systems to the GSP Regulation requirements.³⁵ This rather limited methodology consequently showed that ratification of international conventions was positive.³⁶ However, a textual analysis of the individual GSP+ cases in the accompanying staff document points to the problematic and/or partial implementation of international conventions.³⁷

The second biannual report on the implementation of the GSP comprised new features compared with the first biennial report. Namely, it included snapshots of monitoring missions that took place during the 2016 to 2017 period, an overview of selected EU-funded technical assistance and development projects relevant to GSP+, and a dedicated illustration of the efforts regarding enhanced engagement with certain EBA beneficiaries. In its report, the European Commission urged GSP+ beneficiaries 'to increasingly take ownership of the implementation of the 27 conventions and to be more proactive in addressing the issues listed in the scorecards and raised during the GSP+ monitoring missions'.³⁸ The accompanying country-specific analyses of the effects of GSP+ sought to illustrate effective implementation trends compared with the first report.³⁹ A positive point that emerged from the European Commission's second biennial assessment was on the use of human

³² The countries assessed in this report were Armenia, Bolivia, Cape Verde, Costa Rica, Ecuador, El Salvador, Georgia, Guatemala, Mongolia, Pakistan, Panama, Paraguay, Peru and the Philippines.

³³ European Commission and High Representative of the Union for Foreign Affairs and Security Policy, [Joint staff working document, 'The EU Special Incentive Arrangement for Sustainable Development and Good Governance \('GSP+'\) covering the period 2014 – 2015, Accompanying the document Report from the Commission to the European Parliament and the Council Report on the Generalised Scheme of Preferences during the period 2014–2015 \(COM\(2016\) 29 final\)](#), SWD(2016) 8 final, 28 January 2016.

³⁴ One or more of such phenomena were observed in Armenia, Cape Verde, Costa Rica, Ecuador, Guatemala, Pakistan, Panama and Paraguay.

³⁵ European Commission, [Report from the Commission to the European Parliament and the Council, Report on the Generalised Scheme of Preferences covering the period 2014-2015 \(SWD\(2016\) 8 final\)](#), COM(2016) 29 final, 28 January 2016, p. 10.

³⁶ [Ibid.](#), p. 13.

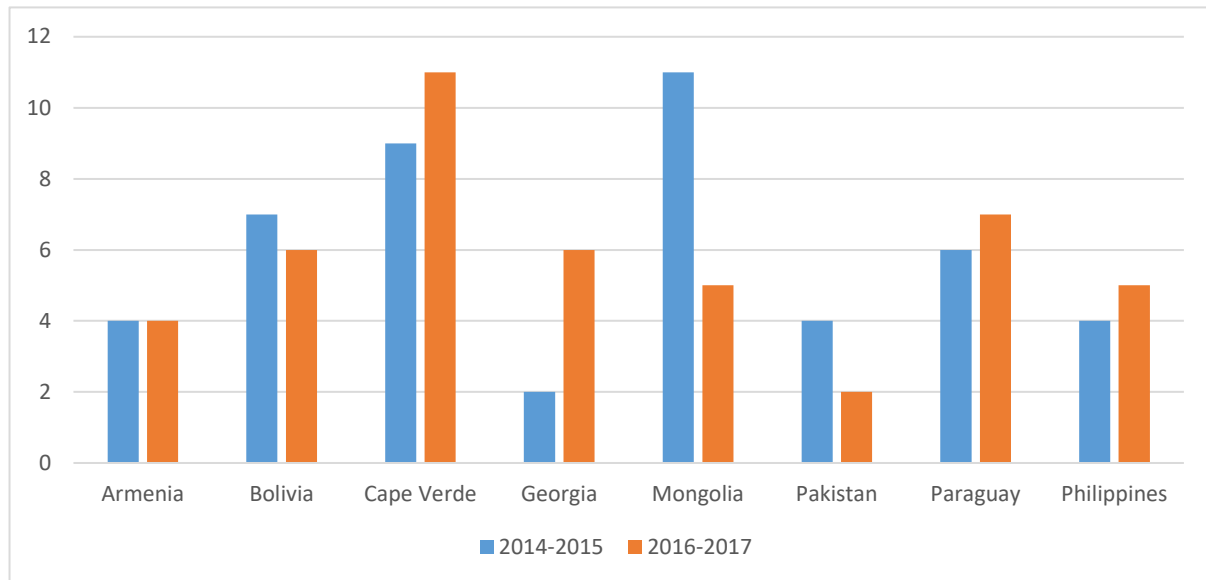
³⁷ See, for instance, the assessment on human rights and good governance in Armenia, [Joint staff working document, The EU Special Incentive Arrangement for Sustainable Development and Good Governance \('GSP+'\) covering the period 2014 – 2015, Accompanying the document Report from the Commission to the European Parliament and the Council Report on the Generalised Scheme of Preferences during the period 2014–2015 \(COM\(2016\) 29 final\)](#), SWD(2016) 8 final, 28 January 2016, pp. 19, 20, 23, 34, 36-37. In the same document, see also the evaluation of the human and labour rights standards in Bolivia, pp. 42, 44, 48-49. Similar conclusions can be drawn for Cape Verde, Ecuador, El Salvador, Guatemala, Pakistan, Paraguay, Peru and the Philippines.

³⁸ European Commission, [Report from the Commission to the European Parliament and the Council, Report on the Generalised Scheme of Preferences covering the period 2016-2017](#), COM(2018) 36 final, 19 January 2018.

³⁹ The GSP+ states assessed in this report are Armenia, Bolivia, Cape Verde, Kyrgyzstan, Mongolia, Paraguay, Pakistan, the Philippines and Sri Lanka.

rights dialogues in GSP+ countries (e.g. Pakistan, Sri Lanka, Mongolia and Bolivia), which, it is argued, has facilitated compliance with ILO core conventions.⁴⁰

Figure 1 – Comparison of the numbers of instances of problematic reporting of international conventions for the periods 2014 to 2015 and 2016 to 2017



Source: Compiled by the authors based on European Commission biennial reports and annexes (see Footnotes 33 to 41).

The GSP monitoring exercise uncovered countries' shortcomings in meeting their reporting obligations on the required international conventions. As already explained in Section 2.4 on GSP+ monitoring, GSP+ applicants must accept without reservation the reporting requirements and monitoring imposed by those conventions. They must also agree to participate in and cooperate with the EU GSP+ monitoring procedure led by the European Commission. This cooperation enables the Commission to monitor beneficiaries' compliance with their undertakings under the GSP+. In the first biennial report, all the countries' reporting was inadequate on at least two of the 27 requisite international conventions. The highest performers in this regard were Guatemala and Georgia, with delays in reporting on two conventions each; the worst was Mongolia, with reporting gaps in 11

⁴⁰ European Commission, [Report from the Commission to the European Parliament and the Council, Report on the Generalised Scheme of Preferences covering the period 2016-2017](#), COM(2018) 36 final, 19 January 2018, pp. 10,13; for Bolivia, see [Joint staff working document, The EU Special Incentive Arrangement for Sustainable Development and Good Governance \('GSP+'\) assessment of Bolivia covering the period 2016-2017 Accompanying the document Report from the Commission to the European Parliament and the Council. Report on the Generalised Scheme of Preferences during the period 2016-2017](#), SWD(2018) 24 final, 19 January 2018, p. 11; for Mongolia, see [Joint staff working document, The EU Special Incentive Arrangement for Sustainable Development and Good Governance \('GSP+'\) assessment of Mongolia covering the period 2016-2017 Accompanying the document Report from the Commission to the European Parliament and the Council. Report on the Generalised Scheme of Preferences during the period 2016-2017](#), SWD(2018) 28 final, 19 January 2018, pp. 3, 7; for Sri Lanka, see [Joint staff working document, The EU Special Incentive Arrangement for Sustainable Development and Good Governance \('GSP+'\) assessment of Sri Lanka covering the period 2016-2017 Accompanying the document Report from the Commission to the European Parliament and the Council. Report on the Generalised Scheme of Preferences during the period 2016-2017](#), SWD(2018) 31 final, 19 January 2018, p. 1; for Pakistan, see [Joint staff working document, The EU Special Incentive Arrangement for Sustainable Development and Good Governance \('GSP+'\) assessment of Pakistan covering the period 2016-2017 Accompanying the document Report from the Commission to the European Parliament and the Council. Report on the Generalised Scheme of Preferences during the period 2016-2017](#), SWD(2018) 29 final, 19 January 2018.

cases. The other countries performed as follows: Costa Rica and Peru were inefficient regarding three conventions; Armenia, Ecuador, Pakistan and the Philippines failed to report properly on four international conventions; El Salvador on five; Paraguay on six; Bolivia and Panama on seven; and Cape Verde on nine.⁴¹

The overall degree of fulfilment of the reporting obligations by the GSP+ countries did not improve according to the second biennial report (covering the 2016 to 2017 period).⁴² The countries that best met their reporting obligations were Pakistan and Sri Lanka, with two deficiencies each.⁴³ Armenia recorded delays in reporting on four conventions;⁴⁴ Mongolia and the Philippines on five;⁴⁵ Bolivia and Georgia on six;⁴⁶ Paraguay on seven;⁴⁷ Kyrgyzstan on eight;⁴⁸ and Cape Verde on 11.⁴⁹

⁴¹ Data drawn from the Annex, [Joint staff working document, The EU Special Incentive Arrangement for Sustainable Development and Good Governance \('GSP+'\) covering the period 2014 – 2015. Accompanying the document Report from the Commission to the European Parliament and the Council Report on the Generalised Scheme of Preferences during the period 2014–2015 \(COM\(2016\) 29 final\)](#), SWD(2016) 8 final, 28 January 2016, pp. 292-335.

⁴² The countries assessed by this report are Armenia, Bolivia, Cape Verde, Kyrgyzstan, Mongolia, Pakistan, Paraguay, the Philippines and Sri Lanka.

⁴³ Data respectively from the Annex, [Joint staff working document, The EU Special Incentive Arrangement for Sustainable Development and Good Governance \('GSP+'\) assessment of Pakistan covering the period 2016-2017 Accompanying the document Report from the Commission to the European Parliament and the Council. Report on the Generalised Scheme of Preferences during the period 2016-2017](#), SWD(2018) 29 final, 19 January 2018, pp. 26-28, and the Annex, [Joint staff working document, The EU Special Incentive Arrangement for Sustainable Development and Good Governance \('GSP+'\) assessment of Sri Lanka covering the period 2016-2017 Accompanying the document Report from the Commission to the European Parliament and the Council. Report on the Generalised Scheme of Preferences during the period 2016-2017](#), SWD(2018) 31 final, 19 January 2018, pp. 23-25.

⁴⁴ Data from the Annex, [Joint staff working document, The EU Special Incentive Arrangement for Sustainable Development and Good Governance \('GSP+'\) assessment of Armenia covering the period 2016-2017 Accompanying the document Report from the Commission to the European Parliament and the Council. Report on the Generalised Scheme of Preferences during the period 2016-2017](#), SWD(2018) 23 final, 19 January 2018, pp. 18-20.

⁴⁵ Data respectively from the Annex, [Joint staff working document, The EU Special Incentive Arrangement for Sustainable Development and Good Governance \('GSP+'\) assessment of Mongolia covering the period 2016-2017 Accompanying the document Report from the Commission to the European Parliament and the Council. Report on the Generalised Scheme of Preferences during the period 2016-2017](#), SWD(2018) 28 final, 19 January 2018, pp. 22-24, and the Annex, [Joint staff working document, The EU Special Incentive Arrangement for Sustainable Development and Good Governance \('GSP+'\) assessment of the Philippines covering the period 2016-2017 Accompanying the document Report from the Commission to the European Parliament and the Council. Report on the Generalised Scheme of Preferences during the period 2016-2017](#), SWD(2018) 32 final, 19 January 2018, pp. 26-28.

⁴⁶ Data respectively from the Annex, [Joint staff working document, The EU Special Incentive Arrangement for Sustainable Development and Good Governance \('GSP+'\) assessment of Bolivia covering the period 2016-2017 Accompanying the document Report from the Commission to the European Parliament and the Council. Report on the Generalised Scheme of Preferences during the period 2016-2017](#), SWD(2018) 24 final, 19 January 2018, pp. 19-21, and the Annex, [Joint staff working document, The EU Special Incentive Arrangement for Sustainable Development and Good Governance \('GSP+'\) assessment of Georgia covering the period 2016-2017 Accompanying the document Report from the Commission to the European Parliament and the Council. Report on the Generalised Scheme of Preferences during the period 2016-2017](#), SWD(2018) 26 final, 19 January 2018, pp. 21-23.

⁴⁷ Data from the Annex, [Joint staff working document, The EU Special Incentive Arrangement for Sustainable Development and Good Governance \('GSP+'\) assessment of Paraguay covering the period 2016-2017 Accompanying the document Report from the Commission to the European Parliament and the Council. Report on the Generalised Scheme of Preferences during the period 2016-2017](#), SWD(2018) 30 final, 19 January 2018, pp. 18-20.

⁴⁸ Data from the Annex, [Joint staff working document, The EU Special Incentive Arrangement for Sustainable Development and Good Governance \('GSP+'\) assessment of the Kyrgyz Republic covering the period 2016-2017 Accompanying the document Report from the Commission to the European Parliament and the Council Report on the Generalised Scheme of Preferences during the period 2016-2017](#), SWD(2018) 27 final, 19 January 2018, pp. 24-26.

⁴⁹ Data from the Annex, [Joint staff working document, The EU Special Incentive Arrangement for Sustainable Development and Good Governance \('GSP+'\) assessment of Cape Verde covering the period 2016-2017](#)

Figure 1 illustrates the number of international conventions for which each beneficiary's reporting was inadequate in each two year-period that the European Commission examined. Any given country could show more than one shortcoming for each individual convention.⁵⁰

The next reporting period covering 2018 and 2019 was launched with a new biennial cycle of scorecards and monitoring missions in the first half of 2018. By the end of 2019, the European Commission will submit its third biennial report on GSP to the European Parliament and the Council, with a particular focus on evaluating trends in all GSP+ beneficiaries.

3.1.3. Consultations with relevant stakeholders

The European Commission has 'soft' instruments, such as dialogue and engagement, in place that aim to enhance cooperation with the relevant international bodies and to involve the relevant stakeholders in the European Commission's long-term action on the implementation of the GSP Regulation. The stated aim of this engagement is to effectively address governance issues and sustainable development and to push beneficiaries to adopt lasting structural solutions for the protection of social and human rights.⁵¹ The GSP Regulation provides for the inclusion of civil society and other actors in this monitoring; in this way, the European Commission must assess the information submitted by third parties, including by civil society, social partners, Parliament and Council, when it evaluates the implementation of the relevant conventions (Article 16.3).

In this context, the European Commission has sought to involve various relevant stakeholders, including international organisations, social partners, business associations (including SME associations), trade unions, local human rights associations, human rights defenders, women's groups and other NGOs and CSOs. Coordination meetings are held with the international bodies present in the countries, such as the Office of the UN High Commissioner for Human Rights, the UN Development Programme (UNDP), and the UN Office on Drugs and Crime (UNODC). The second European Commission biennial report on the GSP implementation found this to be a structured approach and a solid basis for the assessment of each GSP+ beneficiary and an effective way to gather information and to encourage local stakeholders to play 'an important role in pushing regional and central authorities to meet their GSP+ commitments'.⁵² It found business, a direct beneficiary of the GSP scheme, to be a good candidate for this. Moreover, the European Commission's first biennial report claimed that the expertise of the ILO and other UN monitoring bodies could be very useful for cooperation projects in beneficiary countries.⁵³ In that context, the European Commission had, by the end of September 2017, organised 26 interviews and meetings with stakeholders in the EU and case study countries. It had also received 10 written contributions; sent out 450 stakeholder invitations; organised the first Civil Society Dialogue in Brussels; held local workshops in Bangladesh, Ethiopia, Bolivia and Pakistan; and organised a 12-week online public consultation.⁵⁴

[Accompanying the document Report from the Commission to the European Parliament and the Council. Report on the Generalised Scheme of Preferences during the period 2016-2017](#), SWD(2018) 25 final, 19 January 2018, pp. 17-19.

⁵⁰ For instance, Armenia failed to report correctly on its obligations regarding four international conventions in the 2014 to 2015 period (because it was late or the report was incomplete, etc.), but for each convention, it could have made more than one 'mistake' (e.g. both a delay and incompleteness).

⁵¹ European Commission, [Report from the Commission to the European Parliament and the Council, Report on the Generalised Scheme of Preferences covering the period 2016-2017](#), COM(2018) 36 final, 19 January 2018, p. 13.

⁵² [Ibid.](#), pp. 9, 13.

⁵³ [Ibid.](#), p. 11.

⁵⁴ Willem van der Geest, [Mid-term evaluation of the EU's GSP: Review of final interim report](#), Civil Society Dialogue, 25 September 2017.

The results of the civil society dialogue on the reformed GSP Regulation show that, in general, stakeholders in the EU are positive about the current GSP. They appear to find it 'simple, implicit and highly predictable as changes are announced several months in advance'. However, questions and concerns have been raised regarding the consequences if a GSP+ beneficiary country fails to implement the relevant conventions effectively, more specifically if an FTA is being negotiated in parallel. Moreover, concerns regarding possible fraud relating to the issuing of certificates of origin have also been raised. Other concerns relate to the link between GSP eligibility and World Bank classifications, and the World Bank's methodology itself. This has often been criticised in Latin America for being used to push countries into FTA negotiations.⁵⁵

In 2017, a second civil society dialogue was organised on the mid-term evaluation of the EU's GSP. A key issue raised was the inability of labour activists in Bangladesh to voice their concerns on diminished labour rights for fear of government retribution. This was seen as an example of the indirect causality between the GSP and labour rights and the ineffectiveness of the GSP to positively impact on the protection of labour rights.⁵⁶

3.2. European Commission contracted evaluation

The European Commission's external evaluation was designed to assess the degree to which the GSP Regulation's objectives were achieved during the 2014 to 2016 period. In the socio-political context, it examined whether or not the GSP contributed to (i) poverty eradication by expanding exports from countries most in need; and (ii) sustainable development and good governance. In doing so, it analysed the effects of the GSP on 'employment; the Decent Work Agenda (job creation, labour standards, social protection and social dialogue); working conditions; wage levels and their changes over time; poverty reduction; gender equality; human rights; and good governance'.⁵⁷ The impact on social and human rights was assessed in terms of the ratification and effective implementation of the core international conventions.⁵⁸

3.2.1. Effects of trade on social development and poverty reduction

The external evaluation of the GSP Regulation argues that the scheme 'has had an overall positive impact on social development and human rights in the beneficiary countries, but only a limited impact on sustainable development and environmental protection'.⁵⁹ Although this evaluation points out that there is no significant consensus in the literature on the concrete impact of the EU's GSP on labour and human rights, it bases its conclusions on the assumption that trade and economic growth can have a positive effect on poverty reduction.⁶⁰ Accordingly, the GSP is seen as effective, since trade stimulates economic growth, job creation and poverty reduction, which consequently creates more resources available for social development.⁶¹ This same evaluation further assumes that the preferential market access provided by the GSP indirectly reduces poverty by way of

⁵⁵ European Commission, [Civil Society Dialogue: The Reformed EU Generalised Scheme of Preferences \(GSP\), One Year On](#), DG TRADE, 5 March 2015, p. 2.

⁵⁶ European Commission, [Civil society dialogue, Meeting on the mid-term evaluation of the EU's Generalised Scheme of Preferences \(GSP\)](#), DG Trade, 25 September 2017.

⁵⁷ DEVELOPMENT Solutions Europe Ltd, [Mid-Term Evaluation of the EU's Generalised Scheme of Preferences \(GSP\) - Final Report](#), prepared for the European Commission, Brussels, July 2018, p. 39.

⁵⁸ [Ibid.](#), p. 111.

⁵⁹ [Ibid.](#), pp. 6, 257.

⁶⁰ [Ibid.](#), p. 93. This literature sees trade liberalisation as a driving factor for economic growth, therefore contributing to poverty reduction.

⁶¹ [Ibid.](#), pp. 93-95.

economic growth⁶². Moreover, it suggests that the obligation to respect human rights can engender structural changes in society that in turn contribute to poverty reduction. In that respect, according to the external evaluation, the increase in exports has contributed to economic growth, social development and employment in the third states, not least by generating new employment for women in the industry and services sectors.⁶³ This unexpected effect of the GSP has been especially visible in the textile and clothing sectors, for example in Bangladesh and in Pakistan.⁶⁴ Several social indicators have also recorded improvements. In Bangladesh, Bolivia, Ethiopia and Pakistan, life expectancy increased on average by 1.6 years between 2011 and 2015, while infant mortality has decreased.⁶⁵

Nevertheless, the external evaluation also admits that 'no direct link between trade liberalisation, economic growth and poverty reduction can be drawn' from the literature available and that this link can even be negative.⁶⁶ That line of argument maintains that economic growth does not always lead to reduced poverty, or to greater observation of fundamental labour and human rights.⁶⁷ This has already been shown in previous studies.⁶⁸ Based on World Bank data, results on public social expenditure are at best mixed. For example, expenditure on education as a percentage of GDP has increased in Bolivia, Bangladesh and Pakistan, but declined in Ethiopia. Public expenditure on health as a percentage of GDP has increased in Bolivia but has declined in Pakistan, Ethiopia and Bangladesh.⁶⁹ In addition, in several cases the increase in economic opportunities has been exploited by part of the population at the expense of another part. For example, in Ethiopia and Cambodia, instances of land grabbing and inadequate grants for lands were reported, whereas in Bangladesh, wages were kept low in order to have competitive prices.⁷⁰ In Cambodia, in particular, efforts to benefit from increased exports under the EBA preferences and the consequent increased production have led to human rights abuses. 'Widespread displacement, violent evictions and land grabbing in order to issue land concessions' were perpetrated in the rice and sugar industries.⁷¹

The external evaluation prepared for the European Commission also noted the methodological limitations that constrained the researchers' analysis. These include a lack of data on social indicators, the slow production of statistics, and the limited amount of financial, institutional and human resources for monitoring and collecting such data in developing countries. This explains the often outdated or incomplete information available. Therefore, the case studies analysed focus primarily on qualitative assessments of social and human rights changes.⁷² It should be noted that, owing to time and resource constraints, Part 1 of this study suffered from similar limitations in the literature and from the inability to conduct interviews for the preparation of this evaluation.

⁶² [Ibid.](#), p. 95.

⁶³ [Ibid.](#), pp. 257, 260.

⁶⁴ [Ibid.](#), p. 260. The outsourced European Commission evaluation refers to the ILO's data, according to which 43.2 % of the female population was working in paid labour in 2016 (2.2 % more than in 2010). The share of women working in the agricultural sector is much higher than that of men and it is also increasing also in the industrial sector.

⁶⁵ [Ibid.](#), p. 95.

⁶⁶ [Ibid.](#), p. 93.

⁶⁷ [Ibid.](#), p. 257.

⁶⁸ See, for example, Isabelle Ioannides, [The effects of human rights related clauses in the EU-Mexico Global Agreement and the EU-Chile Association Agreement](#), EPRS, European Parliament, February 2017.

⁶⁹ DEVELOPMENT Solutions Europe Ltd, [Mid-Term Evaluation of the EU's Generalised Scheme of Preferences \(GSP\) - Final Report](#), prepared for the European Commission, Brussels, July 2018, p. 257.

⁷⁰ [Ibid.](#), pp. 9, 257-258.

⁷¹ [Ibid.](#), p. 97.

⁷² [Ibid.](#), p. 10.

3.2.2. Effects of conditionality on social development and poverty reduction

Conditionality is one of the main instruments the EU uses to promote respect for human rights and good governance in GSP beneficiary countries. It means that countries that have not ratified a number of international conventions and do not meet minimum human, labour and social standards cannot have access to the GSP; they can also be suspended or withdrawn from the GSP if they systematically and severely infringe them.⁷³

According to the external evaluation, 'conditionality is noted to have a strong impact on countries that are significantly dependent on the EU market for their exports', as has been the case for Bangladesh.⁷⁴ Since 2013, the EU has repeatedly threatened the Bangladeshi government with blocking the EBA if it did not take measures to improve occupational safety in the country. To support this, the EU has engaged closely and collaborated with the Bangladeshi government, thus contributing to the adoption of a piece of law, the Sustainability Compact. In addition, the EU has helped the factories to organise audits, increase resources earmarked for fire security improvement, and implement the Better Work Bangladesh Programme. The country is considered to have improved its working conditions since 2013, by strengthening safety in factories, requiring higher levels of corporate responsibility, strengthening labour rights and increasing wages, and facilitating trade union registration.⁷⁵ When it comes to poverty eradication, extreme poverty in the country is decreasing, and reached its lowest level of 13.8 % in 2016. This has been attributed to the development of infrastructures fostered by the EBA arrangement.⁷⁶

Among the examples of successful conditionality, the external evaluation also mentions Sri Lanka, which was readmitted to the GSP+ in 2017.⁷⁷ The GSP with Sri Lanka was suspended in August 2010 because of shortcomings in the effective implementation of the International Covenant on Civil and Political Rights (ICCPR), the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), and the Convention on the Rights of the Child (CRC).⁷⁸ GSP suspension had negative consequences on the national economy, including the loss of thousands of jobs. Under these circumstances, the country chose to ratify the necessary international

⁷³ The procedure is set out in Article 19 of Regulation (EU) No 978/2012: ahead of activating the withdrawal clause, the European Commission informs the country in question of its doubts. If the country does not take measures for complying with the requirements, then the European Commission can proceed with the withdrawal procedure.

⁷⁴ DEVELOPMENT Solutions Europe Ltd, [Mid-Term Evaluation of the EU's Generalised Scheme of Preferences \(GSP\) - Final Report](#), prepared for the European Commission, Brussels, July 2018, pp. 96-97, 101. The study reports that in 2016, Bangladesh exported €16.2 billion worth of goods to the EU (the equivalent to 43.6 %) of its global exports. In that respect, participation in the EBA trade regime has a major impact on the country's economic and social dimensions.

⁷⁵ It was noted that safety conditions have improved thanks to the implementation of the Bangladesh Sustainability Compact but also as a result of increased monitoring from international buyers.

⁷⁶ Notwithstanding all the progress made, there are conflicting opinions on the state of affairs in Bangladesh. While reforms were adopted after the Rana Plaza collapse and following EU reprimands in 2013, more recent demands for higher wages have often been followed by arrests and other forms of repression of workers' protests. Workplace safety conditions are still a problem, especially in the ready-made garment sub-factories, which are less monitored and less accountable than the main factories. Despite the development of trade unions, dialogue between employers and workers remains partial and ineffective, leading to slow improvements in working conditions. In the period under consideration, political instability, violence and repression have hindered human rights, political rights and civil liberties. Even if the freedoms of expression and assembly are formally guaranteed, in reality they have been restricted (e.g., political opposition has been restrained and the judicial system has been politicised). Furthermore, although Bangladesh has attained good results on gender equality, enormous gender gaps exist in high-level positions and in professional and technical jobs. Wages for similar works are also significantly different.⁷⁶ DEVELOPMENT Solutions Europe Ltd, [Mid-Term Evaluation of the EU's Generalised Scheme of Preferences \(GSP\) – Final Report](#), prepared for the European Commission, Brussels, July 2018, pp. 163-181.

⁷⁷ [Ibid.](#), p. 101.

⁷⁸ These conventions are listed in Annex VIII, Part A of the GSP Regulation.

conventions with no reservation and to take steps in their implementation. Consequently, the external evaluation concludes that even if the implementation of social and economic rights implies a cost for beneficiary countries, ultimately the economic advantages far exceeds the costs.⁷⁹

On the other hand, the external evaluation identifies the limits of conditionality and concludes that GSP+ conditionality has had limited additional impact on the implementation of the conventions on drug control and anti-corruption.⁸⁰ It notes that for many beneficiary countries, conditionality has not been tested since they ratified the required international conventions 'long before their admission to the special arrangement'.⁸¹ Linked to this, the evaluation explains that the list of conventions that GSP+ countries must ratify is 'incomplete and outdated' and should therefore be updated (no modification was made to it with the reform of the GSP in 2012).⁸²

The external evaluation also pointed out that the temporary withdrawal mechanism (Article 19) is not used much. During the period under review, this mechanism had never been applied.⁸³ The literature on the matter concurs that the EU's use of conditionality has not always been consistent and transparent. This not only hinders the effective promotion of human rights in the beneficiary countries, which is a duty for the EU under the GSP Regulation, but it also hurts the credibility of the EU as a fair and objective actor committed to the promotion of human rights and good governance.⁸⁴ This discrepancy was illustrated through the cases of Myanmar/Burma, Belarus, Sri Lanka, Bangladesh, Cambodia, Uzbekistan and Turkmenistan. In response to violations of core labour standards or human rights, the EU suspended the preferential regime towards the first three countries, whereas it did not for the other four countries.

- For example, in the case of Cambodia, the EU did not use Article 19, but rather deepened its development cooperation with the country and focused on land sector reform. The evaluation points out that civil society organisations have disapproved with the European Commission's choice, stating that the violations have not stopped and that the government is not interested in solving the issue; they have called for the withdrawal of Cambodia from the EBA.
- Myanmar/Burma was suspended from the EBA preferential trade regime in 1997 because of labour rights violations (forced labour) and was reinserted in 2013 when the ILO assessed that the situation had progressed sufficiently following reforms. Since then, Myanmar/Burma has experienced a very high boost in exports (Eurostat data show an increase from €192 million in 2013 to €963 million in 2016, equivalent to 402 %). Nevertheless, the UN has reported ongoing 'discrimination against ethnic and religious minorities, conflict-related violence and regression of the freedoms of expression, speech, assembly and association', and the fact that the government does not have full control of the country.⁸⁵ The external evaluation explained the fact that the EU had not suspended GSP in Myanmar/Burma because the previous 'withdrawal [in 1997] had little impact on enhancing compliance with human rights and labour

⁷⁹ DEVELOPMENT Solutions Europe Ltd, [Mid-Term Evaluation of the EU's Generalised Scheme of Preferences \(GSP\) - Final Report](#), prepared for the European Commission, Brussels, July 2018, p. 94.

⁸⁰ [Ibid.](#), p. 101.

⁸¹ [Ibid.](#), p. 99.

⁸² [Ibid.](#), p. 265.

⁸³ [Ibid.](#), p. 8.

⁸⁴ [Ibid.](#), p. 94.

⁸⁵ [Ibid.](#), p. 98.

rights'. However, it should be noted that since the EU's trade relations with Myanmar/Burma were limited, EU leverage on the country was also limited.

- Another example of ineffective use of conditionality is Pakistan. Pakistan has ratified the conventions on human rights needed to benefit from GSP+ status.⁸⁶ However, according to the external evaluation, substantial socio-political problems persist. In the area of labour, informal employment is very widespread in professional fields (72.6 % of non-agricultural employment in 2014-2015) and 80 % of the workers are still excluded from social security, pension scheme and welfare facilities. This means that a large number of employees do not enjoy the protection and standards set out in international conventions nor do they benefit from the monitoring processes.⁸⁷ Not only are bonded labour and child labour 'widespread throughout the country',⁸⁸ but there are too few inspectors, much of the system suffers from corruption, and working space is often unsafe and unhygienic.⁸⁹ It is underlined that while poverty has decreased over the years, it is still 54.6 % in rural areas (as opposed to 9.3 % in urban areas). Although average earnings have increased and the government has set monthly minimum wages, the latter are not always met. Accordingly, the external evaluation finds that 'the contribution of these exports to poverty reduction are at best relatively moderate'.⁹⁰

On human rights, the external study finds that 'political rights and civil liberties remain relatively restricted in Pakistan'⁹¹. The government regulates international NGOs in a way that obstructs their activity 'and impedes the efforts of international humanitarian and human rights groups in the country'.⁹² 'Arbitrary detention, torture and the de-facto reinstatement of the death penalty [...], non-transparent transfers from civilian to military courts, non-transparent hearings or convictions based on confessions obtained through torture, death penalty for children and lack of access to legal aid for death row prisoners' have been used in the name of combating terrorism.

On gender equality, Pakistan is one of the countries in the world where inequalities are greater, as the society is patriarchal, and women have a lower economic, social and political status. This is reflected in unequal educational and employment opportunities and in the under-representation of women in all institutional and political bodies. The study links this environment to sexual and workplace harassment of women.

3.2.3. Effects of monitoring on social development and poverty reduction

The reform of the GSP Regulation has improved in particular the scope for promoting social and human rights (in particular for the GSP+)⁹³, especially through improved monitoring of adherence and effective implementation of ratified conventions. Most notably, GSP Regulation 978/2012

⁸⁶ [Ibid.](#), p. 99. More precisely, it formulated nine reservations to the Covenant on Civil and Political Rights (ICCPR), which it then reduced to two, and nine reservations to the Convention against Torture (CAT), which it reduced to three.

⁸⁷ [Ibid.](#), p. 229.

⁸⁸ [Ibid.](#), p. 230.

⁸⁹ The ILO Committee of Experts has expressed concern regarding the implementation of the Labour Inspection Convention (No 81) for the past six years. In [ibid.](#)

⁹⁰ [Ibid.](#), p. 231.

⁹¹ [Ibid.](#)

⁹² [Ibid.](#), p. 232.

⁹³ GSP+ monitoring implies regular dialogues and visits to the beneficiary countries.

shortened the monitoring cycle from three to two years and reformed the annual European Commission reports to the European Parliament and the Council to now cover all three preferential arrangements.

In line with the literature on monitoring, the external evaluation underlines the importance of 'effective monitoring of the actual implementation of the relevant provisions and conventions' for assessing the impact on the social conditions. It also points to the high potential of GSP monitoring and reporting on safeguarding human and labour rights, and specifically on strengthening juridical protection and women rights.⁹⁴ There have been a few cases of successful use of the monitoring mechanism. El Salvador, which as a result of the European Commission's monitoring made the necessary constitutional changes to ensure compatibility with the ILO Convention No 87 on the Freedom of Association and the Right to Organise, is a case in point.

However, 'the scheme's concrete impact on improving social and human rights standards depends highly on the specific case and beneficiary country, and is not uniform across countries'.⁹⁵ According to the external evaluation, this is due to the fact that even if the general obligations that beneficiary countries must face under GSP 978/2012 are the same for all them, each state faces different issues, challenges and constraints.⁹⁶ The external evaluation also concludes that whether the monitoring will be effective or not depends on the state's willingness and capability to comply with its reporting obligations. This point has been already demonstrated in other EU trade agreements.⁹⁷ The UN and ILO monitoring bodies in charge of the monitoring base their evaluations largely on the national reporting activity and on observations from civil society.⁹⁸ If the beneficiary countries do not fulfil their reporting obligations or if they submit their reports late, it becomes difficult for international bodies to assess how they are performing.⁹⁹ In this respect, the external evaluation finds that beneficiary countries have been better at reporting on the implementation of human rights and labour rights conventions rather than environmental conventions.

The external evaluation takes Mongolia and Bolivia as examples of absence of compliance with their reporting obligations. Mongolia is said to have improved its levels of compliance but to have difficulties in communicating with domestic social partners. Bolivia is described as 'largely inconsistent in its reporting'. Notwithstanding Pakistan's infringements of human and social rights, the external evaluation mentioned the country as a positive example of reporting.¹⁰⁰

3.3. European Commission mid-term evaluation

According to Article 14 of GSP Regulation 978/2012, the European Commission must present a mid-term evaluation on the application of the regulation to the European Parliament and the Council, to be used to assess the need for a review. This mid-term report was published with the externally contracted evaluation of the regulation and the accompanying staff working document.

⁹⁴ [Ibid.](#), p. 94.

⁹⁵ [Ibid.](#)

⁹⁶ [Ibid.](#)

⁹⁷ See, for example, Isabelle Ioannides, [The Trade Pillar in the EU-Central America Association Agreement: European Implementation Assessment](#), EPRS, European Parliament, October 2018; , Isabelle Ioannides, [The effects of human rights related clauses in the EU-Mexico Global Agreement and the EU-Chile Association Agreement](#), EPRS, European Parliament, February 2017.

⁹⁸ [Ibid.](#), p. 100.

⁹⁹ [Ibid.](#)

¹⁰⁰ [Ibid.](#)

From the outset, the European Commission set its limitations. Due to limited capacities, its efforts to implement the GSP have focused on the most extreme violations of social, human, and environmental rights in the beneficiary countries.¹⁰¹ The findings of the European Commission's mid-term evaluation largely follow the results of the externally outsourced evaluation. Thus, this section focuses on the additional considerations that the European Commission has made. The mid-term evaluation provided an assessment of the impact of the GSP on social and human rights, focussing on good governance and paying special attention to terrorism and money laundering. The subjects are developed in three distinct sub-sections to facilitate the comparison with the sub-sections above.

On the economic impact of the GSP, the mid-term evaluation finds that GSP reform has had a positive economic impact and that 'the relevance of the GSP remains strong. Its aggregate trade impact has reduced but it remains positive and vital for those countries most in need of support for their market access, notably LDCs and other vulnerable countries'.¹⁰² The annexed research paper provides a more nuanced analysis of the economic impact of the GSP and shows how it has complicated access to preferences for LDCs and hampered their development.

3.3.1. Effects of trade on social development and poverty reduction

The European Commission's mid-term evaluation argues that international trade has a potentially positive impact on economic growth, employment and social development in the beneficiary countries, but that the outcome strongly depends on how the resources generated by trade are allocated and whether they are invested in the improvement of labour standards. As a result, the impact of the GSP on social and human rights differs in each of the beneficiary countries. According to the European Commission, the advancement of the majority of the beneficiaries in the Social Progress Index (SPI) ranking¹⁰³ (5 out of 7 under GSP+, 9 out of 13 under the standard GSP and 18 out of 28 under EBA)¹⁰⁴ demonstrates that GSP beneficiaries are making slow but steady progress. In that sense, it is argued that the GSP can be considered to have contributed to strengthening human and social rights in third countries.¹⁰⁵ The European Commission based its premise on data provided in the external evaluation on progress made on several indicators in Pakistan, Bangladesh, Bolivia and Ethiopia. In all fairness, the European Commission acknowledges that the situation in several beneficiaries has exacerbated with three out of 13 under the standard GSP (one country did not move) and six under EBA falling in the SPI ranking. Moreover, it has underlined that 'GSP+ beneficiaries are not necessarily improving at a faster rate than EBA beneficiaries'.¹⁰⁶

¹⁰¹ European Commission, [Civil society dialogue, Meeting on the mid-term evaluation of the EU's Generalised Scheme of Preferences \(GSP\)](#), DG Trade, 25 September 2017.

¹⁰² European Commission, [Commission staff working document, Midterm Evaluation of the Generalised Scheme of Preferences accompanying the document Report from the European Commission to the European Parliament and the Council on the application of Regulation \(EU\) No 978/2012 applying a Scheme of Generalised Tariff Preferences and repealing Council Regulation \(EC\) No 732/2008](#), SWD(2018) 430 final, 4 October 2018, p. 6.

¹⁰³ The Social Progress Index (SPI) is a proxy that measures a country's changes in social rights and entitlements on the basis of more than 50 indicators relating inter alia to basic human needs, educational, personal rights and freedoms, and environmental spheres. The SPI score value ranges from a minimum of 1 to a maximum of 100. It was used by the UN in its assessment of the Sustainable Development Goals. It was also used by the external evaluator to assess the extent of social progress/regression in the period under review (2014 to 2016).

¹⁰⁴ [Ibid.](#), p. 27.

¹⁰⁵ European Commission, [Commission staff working document, Midterm Evaluation of the Generalised Scheme of Preferences accompanying the document Report from the European Commission to the European Parliament and the Council on the application of Regulation \(EU\) No 978/2012 applying a Scheme of Generalised Tariff Preferences and repealing Council Regulation \(EC\) No 732/2008](#), SWD(2018) 430 final, 4 October 2018, p. 27.

¹⁰⁶ [Ibid.](#), p. 28.

Equally, the European Commission admits, as also emphasised in its outsourced evaluation, that it is difficult to identify a direct link between the GSP and social progress. In addition, while some GSP beneficiaries may have improved in some aspects of the SPI ranking, they may underperform in some specific areas, as is the case of Pakistan.¹⁰⁷ Moreover, the European Commission does not ignore the fact that international trade within the GSP framework has had negative impacts in some countries. In line with the external evaluation it commissioned, it refers to land grabbing to make way for industrial development in Ethiopia and to 'human rights abuses in relation to the granting of sugar land concessions' in Cambodia. It attributes these 'unintended consequences' in part to the lack of efficient national policies.

3.3.2. Effects of conditionality on social development and poverty reduction

In terms of the effectiveness of conditionality, the mid-term evaluation concludes that it can potentially spur the ratification and effective implementation of relevant international conventions required by GSP Regulation 978/2012.¹⁰⁸ It is argued that this is particularly true for the GSP+ arrangement, which grants access to better market conditions provided that beneficiaries comply with 27 conventions on labour and human rights. The use of conditionality in Sri Lanka is considered to have succeeded and to have led to the implementation of the UN human rights conventions and the improvement of the human rights situation. Similarly, conditionality in Pakistan, with the prospect of gaining GSP+ status, is seen as having encouraged the country to ratify the Convention against Torture and the International Covenant on Civil and Political Rights in 2010 and to remove a number of reservations to those conventions in 2011.¹⁰⁹

In response to criticism for not having applied the temporary withdrawal mechanism quickly enough in situations of 'severe and systematic violations', the European Commission's position is that it tries to avoid withdrawal when the failing country is committed to taking measures to remedy the situation, even if the shortcomings are serious ones, while rather starting dialogue and enhanced engagement with the country in question.¹¹⁰ This is the approach the European Commission adopted in the cases of Cambodia and Ethiopia, with mixed results.¹¹¹

3.3.3. Effects of monitoring on social development and poverty reduction

According to the mid-term evaluation, the reformed 'GSP+ monitoring mechanism has increased the effectiveness of the scheme'.¹¹² The modifications to this operational instrument have consisted of intensifying both its frequency and its scope.¹¹³ However, the regular dialogues and visits that the European Commission carries out in GSP countries are facing budgetary constraints. Beyond the considerable human resource implications resulting from budgetary cuts in EU institutions, the European Commission considers that 'extended monitoring also raises questions relating to

¹⁰⁷ While Pakistan has improved its SPI ranking, it still faces considerable challenges in social progress and underperforms in specific areas measured by the SPI (e.g. personal safety issues, inclusion and tolerance for immigrants, LGBTI people and minorities, inadequate access to basic knowledge, and poor environmental quality). See [ibid.](#), pp. 27-28.

¹⁰⁸ [Ibid.](#)

¹⁰⁹ [Ibid.](#)

¹¹⁰ [Ibid.](#)

¹¹¹ In this regard, the European Commission stated that this engagement has led to some results with a process (albeit still in need of improvement) that has seen land rights holders being compensated. [Ibid.](#), p. 29.

¹¹² [Ibid.](#), p. 32.

¹¹³ [Ibid.](#), p. 33.

international obligations (e.g. limitations under the WTO Enabling Clause) and consistency with the role of the multilateral supervisory system under the UN and ILO'.¹¹⁴

3.3.4. Effects of GSP on anti-terrorism and anti-money laundering

The European Commission has also pointed out that the GSP, in particular the GSP+, contributes to anti-terrorism and anti-money laundering efforts, even if those domains are not directly addressed by the international conventions that the beneficiary countries have to comply with. Nine of the 16 states that the EU classifies as 'high-risk countries' are GSP beneficiaries.¹¹⁵ They have all committed to remedying the identified problems and have developed action plans to do so with support from the Financial Action Task Force (FATF) and through EU dialogue. Article 19 of GSP Regulation 978/2012 explicitly stipulates that GSP+ status can be withdrawn for 'failure to comply with international conventions on anti-terrorism and money laundering'.

3.4. Recommendations from European Commission assessments

Overall, the two evaluations agreed that the GSP's efficiency improved or remained stable during the period of its application (2014 to 2016). The fact that the GSP Regulation relies on assessments carried out by independent international bodies (e.g., ILO or the UN Committee for Development Policy) was seen as another element contributing to the efficiency of the GSP. Furthermore, the GSP was found to be coherent with and complementary to EU external policies (trade, development and foreign policy) and is defined as a 'key tool' in the EU's sustainable development policies.

While both evaluations agreed that the GSP can be considered a useful means for increasing fundamental labour and human rights standards in third countries, they also recognised that the outcome of the GSP is very dependent on each beneficiary's trade volumes to the EU, institutional and political context, and problems. The underlying assumption for international trade and economic growth to contribute to social development is that domestic policies effectively support social development for all layers of society and that national institutions and monitoring bodies (judiciary, parliament, social dialogue partners, civil society organisations, and the media) function properly.

As outlined below, the recommendations in the European Commission's mid-term evaluation do not necessarily follow those developed in the external evaluation. The key recommendations made in the two evaluations cover the following issues.

- 1 **On the use of the withdrawal instrument:** the external evaluation calls for a more effective use of the withdrawal instrument by the European Commission and specifically calls for its prompt use 'whenever severe and systematic violation is reported by relevant monitoring bodies'.¹¹⁶ It argues that this could push the non-compliant country to remedy its shortcomings quickly and effectively. As already

¹¹⁴ [Ibid.](#)

¹¹⁵ These are: Afghanistan, Ethiopia, Laos, Pakistan, Sri Lanka, Syria, Uganda, Vanuatu, and Yemen.

¹¹⁶ European Commission, [Mid-Term Evaluation of the EU's Generalised Scheme of Preferences \(GSP\) – Final Report](#), prepared by DEVELOPMENT Solutions Europe Limited July 2018, pp. 10, 264; see also Article 19 of the GSP Regulation, stating that 'serious and systematic violation of principles laid down in the conventions listed in Part A of Annex VIII' may lead to a temporary withdrawal of the GSP+ status.

explained, the European Commission favours the use of alternative instruments, such as dialogue and enhanced engagement.¹¹⁷

For its part, the European Commission favours avoiding the use of the withdrawal mechanism as long as the country has committed itself to remedying the human rights situation. Rather, it opts for dialogue and engagement (as explained in Section 3.1.2). The European Commission has objected to statements that the withdrawal instrument's impact is unclear, as it has never been used under the reformed GSP Regulation.

- 2 **Update the list of international conventions on human and labour rights, good governance, and environment that the countries must comply with in order to access the GSP+ status.**¹¹⁸ For instance, a proposal was made to add the Paris Agreement on Climate Change to the list. In order to ensure legal certainty, these new additions should take place after the expiry of the current Regulation. This recommendation was made by the external consultants but was not picked up in the European Commission's mid-term evaluation.
- 3 **Extend the obligation of ratifying and implementing the 27 international conventions required for the standard GSP beneficiaries** to foster sustainable development and good governance in these countries.¹¹⁹ A transition period of three years was advised to allow all the countries to adopt the necessary measures. This recommendation too appears in the external evaluation prepared for the European Commission, but is not included in the European Commission's mid-term evaluation.
- 4 **On transparency in the EU's monitoring of the implementation of the GSP:** the external evaluation calls for greater transparency, including on the 'scorecard' discussed in the dialogues with the third countries' authorities.¹²⁰ The external evaluation recommends making these scorecards publicly available, as well as the agendas and summary report of the dialogues.

The European Commission mid-term review, however, notes that 'The way the GSP+ monitoring process is implemented already ensures transparency and inclusiveness, including with civil society'.¹²¹ Nevertheless, the European Commission commits to consider what practical measures could be taken to further enhance transparency and inclusiveness in the monitoring process. It also points out the need for a certain degree of confidentiality in conducting international relations.

¹¹⁷ European Commission, [Commission staff working document, Midterm Evaluation of the Generalised Scheme of Preferences accompanying the document Report from the European Commission to the European Parliament and the Council on the application of Regulation \(EU\) No 978/2012 applying a Scheme of Generalised Tariff Preferences and repealing Council Regulation \(EC\) No 732/2008](#), SWD(2018) 430 final, 4 October 2018, pp. 23, 29.

¹¹⁸ DEVELOPMENT Solutions Europe Ltd, [Mid-Term Evaluation of the EU's Generalised Scheme of Preferences \(GSP\) - Final Report](#), prepared for the European Commission, Brussels, July 2018, pp. 10, 265.

¹¹⁹ [Ibid.](#), pp. 10, 265.

¹²⁰ [Ibid.](#), pp. 10, 244, 263. A scorecard is a list of issues covering shortcomings in implementation of the international conventions that the beneficiary country must respond to.

¹²¹ European Commission, [Commission staff working document, Midterm Evaluation of the Generalised Scheme of Preferences accompanying the document Report from the European Commission to the European Parliament and the Council on the application of Regulation \(EU\) No 978/2012 applying a Scheme of Generalised Tariff Preferences and repealing Council Regulation \(EC\) No 732/2008](#), SWD(2018) 430 final, 4 October 2018, pp. 22, 41.

- 5 **On extending GSP monitoring mechanism: extend the GSP+ arrangement to all other GSP arrangements to capitalise on the advantages it has in protecting human and social rights.**¹²² This should be balanced against the additional costs that such an operation would imply, and the risk that extended monitoring could entail (e.g., in the case of EBA countries such extended monitoring could prove inefficient and burdensome).

The European Commission observed such an arrangement 'would inevitably require considerably more human resources and have significant cost implications'. With that in mind, the external consultant suggested that the feasibility of this recommendation needs to be reviewed with regards to benefits (in terms of effectiveness and impact) as well as its cost (in terms of efficiency and financial expenditure). In its defence, the European Commission put forward two points acknowledged in the external evaluation:

- the costs of such enhanced monitoring, undertaken by dedicated Commission staff in cooperation with the EEAS and EU Delegations, were not negligible, and;
- extending monitoring to EBA countries could be considered as inefficient and unduly burdensome.

Nevertheless, the European Commission committed to carrying out targeted enhanced monitoring (under tight resource constraints) in certain cases, e.g. Bangladesh and Cambodia.¹²³

- 6 Extend the European Commission's monitoring cycle to the European Parliament and the Council from two years to three or four years.¹²⁴ Both the external evaluation and the Commission's mid-term evaluation agreed that a two-year timeframe is too short for the beneficiary countries to implement meaningful changes and that the administrative burden that the monitoring entails is not negligible.
- 7 **Promote greater awareness of GSP in the beneficiary countries**, which in turn would foster the effectiveness and good functioning of the GSP itself.¹²⁵ This could be done through awareness raising programmes and information exchange with civil society. To the observation made by the external consultant, the European Commission replied that while some programmes are already in place, there is room for improvement and for higher awareness among civil society. According to the external evaluation, this is especially true for the EBA and GSP+ countries where

¹²² DEVELOPMENT Solutions Europe Ltd, [Mid-Term Evaluation of the EU's Generalised Scheme of Preferences \(GSP\) - Final Report](#), prepared for the European Commission, Brussels, July 2018, p. 265.

¹²³ European Commission, [Commission staff working document, Midterm Evaluation of the Generalised Scheme of Preferences accompanying the document Report from the European Commission to the European Parliament and the Council on the application of Regulation \(EU\) No 978/2012 applying a Scheme of Generalised Tariff Preferences and repealing Council Regulation \(EC\) No 732/2008](#), SWD(2018) 430 final, 4 October 2018, p. 33.

¹²⁴ DEVELOPMENT Solutions Europe Ltd, [Mid-Term Evaluation of the EU's Generalised Scheme of Preferences \(GSP\) - Final Report](#), prepared for the European Commission, Brussels, July 2018, pp. 245, 261; European Commission, [Commission staff working document, Midterm Evaluation of the Generalised Scheme of Preferences accompanying the document Report from the European Commission to the European Parliament and the Council on the application of Regulation \(EU\) No 978/2012 applying a Scheme of Generalised Tariff Preferences and repealing Council Regulation \(EC\) No 732/2008](#), SWD(2018) 430 final, 4 October 2018, pp. 33, 41.

¹²⁵ DEVELOPMENT Solutions Europe Ltd, [Mid-Term Evaluation of the EU's Generalised Scheme of Preferences \(GSP\) - Final Report](#), prepared for the European Commission, Brussels, July 2018, pp. 245, 251, 264.

national workshops showed that there is a lack of information and, in some instances, misconceptions about the GSP scheme itself.¹²⁶

¹²⁶ European Commission, [Commission staff working document, Midterm Evaluation of the Generalised Scheme of Preferences accompanying the document Report from the European Commission to the European Parliament and the Council on the application of Regulation \(EU\) No 978/2012 applying a Scheme of Generalised Tariff Preferences and repealing Council Regulation \(EC\) No 732/2008](#), SWD(2018) 430 final, 4 October 2018, pp. 10, 33, 41.

4. Parliament's oversight of the GSP Regulation

The European Parliament has been monitoring the implementation of the GSP Regulation actively. The INTA committee has organised several exchanges of views on GSP, including on the progress made by GSP+ beneficiaries and the role of CSOs in the application of GSP+, and has conducted monitoring missions. In addition, the European Commission and the EEAS have also benefited from the involvement of Parliament delegations' missions to specific GSP+ countries. This section, which analyses Parliament's oversight of the GSP Regulation, focuses on the reports and resolutions prepared by the European Parliament that are related to the GSP, as well as the relevant parliamentary questions posed by Members of the European Parliament (MEPs) to the European Commission in the current legislature (2014-2018). This analysis provides an overview of Parliament's position on GSP Regulation 978/2012 and the concerns raised as to its contribution to poverty reduction and good governance in the beneficiary countries.

During the current legislature, Parliament has insisted on respect for conditionality: trade preferences granted within the GSP framework need to be conditional upon respect for human rights and good governance in each beneficiary country. Over the years, a number of MEPs have proposed to change the status of a number of the beneficiary countries listed in Table 1 when human rights violations in these countries were on an upward trend. As the table below shows, this interest of Parliament was not necessarily related to the net value of exports to the EU (and thus on the ability of a beneficiary to take advantage of the preferential tariff lines). In 2017, Bangladesh exported the equivalent of US\$ 19 132.98 million, the Philippines the equivalent of US\$ 8 567.81 million, Pakistan the equivalent of US\$ 7 553.94 million, Cambodia the equivalent of US\$ 5 674.09 million, Sri Lanka the equivalent of US\$ 3 052.71 million and Myanmar/Burma the equivalent of US\$ 1 774.01 million. Other countries exported significantly lower values to the EU, such as Bolivia, at US\$ 635.35 million dollars. In particular, the Philippines and Pakistan were respectively the first and second exporters under the GSP+, while Bangladesh and Cambodia were respectively the first and the second exporters under the EBA.¹²⁷

Table 1 also shows that the attention of Parliament and individual MEPs has focused on a limited number of beneficiaries, and in particular on GSP+ beneficiaries. Specifically, five out of eight (62.5 %) of GSP+ beneficiaries were addressed in at least one resolution or question. Parliament's interest was also directed towards four EBA countries, which also represent a small number (8 %) in relation to the 49 beneficiaries overall that were under review during the four year period (2014 to 2018). Lastly, two of the 23 standard GSP states have been addressed directly in resolutions or questions (8.7 %).

Table 1 – Overview of state of affairs in GSP beneficiaries addressed in Parliament's resolutions and Members' questions

Beneficiary	GSP scheme	Evolution of GSP status	Value of exports to the EU in 2017 (US\$)	Members' main concerns
Afghanistan	EBA		US\$ 25.17 million 34th exporter to the EU among EBA beneficiaries	Some Members raised concerns about Afghanistan's compliance with the Convention against Torture and other relevant conventions (2018)

¹²⁷ [IMF data concerning 2017](#).

Beneficiary	GSP scheme	Evolution of GSP status	Value of exports to the EU in 2017 (US\$)	Members' main concerns
Bangladesh	EBA		US\$ 19 129.98 million Largest beneficiary of the EBA arrangement	Parliament's resolution noted that the EBA played an important role in Bangladesh's economic development and poverty reduction; but called for better monitoring of the human and labour situation by the European Commission and for the European Commission to report back to Parliament; members have stressed the importance of 'sound conditionality' (2015). ¹²⁸ Parliament's resolution supported the Bangladesh Sustainability Compact and the European Commission – EEAS's bilateral dialogue with Bangladesh aimed at achieving better compliance with international conventions as required in Regulation 978/2012 (2017)
Bolivia	GSP+		US\$ 635,35 millions 5th exporter to the EU among GSP+ beneficiaries	Some Members raised concerns about Bolivia's compliance with the ILO conventions concerning Minimum Age for Admission to Employment and children rights (2014)
Cambodia	EBA		US\$ 5 674.09 million Second largest beneficiary of the EBA arrangement	Some Members called for suspension of the GSP because of serious human rights abuses. Parliament's resolution called for the European Commission to use the EBA tools, such as investigation and economic measures, as a consequence of Cambodian government's infringements of political, human and social rights (2018).

¹²⁸ [European Parliament resolution of 29 April 2015 on the second anniversary of the Rana Plaza building collapse and progress of the Bangladesh Sustainability Compact \(2015/2589\(RSP\)\)](#), P8_TA(2015)0175, paragraph 26.

Beneficiary	GSP scheme	Evolution of GSP status	Value of exports to the EU in 2017 (US\$)	Members' main concerns
Myanmar/Burma	EBA	Repealed in 1997, re-instated in 2013	US\$ 1 774.01 million 5th exporter to the EU among EBA beneficiaries	Some Members have called for the suspension of the GSP because of serious human rights violations (2017).
Mongolia	GSP+		US\$ 193.98 million Lowest exporter to the EU among GSP+ beneficiaries	Parliament's non-legislative resolution welcoming the inclusion of Mongolia in the GSP+ scheme (2017).
Pakistan	GSP+	Transitioned from the standard GSP to the GSP+ in 2014	US\$ 7 553.94 million Second largest beneficiary of the GSP+ arrangement	<p>Some Members have called for the suspension of the GSP because of non-compliance with international conventions on fundamental rights (six calls from 2015 to 2018).</p> <p>Parliament resolutions have called for the European Commission and the EEAS to monitor Pakistan's compliance with its commitments under the GSP+ more strictly; it has noted that GSP+ status is conditional upon the ratification and implementation of 27 international conventions (2014, 2017).</p> <p>Parliament has underlined that the granting of GSP+ preferences is linked to respect for the standards listed in the UN and ILO conventions (2015).</p> <p>A Parliament resolution has urged the Pakistani government to implement the 27 core conventions and demonstrate progress (2017).</p>
Philippines	GSP+	Transitioned from the standard GSP to the GSP+ in 2015	US\$ 8 567.81 million largest beneficiary of the GSP+ arrangement	Some Members opposed its GSP upgrade because of non-compliance with conventions on human rights, social rights and the environment (2018).
Sri Lanka	GSP+	Suspended in 2010, re-instated in 2017	US\$ 3 052.71 millions Third largest beneficiary of the GSP+ arrangement	Some Members proposed the readmission of Sri Lanka in the GSP+ after the

Beneficiary	GSP scheme	Evolution of GSP status	Value of exports to the EU in 2017 (US\$)	Members' main concerns
				democratic reforms in the country (2015).
Swaziland	Standard GSP		US\$ 97.17 million ¹²⁹	Some Members called for the European Commission to open an investigation to determine whether there had been a serious and systematic violation of the labour rights protected under the GSP (2015).
Tajikistan	Standard GSP		US\$ 48.29 million	Some Members raised concerns about the Tajik repressive political environment and poor economy within the GSP framework (2016).

Source: Compiled by the authors using relevant Parliament resolutions and reports and Members' questions (2014-2018).

The following two sections analyse those Parliament resolutions and MEPs' written questions to the European Commission that address issues of good governance and human rights within the GSP framework.

4.1. Parliament's resolutions and reports

Between 2014 and 2018, Parliament adopted one resolution on the implementation of its 2010 recommendations on social and environmental standards, human rights and corporate responsibility, where it clearly outlined its position on the GSP.¹³⁰ In addition, two other resolutions make substantive reference to the GSP scheme and another six link GSP to human rights and good governance in specific beneficiaries.¹³¹

In the above-mentioned 2016 resolution, Parliament points to the need for trade agreements not to be limited to the economic sphere, and for the GSP to be a means through which human rights, social progress and sustainable development can be safeguarded in the EU's trade partners

¹²⁹ Rankings could not be calculated because data on two standard GSP countries (Cook Islands and Niue) were not available.

¹³⁰ [European Parliament resolution of 5 July 2016 on implementation of the 2010 recommendations of Parliament on social and environmental standards, human rights and corporate responsibility](#), P8_TA(2016)0298.

¹³¹ These are: [European Parliament resolution of 27 November 2014 on Pakistan: blasphemy laws \(2014/2969\(RSP\)\)](#), P8_TA(2014)0064; [European Parliament resolution of 15 January 2015 on Pakistan, in particular the situation following the Peshawar school attack \(2015/2515\(RSP\)\)](#), P8_TA(2015)0007; [European Parliament resolution of 29 April 2015 on the second anniversary of the Rana Plaza building collapse and progress of the Bangladesh Sustainability Compact \(2015/2589\(RSP\)\)](#), P8_TA(2015)0175; [European Parliament resolution of 15 June 2017 on Pakistan, notably the situation of human rights defenders and the death penalty \(2017/2723\(RSP\)\)](#), P8_TA(2017)0268; [European Parliament resolution of 14 June 2017 on the state of play of the implementation of the Sustainability Compact in Bangladesh \(2017/2636\(RSP\)\)](#), P8_TA(2017)0265; [European Parliament resolution of 13 September 2018 on Cambodia, notably the case of Kem Sokha \(2018/2842\(RSP\)\)](#), P8_TA-PROV(2018)0346.

(recital C).¹³² It therefore expresses its support for linking trade with political, social and environmental standards, something that has become a constant feature of EU trade agreements. The resolution points out that these standards can be assessed in terms of access to common goods, such as water, healthcare and education (point 5). Furthermore, it underlines the connection between prosperity and the protection of human, social rights and labour rights, good governance and environmental protection (points 7 and 8). In a more recent resolution (March 2018) on gender equality in EU trade agreements, Parliament also points to the ability of GSP+ to 'promote and uphold human rights, including gender equality, workers' rights and environmental protection'.¹³³

In order to improve the implementation of the GSP Regulation, Parliament calls in the 2016 resolution for GSP arrangements to be transparent and inclusive of grassroots organisations and for efforts to be made to ensure consistency with regard to respect for workers' rights and human rights, including women's rights (point 23). It also calls for more attention to be paid to the environmental and climatic implications of trade agreements, both in terms of complying with the related international conventions and addressing the effects of the production and trade patterns used (points 27 to 29).¹³⁴ It proposes to condition economic incentives granted upon 'the effective adoption and constant monitoring of the implementation of core human and labour rights conventions' and to take measures aimed at ensuring 'compliance by transnational corporations with national and international legal obligations in the areas of human rights, labour standards and environmental rules' (point 25). It has also called for the strengthening of the monitoring mechanism for GSP and GSP+ beneficiaries so that it engages with all the relevant bodies (the ILO's Committee of Experts, in particular), develops a formal procedure that allows CSOs to be heard and address concerns to the European Commission, and for the European Commission to report back to Parliament on the implementation and effectiveness of the Everything But Arms and standard GSP arrangements. Furthermore, Parliament asked the European Commission to define the expressions 'serious failure to effectively implement' an international convention and 'serious and systematic violation of principles' in order to ensure that there is a common understanding of the terms and a coherent approach during the assessment phase (point 25).

In a section of the 12 September 2017 resolution on the impact of international trade and the EU's trade policies on global value chains addressing developing countries,¹³⁵ Parliament calls on the EU to support developing countries' governments with technical assistance 'wherever possible and needed', in order to strengthen their capacity to comply effectively with social and environmental standards and regulations (point 51). In the same text, Parliament calls on the European Commission to ensure that human rights conditions are effectively enforced and monitored in the frameworks of the GSP, and to take steps in case of non-compliance (point 55). Parliament again stresses the importance of clarifying definitions (as in the 2016 resolution), expecting the European Commission to do this in the GSP mid-term review (point 56). Furthermore, Parliament supports the idea of a review of GSP and GSP+ to include binding rules on human rights and labour rights, as well as on environmental protection (point 51); incentives for encouraging beneficiaries to comply with those;

¹³² [European Parliament resolution of 5 July 2016 on implementation of the 2010 recommendations of Parliament on social and environmental standards, human rights and corporate responsibility](#), P8_TA(2016)0298.

¹³³ [European Parliament resolution of 13 March 2018 on gender equality in EU trade agreements, \(2017/2015\(INI\)\)](#), P8_TA(2018)0066.

¹³⁴ Parliament refers not least to the fact that the production of CO₂ emissions as a result of international trade does contrast with the European Climate Strategy, whereas a local production pattern would be less detrimental to it.

¹³⁵ [European Parliament resolution of 12 September 2017 on the impact of international trade and the EU's trade policies on global value chains \(2016/2301\(INI\)\)](#), P8_TA(2017)0330.

the right conditions for corporate social responsibility (CSR);¹³⁶ and measures addressing labour rights and trade union rights in export processing zones (EPZs) (point 56). In order to encourage beneficiaries to embrace change, Parliament suggests using incentives such as additional tariff preferences for sustainably produced products.

In its 2018 resolution, Parliament insists on the need for binding and enforceable provisions in EU trade agreements to promote gender equality (especially in the workplace) and to ensure coherence between EU trade policy with the EU stated objectives of promoting sustainable development, poverty reduction and gender equality (point 22). In this context, it called for the Sustainable Development Goals (SDGs), 'in particular Goal 5 on gender equality', to be fully integrated into EU trade policy (point 23). Furthermore, Parliament pointed to the importance of monitoring the implementation of GSP and GSP+, 'particularly as regards the implementation of core conventions'. Lastly, Parliament focused on the positive effect that the GSP could have on gender equality, through the correct implementation of the relevant conventions and the use of conditionality in case of discrimination against women (point 33).¹³⁷

The other six resolutions addressed GSP in country specific resolutions and, more specifically, addressed human rights and the social situation in Bangladesh, Pakistan and Cambodia. In these resolutions, Parliament stressed that GSP status is conditional and, as such, can be withdrawn if human and social rights standards are no longer met. Parliament called for the European Commission to monitor Pakistan more closely and to 'consider possible consequences' in the context of the trade preferences Cambodia enjoys, 'including launching an investigation under the mechanisms provided for in the framework of EBA'.¹³⁸ It even stated that without conditionality, the EBA and GSP regimes risk exacerbating 'low standards in worker protection and undermining decent work'.¹³⁹

4.2. Members' written questions to the European Commission

During the current legislature (2014 to 2018) the European Commission has been asked approximately 30 parliamentary questions on the subject matter of this study. Table 2 below is organised according to aspects of good governance and poverty eradication with the following four areas being those of greatest concern: fundamental rights, labour rights, institutional capacity building, and Commission monitoring. A parliamentary question can be focused on two or more areas of interest, so the table was filled in accordingly. The fundamental rights' issue has been addressed 12 times; the labour rights' and the institutional capacity building or good governance nine times respectively. The following categories are shown in a decreasing order: Commission action (8), social rights (6), gross violations (3), children rights (2), political rights (2), racial discrimination (2), women rights and gender issues (1), environment/sustainable development (1). The interest for these subjects was crosscutting within the European Parliament, coming from all the political parties throughout the legislative cycle in question.¹⁴⁰

¹³⁶ CSR conditions should be defined to ensure that transnational corporations also comply with national and international legal obligations in the areas of human rights and labour and environmental standards.

¹³⁷ [European Parliament resolution of 13 March 2018 on gender equality in EU trade agreements. \(2017/2015\(INI\)\)](#), P8_TA(2018)0066.

¹³⁸ [European Parliament resolution of 13 September 2018 on Cambodia, notably the case of Kem Sokha \(2018/2842\(RSP\)\)](#), P8_TA-PROV(2018)0346.

¹³⁹ [European Parliament resolution of 29 April 2015 on the second anniversary of the Rana Plaza building collapse and progress of the Bangladesh Sustainability Compact \(2015/2589\(RSP\)\)](#), P8_TA(2015)0175.

¹⁴⁰ Since 2014, for instance, every party has raised political and social issues in Pakistan.

Table 2 – Members' questions by area of concern

Area of concern	Number of questions
Fundamental rights	12
Labour rights	9
Institutional capacity building	9
Commission monitoring	9
Commission action	8
Social rights	6
Gross violations	3
Children rights	2
Political rights	2
Racial discrimination	2
Environment and sustainable development	1
Women rights and gender issues	1
Consultation with civil society in the context of the GSP	1
Definition of the terms	1
TOTAL	64

Source: Compiled by the authors using relevant written questions by Members to the European Commission (2014-2018).

Table 3 below is organised according to the countries and the topics that were specifically mentioned in the parliamentary questions. To this end, the same categories have been used as for Table 2.

Table 3 – Members' areas of concern organised by beneficiary country

GSP beneficiary	Area of concern
Afghanistan	Fundamental rights
Bangladesh	Fundamental rights Social rights Labour rights
Bolivia	Children rights
Cambodia	Fundamental rights Labour rights Gross violations
Myanmar/Burma	Racial discrimination Gross violations
Pakistan	Fundamental rights Women rights and gender issues Children rights Social rights Labour rights Gross violations Institutional capacity building

GSP beneficiary	Area of concern
Philippines	Fundamental rights Social rights Labour rights Institutional capacity building Environment and sustainable development
Sri Lanka	Political rights Institutional capacity building
Tajikistan	Political rights Institutional capacity building

Source: Compiled by the authors using relevant written questions by Members to the European Commission (2014-2018).

The country that has raised by far the most concerns is Pakistan. The reservations expressed about Pakistan have included widespread child labour, discrimination against and persecution of religious minorities, which are encouraged by the so-called 'blasphemy laws', legal and de facto inequality between men and women. In addition, concerns have been voiced regarding the important role that security forces play in the political and social spheres, thus limiting citizens' freedom of expression and of association.¹⁴¹ For these reasons, on six occasions MEPs have proposed the suspension of Pakistan from the GSP+.

Particular attention has also been paid to Bangladesh and the Philippines. Concerns raised regarding Bangladesh encompass systematic violations of labour rights' and freedom of association, especially in the textiles industry and export processing zones,¹⁴² where the export revenues are

¹⁴¹ See Jeroen Lenaers (EPP), [VP/HR - Death sentence handed down to Asia Bibi in Pakistan](#), Question to the Commission for written answer, E-008121/2014, 17 October 2014; Ian Hudgton (Greens/EFA), [VP/HR - Recent attacks on Ahmadis in Jehlum, Pakistan](#), Question to the Commission for written answer, E-015865/2015, 16 December 2015; Matteo Salvini (ENF), [Trade preferences given to non-eligible countries](#), Question to the Commission for written answer, P-011766/2015, 21 July 2015; Ignazio Corrao (EFDD), [GSP+ trade preferences for Pakistan](#), Question to the Commission for written answer, E-000259/2017, 18 January 2017; Marietje Schaake (ALDE), [VP/HR - The case of Ahmad Waqas Goraya and other online activists in Pakistan](#), Question to the Commission for written answer, E-002814/2017, 20 April 2017; John Stuart Agnew (EFDD), [Generalised Scheme of Preferences Plus \(GSP+\)](#), Question to the Commission for written answer, E-006538/2017, 18 October 2017; Viliija Blinkevičiūtė (S&D), [Discrimination against women in Pakistan](#), Question to the Commission for written answer, E-007506/2017, 5 December 2017; Tomáš Zdechovský (EPP), [Removal of Pakistan from the GSP+ trading scheme](#), Question to the Commission for written answer, E-000770/2018/rev.1, 7 December 2018; Emilian Pavel (S&D), [Human rights in Pakistan](#), Question to the Commission for written answer, E-000996/2018, 19 February 2018; Marijana Petir (EPP), Fulvio Martusciello (EPP), Laima Liucija Andrikienė (EPP), Michaela Šojdrová (EPP), György Hölvényi (EPP), Lars Adaktusson (EPP), Miroslav Mikolášik (EPP), Anna Záborská (EPP), [EU trade policy with Pakistan in the light of serious human rights violations and crimes against Christians](#), Question to the Commission for written answer, E-002082/2018, 11 April 2018; Claudia Țăpădel (S&D), [Freedom of the press in Pakistan](#), Question to the Commission for written answer, E-002505/2018, 7 May 2018; Patricia Lalonde (ALDE), Catherine Bearder (ALDE), Alessia Maria Mosca (S&D), Aleksander Gabelic (S&D), Jakop Dalunde (Greens/EFA), Bronis Ropė (Greens/EFA), Judith Sargentini (Greens/EFA), Sofia Sakorafa (GUE/NGL), Franck Proust (EPP), Karoline Graswander-Hainz (S&D), Petras Auštrevičius (ALDE), Nessa Childers (S&D), Nadja Hirsch (ALDE), António Marinho e Pinto (ALDE), Sirpa Pietikäinen (EPP), Merja Kyllönen (GUE/NGL), Robert Rochefort (ALDE), Peter van Dalen (ECR) and José Inácio Faria (EPP), [Introduction of the GSP+ system in Pakistan](#), Question to the Commission for written answer, E-003669/2018, 3 July 2018; Franck Proust (EPP), [GSP+ trade preferences granted to Pakistan in 2014](#), P-000673/2018, 5 February 2018.

¹⁴² Ivo Belet (EPP), Claude Rolin (EPP), [Freedom of association in Bangladesh](#), Question to the Commission for written answer, E-001344/2017, 28 February 2017; Ramón Jáuregui Atondo (S&D), Inmaculada Rodríguez-Piñero Fernández (S&D), Javi López (S&D), Sergio Gutiérrez Prieto (S&D) and Elena Valenciano (S&D), [Investigation into infringements of](#)

high but remunerations are low. It is noted that in 2016, the government put down trade unions' claims and imprisoned more than 20 trade union leaders for criminal offences; and that at least 1 500 workers were forced to sign severance agreements under threat of arrest.¹⁴³ Doubts were renewed after the adoption of the Digital Security Act in September 2018, which further restricts freedom of expression by prohibiting and punishing the publication of some content and allowing the police to conduct investigations and seizures whenever it believes that the law has been infringed.¹⁴⁴ On the Philippines, some MEPs have expressed their alarm on the war on drugs that has been being waged there since 1 July 2016. They have also noted the serious human rights violations, and the fact that the official judicial system is not able to enforce the law and rights: extra-judicial execution and impunity are common, also involving children.¹⁴⁵ Members have called for the suspension of the trade relationship with Bangladesh; while in the case of the Philippines some MEPs stood against the upgrade to the GSP+.

Furthermore, some MEPs reprimanded the European Commission for inefficient and slow monitoring of the political and social situation in the GSP countries (in particular, Bangladesh and Pakistan). More specifically, MEPs have repeatedly called on the Commission to inform them of how the assessment and investigation procedures are carried out,¹⁴⁶ and of the criteria used for deciding whether a state upholds political and social international conventions or not;¹⁴⁷ for the civil society to be sufficiently involved in the monitoring mechanism;¹⁴⁸ and for a clear response from the Commission.¹⁴⁹ In addition, one question drew attention to the expressions 'serious concern', 'shortcoming' and 'serious violation' used by the European Commission in its 2018 joint staff working document, which are not defined in any legislative text, and called for the definition and

[the fundamental rights of workers in Bangladesh](#), Question to the Commission for written answer, E-001403-17, 1 March 2017.

¹⁴³ Jan Keller (S&D), [Initiation of a generalised tariff preferences scheme in Bangladesh](#), Question to the Commission for written answer, P-001425/2017/rev.1, 02 March 2017.

¹⁴⁴ Barbara Matera (EPP), [VP/HR - Bangladesh's Digital Security Act, Question to the Commission for written answer](#), E-004368/2018, 24 May 2018.

¹⁴⁵ Izaskun Bilbao Barandica (ALDE), [Inclusion of the Philippines on the list of GSP+ beneficiaries](#), Question to the Commission for written answer, E-006591/2014, 4 September 2014; Maria Arena (S&D), Jude Kirton-Darling (S&D), Isabelle Thomas (S&D), Eric Andrieu (S&D), Emmanuel Maurel (S&D), Renata Briano (S&D), José Blanco López (S&D), Clara Eugenia Aguilera García (S&D), Ulrike Rodust (S&D), Ricardo Serrão Santos (S&D) and Guillaume Balas (S&D), [Respect for human and labour rights in countries benefiting from GSP+](#), Question to the Commission for written answer, E-007979/2015, 20 May 2015; Ricardo Serrão Santos (S&D), Clara Eugenia Aguilera García (S&D), José Blanco López (S&D), Carlos Zorrinho (S&D), Liliana Rodrigues (S&D), Pedro Silva Pereira (S&D) and António Marinho e Pinto (ALDE), [The Philippines and its status as a GSP+ beneficiary](#), Question to the Commission for written answer, E-002785/2018, 24 May 2018; Marijana Petir (EPP), [Extrajudicial killings in the Philippines](#), Question to the Commission for written answer, E-004390/2018, 29 August 2018.

¹⁴⁶ See, for instance, Ian Hudghton (Greens/EFA), [VP/HR - Recent attacks on Ahmadiis in Jehlum, Pakistan](#), Question to the Commission for written answer, E-015865/2015, 16 December 2015; John Stuart Agnew (EFDD), [Generalised Scheme of Preferences Plus \(GSP+\)](#), Question to the Commission for written answer, E-006538/2017, 18 October 2017.

¹⁴⁷ Vilija Blinkevičiūtė (S&D), [Discrimination against women in Pakistan](#), Question to the Commission for written answer, E-007506/2017, 5 December 2017.

¹⁴⁸ Lola Sánchez Caldentey (GUE/NGL), [GSP + beneficiary countries: consultation with civil society](#), Question to the Commission for written answer, E-015858/2015, 16 December 2015.

¹⁴⁹ Ivo Belet (EPP), Claude Rolin (EPP), [Freedom of association in Bangladesh](#), Question to the Commission for written answer, E-001344/2017, 28 February 2017; Vilija Blinkevičiūtė (S&D), [Discrimination against women in Pakistan](#), Question to the Commission for written answer, E-007506/2017, 5 December 2017; Tomáš Zdechovský (EPP), [Removal of Pakistan from the GSP+ trading scheme](#), Question to the Commission for written answer, E-000770/2018/rev.1, 7 December 2018.

coherent use of those expressions (in line with Regulation No 978/2012, which instead mentions 'serious and systematic violations').¹⁵⁰

In three cases, motions for resolutions were presented to plenary disagreeing with the European Commission's decisions to upgrade the status of a beneficiary country. This was the case for the Philippines, Kyrgyzstan and Sri Lanka.¹⁵¹ However, these motions for resolutions were rejected during the first reading, and the European Parliament as a whole did not oppose the delegated acts adopted by the European Commission in this regard.¹⁵²

¹⁵⁰ Jude Kirton-Darling (S&D), [Serious shortcomings in the implementation of the GSP Regulation](#), Question to the Commission for written answer, E-002712/2018, 22 May 2018.

¹⁵¹ European Parliament, [Motion for a resolution pursuant to Rule 105\(4\) of the Rules of Procedure on the Commission delegated regulation of 19 August 2014 amending Annex III to Regulation \(EU\) No 978/2012 of the European Parliament and of the Council applying a scheme of generalised tariff preferences C\(2014\)05833 – 2014/2805\(DEA\)](#), B8-0348/2014; European Parliament, [Motion for a resolution pursuant to Rule 105\(4\) of the Rules of Procedure on the Commission delegated regulation of 25 November 2015 amending Annex III to Regulation \(EU\) No 978/2012 of the European Parliament and of the Council applying a scheme of generalised tariff preferences C\(2015\)08213 – 2015/2995\(DEA\)](#), B8-0044/2016; European Parliament, [Motion for a resolution pursuant to Rule 105\(3\) of the Rules of Procedure on the Commission delegated regulation of 11 January 2017 amending Annex III to Regulation \(EU\) No 978/2012 of the European Parliament and of the Council applying a scheme of generalised tariff preferences C\(2016\)8996 – 2017/2511\(DEA\)](#), B8-0273/2017.

¹⁵² See, respectively, Parliament's Decisions of [18 December 2014](#), [20 January 2016](#) and [27 April 2017](#).

5. Experts' analysis of the impact of the GSP Regulation on the development of beneficiaries

In the light of the European Commission's analysis of the implementation of the GSP Regulation and its impact on the respect of social/human rights and the promotion of sustainable development, as explored in Section 3, this section focuses on the analysis made by independent researchers and experts on the issue and stakeholders' views. The literature on these issues regarding the new GSP Regulation is scant. Commentators tend to have a less positive image of the implementation of the GSP Regulations than the European Commission and point to a number of persistent shortcomings. This sections outlines the main concerns.

5.1. GSP contribution to poverty reduction

Both the external mid-term evaluation contracted by the European Commission and its own mid-term report assume that the preferential market access provided by the GSP indirectly reduces poverty by way of economic growth. However, the online public consultation, conducted by the European Commission from March to June 2017, on the implementation of the GSP received negative feedback on the poverty reduction objective of the regulation. Respondents stated that they perceived that the current arrangements benefit large industries and not small business. At the same time, respondents held that these arrangements contribute to the product competitiveness that ultimately promoted economic development in these countries.¹⁵³ In the case of minimum wage developments, it was expected that export growth and additional earnings would have propelled an increase or, at least, stability in the minimum wage in real terms. This has not been the case. Instead, there has been a decreasing level of wages in the ready-made garment (RMG) industry over the last seven or eight years, despite massive export growth to the EU market.¹⁵⁴

Some experts have for years been very sceptical about the GSP's potential to lift people in the beneficiary countries from poverty. Already in 1987, Hudec's seminal work on GSP schemes argued that these schemes were not particularly beneficial to developing countries because they essentially blocked beneficiaries into using preferences and staying within the scheme. In his view, developing countries could have been better off simply abandoning such schemes in exchange for non-discriminatory access to the agricultural and textiles markets of donors. He insisted that 'governments of developing countries will have to be persuaded that it is in their own national economic interest to respond with a fuller commitment to GATT law'.¹⁵⁵ However, developing countries preferred to continue with one-way preferences and have not changed this strategy even in the presence of evidence that similar schemes do not work.¹⁵⁶ Subsequent practice and research, however, has confirmed Hudec's intuition that one-way preferences can have the opposite effect to

¹⁵³ The European Commission received 961 responses, but almost 96 % of these responses came from Italian business. Also a vast majority of business that participated in this online consultation was with the EU rice industry. Willem van der Geest, [Mid-term evaluation of the EU's GSP: Review of final interim report](#), Civil Society Dialogue, 25 September, 2017.

¹⁵⁴ European Commission, [Civil society dialogue, Meeting on the mid-term evaluation of the EU's Generalised Scheme of Preferences \(GSP\)](#), 25 September 2017, p. 2.

¹⁵⁵ Robert Hudec, *Developing Countries in the GATT Legal System*, Gower, Aldershot, 1987, p. 235.

¹⁵⁶ Petros C. Mavroidis, *Trade in Goods*, Oxford University Press, Oxford, July 2012, p. 192.

that desired.¹⁵⁷ It should also be noted that, as experts have argued over the years,¹⁵⁸ helping the bottom billion out of the doldrums is not exclusively a government operation. Prahalad (2009), among others, has made a forceful argument in favour of private sector involvement.¹⁵⁹ Alternatively, as Stefano Inama argues in the annexed research paper, developing countries have been pushed into new FTA negotiations to preserve their preferences.

In the specific case of the EU's GSP, the signature on 16 December 2007 of the EU-CARIFORUM Economic Partnership Agreement (EPA), for example, drew a curtain on thirty years of preferential access to European markets enjoyed by Caribbean producers. Failure to negotiate a WTO-consistent trade regime was a luxury the CARIFORUM region could not afford since the application of GSP rules would have disrupted trade as the majority of the region's exports to Europe would need to contend with higher levels of GSP import duties.¹⁶⁰ The challenge for the region was thus to negotiate 'a development friendly, asymmetrical, reciprocal agreement whose net welfare benefit... would be greater than that under the best available GSP'.¹⁶¹ The EU's GSP scheme was/is however confined to the goods trade only and is not permanent in character.

An evaluation carried out by Copenhagen Economics for DG DEVCO, in the European Commission, found that on average GSP preferences have increased the exports of the products covered by up to 5 %. Preferences under the EBA arrangement have generated an export increase approximately twice as high as that under the standard GSP or the GSP+ arrangement. The new GSP Regulation has largely impacted on LDCs and low-income countries for which preferences are found to have increased exports by up to 10 % and 7.6 % respectively. In line with the high impact found for LDCs, the same evaluation finds an above average impact of EBA preferences close to 7 %. This average impact, however, masks very large differences across country groups, GSP schemes and individual product groups.' Across product groups, wood and paper products and basic manufactured products show above average impacts. Finally, Copenhagen Economics finds that the full effects have usually occurred within two years of preferences being granted.¹⁶² The evaluation does not, however, take that extra step to link trade flows with poverty, as announced in its objectives.

Frese and Mold (2016), who examined the poverty impact of the GSP in Latin America and find that the GSP has failed to contribute to poverty reduction, concur that 'available data does not allow to establish a clear link between the GSP and poverty reduction'. Currently, it is only possible to tell whether benefits are concentrated more in the better off or in poorer countries, and if the sectors that benefit are those most likely to positively affect the lives of poor and excluded groups.¹⁶³ Other scholars show the effect of the GSP Regulation on the population's wellbeing. The benefits of EBA

¹⁵⁷ Michael Spence, *The Next Convergence: The Future of Economic Growth in a Multispeed World*, Farrar, Straus and Giroux, New York, NY, 2011, p. 5.

¹⁵⁸ Paul Collier, *The Bottom Billion*, Oxford University Press, Oxford, 2007.

¹⁵⁹ C. K. Prahalad, *The Fortune at the Bottom of the Pyramid: Eradicating Poverty Through Profits*, Pearson Education Inc., Upper Saddle River, NJ, 2009.

¹⁶⁰ Pierre Sauvé and Natasha Ward, 'Services Preferences in Africa: Perspectives and Challenges', in Pierre Sauvé and Anirudh Shingal (eds), *The Preferential Liberalization of Trade in Services: Comparative Regionalism*, Edward Elgar, Cheltenham, UK/ Northampton, MA, USA, 2014.

¹⁶¹ Natasha Ward, 'Facilitating the temporary movement of natural persons: Economic partnership agreements vs. bilateral migration agreements and mobility partnerships', in Rahel Kunz et al. (eds), *Multilevel Migration Governance: The Promise of Partnership*, Routledge, London, 2011, p. 151.

¹⁶² Copenhagen Economics A/S and Johannes Van Biesebroeck, [Assessment of economic benefits generated by the EU Trade Regimes towards developing countries](#), prepared for DG DEVCO, European Commission, June 2015, pp. 16-17.

¹⁶³ Christina Freres and Andrew Mold, 'European Union trade policy and the poor: Towards improving the poverty impact of the GSP in Latin America', in Wil Hout (ed.), *EU Development Policy and Poverty Reduction: Enhancing Effectiveness*, Routledge, London, 2016, p. 42.

status are crucial to Cambodian Prime Minister Hun Sen, not just economically but politically. Garment factories are one of the only sources of employment for the country's youth, a growing demographic and one that tended to support the political opposition – until it was banned. In the absence of factory work, thousands of jobless young people would face the prospect of migrating to more prosperous countries in Asia, like Thailand or South Korea.¹⁶⁴

5.2. Weak labour rights in GSP+ countries

Although the GSP Regulation has yet to lead to an overall improvement in the implementation of labour standards in beneficiary countries as a result of their participation in the scheme, some Latin American countries have nevertheless ratified core ILO agreements. In that light, legalistic adherence to obligations under international conventions by GSP+ beneficiaries and monitoring dialogues facilitate cooperation with beneficiary countries.¹⁶⁵ Moreover, incentives are there for the ratification of fundamental conventions by standard GSP beneficiaries (i.e. Pakistan, Ecuador and Tajikistan). However, research shows that economic, social and cultural rights in EU external action – and more specifically the right to just and favourable conditions of work, the right to an adequate standard of living and the right to education – face structural obstacles that may be impeding the ability of the EU to promote these rights in an effective manner.¹⁶⁶ These rights are at the core of the conventions that need to be respected and implemented in order to win GSP+ status. In his presentation of the initial results of the external evaluation of the GSP for the European Commission, the evaluation team leader argued that causality is difficult to establish as there are a range of domestic and international factors that can impact progress or regress besides the GSP. Nevertheless, increased awareness of social development has been witnessed in the beneficiary countries.¹⁶⁷

The European Commission mid-term report, supported by the evaluation that it had outsourced, revealed some of the limits of the GSP Regulation. It argued that increased export opportunities and growth could also have negative impacts on fundamental labour and human rights, as the cases of land grabbing in Cambodia and Ethiopia to facilitate businesses, and the violation of labour rights in Bangladesh to facilitate cheap production, have shown.¹⁶⁸

Experts argue that despite the conditionality used in the export processing zones (EPZ) of Mongolia, Pakistan, Sri Lanka and the Philippines, non-respect for labour rights is still common in the apparel and fisheries sectors. More specifically, a study commissioned by the Policy Department of DG External Relations in the European Parliament, showed that freedom of association and bargaining are prohibited in Pakistani EPZs. Where they are formally allowed, they face *de facto* hindrance, as in the rest of Pakistan, Mongolia, the Philippines (where there is 'an alleged policy of 'no unions, no strike') and Sri Lanka. Child labour and forced labour have been detected in the informal sector, but

¹⁶⁴ Julia Wallace and Simon Marks, '[EU plays hardball with Cambodian hardman: Europe will end preferential trade terms unless Phnom Penh improves human rights](#)', *Politico Europe*, 17 October 2018.

¹⁶⁵ Olivier De Schutter, *Trade in the Service of Sustainable Development: Linking Trade to Labour Rights and Environmental Standards*, Hart, 2015.

¹⁶⁶ Annabel Egan et al., '[Enhancing EU actions on economic, social and cultural rights within its human rights policy](#)', Policy Department, DG for External Policies, European Parliament, February 2018.

¹⁶⁷ European Commission, '[Civil society dialogue, Meeting on the mid-term evaluation of the EU's Generalised Scheme of Preferences \(GSP\)](#)', 25 September 2017, p. 2.

¹⁶⁸ European Commission, '[Commission staff working document, Midterm Evaluation of the Generalised Scheme of Preferences accompanying the document Report from the European Commission to the European Parliament and the Council on the application of Regulation \(EU\) No 978/2012 applying a Scheme of Generalised Tariff Preferences and repealing Council Regulation \(EC\) No 732/2008](#)', SWD(2018) 430 final, 4 October 2018.

are not confined to it. Overall, women workers are underrepresented in the trade associations.¹⁶⁹ The issue of wages for women deserves special attention, because it is unfair and discriminatory and keeps them in poverty, even if it allows low remuneration for women who otherwise would not be able to work.¹⁷⁰

Box 4 – Bangladesh's exports of ready-made garments to the EU

This case study focuses on Bangladeshi exports of ready-made garments (RMG) to the EU under the GSP scheme, explores the connection with regional/global value chains (RVCs/GVCs) and evaluates whether the Rules of Origin (RoO) have been able to facilitate regional and global value chains. Bangladesh is a GSP beneficiary for its exports of RMG to the EU. The original GSP RoO for RMG prescribes that goods should be considered as originating if they were manufactured from yarn (known as the 'yarn forward rule'). Therefore, for the export of RMG under the EU GSP, a country can import yarn and manufacture fabric and RMG locally and still qualify for the GSP.

In 2011, the criteria for LDCs changed under the EU GSP. The new rule is based on a sector by sector approach and provided that if LDCs manufacture RMG from imported fabric (a single stage of transformation) it will be considered as originating and thus, preferences will be available under GSP. This was the case when the RoO criteria were relaxed for the LDCs. According to the new RoO and unlike the old ones, Bangladesh can export by importing 'fabric' from anywhere and make garments – which will be eligible for GSP preferences. Accordingly, it might be deduced that this new scheme would facilitate more exports of RMG from Bangladesh and generate more economic benefits.

Bangladesh's top four items of export to the EU are HS 6109 (t-shirts, singlets and other vests), HS 6110 (jerseys, pullovers, cardigans, etc.), HS 6203 (men's or boys' suits, ensembles, etc.) and HS 6204 (women's or girls' suits, ensembles, etc.). An examination of exports from Bangladesh to the EU suggests that Bangladesh has benefited by virtue of an increase in its exports over the years. However, a closer look at the percentage share of Bangladesh's exports to the EU vis-a-vis its exports to the world and overall EU imports from Bangladesh, makes it clear that Bangladesh's share has been declining and that this decline dates from the introduction of the new RoO, which became more relaxed in 2011. This is calculated by using the mirror data, i.e. taking the EU's imports from Bangladesh and world imports from Bangladesh – as a proxy of Bangladesh exports, since the Bangladeshi data are not up to date.

From 2009 to 2012, the Bangladeshi share of exports to the EU of HS 6109 declined from 84 % to 75 %, for HS 6110 from 74 % to 65 %; for HS 6203 from 47 % to 44 %; and for HS 6204 from 48% to 49% respectively. However, in order to be conclusive, it would be necessary to examine the data for more years in this case. The value addition component in Bangladesh's export of RMG declined after the introduction of the new RoO.

While overall, this same study argued that the GSP+ had had a small 'meaningful impact on the institutional and legislative frameworks governing labour rights',¹⁷¹ it also explained that this conclusion needed to be put into perspective. Implementation of labour rights is often insufficient or late and reforms adopted are a consequence of other factors that play a more important role than the GSP Regulation, and which by extension also influence the implementation of the GSP itself.

¹⁶⁹ Benjamin Richardson et al., [Labour rights in Export Processing Zones with a focus on GSP+ beneficiary countries](#), Policy Department, DG for External Policies, European Parliament, June 2017, pp. 6, 33, 52. The analysis also found inadequate labour inspections and limited rights to redress through the courts in Mongolia; repression of trade unions, casualisation of workers, poverty wages and excessive working hours in the Philippines; and the undermining of trade union action in Sri Lanka.

¹⁷⁰ Benjamin Richardson et al., [Labour rights in Export Processing Zones with a focus on GSP+ beneficiary countries](#), Policy Department, DG for External Policies, European Parliament, June 2017, pp. 6, 33.

¹⁷¹ [Ibid.](#), p. 7.

These include, for instance, changes in government, party political dynamics, and pressure from workers' organisations.¹⁷²

5.3. Challenges with conditionality and the sanction mechanisms

A study that examined the link between trade, development and human rights, found that the GSP has concretely resorted to human rights conditionality the most.¹⁷³ Other experts argue that the EU has not always applied the GSP scheme consistently. Countries such as Uzbekistan and Turkmenistan, which breach labour rights similarly, continue to have access to the EU's GSP scheme.¹⁷⁴ Furthermore, in 2007, the EU withdrew Belarus's GSP trading privileges, citing the country's harassment of independent trade unions; however, Vietnam, which continues to benefit from GSP, does not even have independent trade unions.¹⁷⁵ This 'selective human rights conditionality' has led many to question the legitimacy of the EU's role in promoting human rights and ILO labour standards.¹⁷⁶ Many observers argue that the EU not only applies the GSP scheme at its own discretion but also that it uses it instrumentally in order to pursue foreign policy objectives rather than for ensuring the protection of labour rights.¹⁷⁷ Similarly, Bangladeshi and Pakistani preferential exports to the EU amount in each case to more than two thirds of the total volume of goods exported to the EU under the EBA and GSP+ respectively. Both countries face enormous challenges, which highlights the complexity of EU conditionality.¹⁷⁸ By providing additional preferences, compared to standard GSP, GSP+ conditionality is considered to be more effective – potentially stronger than the conditionality imposed by the human rights clauses in bilateral free trade agreements (FTAs). For example, an analysis of the FTA with Columbia shows that the previous GSP+ conditionality was stronger, since the EU could more easily suspend trade preferences. GSP+ is particularly effective in encouraging countries to ratify relevant international instruments in order to qualify.¹⁷⁹

In addition, while the European Commission-contracted final interim report of the mid-term review of the GSP Regulation holds that this regulation has 'incentivised beneficiary countries to adhere to fundamental labour and human rights' and to facilitate greater social development and civil society engagement with labour rights issues,¹⁸⁰ criticism has been expressed about a perceived lack of sustained engagement on the part of both the European Commission and the relevant non-EU state

¹⁷² Benjamin Richardson et al., [Labour rights in Export Processing Zones with a focus on GSP+ beneficiary countries](#), Policy Department, DG for External Policies, European Parliament, June 2017, pp. 7, 34.

¹⁷³ Laura Beke et al., [The integration of human rights in EU development and trade policies](#), Large-Scale FP7 Collaborative Project GA No. 320000: Fostering human rights among European policies, 30 September 2014.

¹⁷⁴ Samantha Velluti, 'The Promotion and Integration of Human Rights in EU External Trade Relations', *Utrecht Journal of International and European Law*, 32(83), 2016, pp. 41-68.

¹⁷⁵ Martin Russell, [EU sanctions: A key foreign and security policy instrument](#), EPRS, European Parliament, May 2018.

¹⁷⁶ Jan Orbie and Lisa Tortell, 'The New GSP+ Beneficiaries: Ticking the Box or Truly Consistent with ILO Findings?', *European Foreign Affairs Review*, 14, 2009, pp. 663, 679.

¹⁷⁷ For a discussion of these issues, see Jan Orbie and Ferdi De Ville, 'Core Labour Standards in the GSP Regime of the European Union: Overshadowed by Other Considerations' in Colin Fenwick and Tonia Novitz (eds), *Human Rights at Work: Perspectives on Law and Regulation*, Hart Publishing, London, 2010, p. 487.

¹⁷⁸ Ionel Zamfir, [Human rights in EU trade policy: Unilateral measures](#), EPRS, European Parliament, January 2017, pp. 6-7.

¹⁷⁹ Nicolás Brando et al., [The impact of EU trade and development policies on human rights](#), Large-Scale FP7 Collaborative Project GA No. 32000030: Fostering human rights among European policies, June 2015.

¹⁸⁰ DEVELOPMENT Solutions Ltd, [Mid-Term Evaluation of the EU's Generalised Scheme of Preferences \(GSP\), Final Interim Report](#), prepared for the European Commission, Brussels, 21 September 2017, p. 11.

governments.¹⁸¹ Equally, a number of experts have suggested that the labour rights dimension of these programmes has been primarily focused on procedure, and progress in this regard has not been 'stimulated in any systematic fashion by EU-funded projects'.¹⁸²

Monitoring and dialogue in the EPZs of Mongolia, Pakistan, Sri Lanka and the Philippines have been described as imperfect.¹⁸³ The study suggests addressing persistent labour rights violations with targeted economic sanctions, such as by targeting problem sectors, creating a negative list of individual exporters, phasing out the preference margin or exploring ways of adding in labour rights compliance to other kinds of export licenses required by the EU. In this regard, it is underlined that sanctions would have more deterring power if they were easier to deploy and revoke.¹⁸⁴ Furthermore, it is worth saying that according to some stakeholders, a targeted resolution by the European Parliament could have encouraged Sri Lanka to engage in the reforms required for its re-admission to the GSP+ more actively and effectively.¹⁸⁵

Box 5 – Human rights violations as an instigator for ending EBA preferences in Cambodia

'With Cambodia, we are a step further in the process. Many of the issues here date back several years, and in some cases the country has gone backwards. The elections in July of this year – coming after our EU mission to the country – were marked by harassment and intimidation, as well as severe restrictions when it comes to essential political rights. Today, High Representative Federica Mogherini and I have therefore notified Cambodia that we are launching the process for the withdrawal of their Everything But Arms (EBA) preferences. Without clear and evident improvements on the ground, this will lead to the suspending of the trade preferences that they currently enjoy.'

Source: Cecilia Malmström, [On Myanmar and Cambodia](#), Blog Post, European Commission, 5 October 2018.

The EU's GSP has not remained devoid of criticism with regard to its effective promotion of human rights throughout its schemes. Firstly, scholars from across several disciplines have accused the EU of using 'double standards',¹⁸⁶ even towards countries that the ILO has openly criticised for serious human rights violations,¹⁸⁷ thereby giving rise to the question whether there exists a 'dichotomy between norms and interests'.¹⁸⁸ Secondly, some experts argue that the procedure behind granting and withdrawing GSP preferences has been characterised by an absence in transparency.¹⁸⁹ Adding nuance to this criticism, some have recently documented the general perception among ILO officials and workers' representatives that rather clear motivations underpin the withdrawal of GSP

¹⁸¹ Annabel Egan et al., [Enhancing EU actions on economic, social and cultural rights within its human rights policy](#), Policy Department, DG for External Policies, European Parliament, February 2018.

¹⁸² James Harrison et al., '[Labour standards in EU free trade agreements: Working towards what end?](#)', *GREAT Insights Magazine*, December 2016/January 2017, Vol. 5, Issue 6, p.24. See also Sara Kahn-Nisser, 'Channels of Influence: The EU and Delta Convergence of Core Labour Standards in the Eastern Neighbourhood', *The European Journal of Development Research*, 2017, Volume 29, Issue 1, pp. 127–143.

¹⁸³ [Ibid.](#), p. 7.

¹⁸⁴ [Ibid.](#), p. 53.

¹⁸⁵ Benjamin Richardson et al., [Labour rights in Export Processing Zones with a focus on GSP+ beneficiary countries](#), Policy Department, DG for External Policies, European Parliament, June 2017, p. 35.

¹⁸⁶ Elena Fierro, European Union's Approach to Human Rights Conditionality in Practice, Martinus Nijhoff, 2003, p. 378.

¹⁸⁷ Jan Orbie and Lisa Tortell, 'The New GSP+ Beneficiaries: Ticking the Box or Truly Consistent with ILO Findings?', *European Foreign Affairs Review*, 2009, Volume 14, pp. 663, 679.

¹⁸⁸ Maurizio Carbone and Jan Orbie, 'Beyond Economic Partnership Agreements: the European Union and the trade–development nexus', *Contemporary Politics*, 2009, Volume 20, Issue 1, pp. 1–9.

¹⁸⁹ Lorand Bartels, 'The WTO Legality of the EU's GSP+ Arrangement', *Journal of International Economic Law*, 2007, Volume 10, p. 869.

preferences since the establishment of ILO and EU commissions of inquiries. On the contrary, the attribution of GSP benefits on the basis of ILO findings 'below the level of a commission of inquiry' has been called into question as 'becoming judgemental'.¹⁹⁰ Thirdly, the EU has also been finger pointed for its reluctance to employ sanctions in the context of its GSP scheme,¹⁹¹ even though it can be noted that the EU has been imposing a wide spectrum of sanctions with increasing frequency in recent years.

The EU has suspended GSP preferences, and thus imposed trade sanctions for human rights reasons, in three cases: Myanmar/Burma (from GSP, 1997), Belarus (from GSP, 2017) and Sri Lanka (from GSP+, 2010) having been downgraded in the past, but none of them under current GSP Regulation 978/2012.¹⁹² The only country of the three whose economy was significantly affected by the loss of preferences was Sri Lanka. The others did not bear consequences on the economy. The likely suspension of the GSP for Phnom Penh is likely to belong to this latter category, since 'China has made a promise to replenish whatever sanctions hit Cambodia'.¹⁹³ In fact, this sort of 'suspension of preferences under GSP is rarely applied and, when it is, it does not have an immediate and clear impact'. Because suspension of preferences has a limited economic impact and/or because the political regime does not wish to bend to external pressure, such countries are unlikely to react to the threat of or actual withdrawal of preferences. Unlike the case of EBA and the standard GSP, for GSP+ status, countries must apply individually. When they do, they have a clear interest in the scheme, and EU leverage is more significant.¹⁹⁴

Given the limited number of cases in which suspension of preferences has been applied (only three), it is difficult to make any meaningful generalisations about its effectiveness. Since it has not been used under the new regulation, it is impossible to assess its effectiveness. It should also be noted that a number of other factors influence regime change and socio-economic and political reforms. Furthermore, EU action on the suspension of the GSP is linked to the findings and positions articulated by the relevant international monitoring bodies. The European Commission is obliged to take their conclusions into account in cases of GSP+ suspension. In the cases of Belarus and Myanmar/Burma, suspension of preferences followed ILO findings of serious violations of its conventions. When the reinstatement of Myanmar/Burma took place it was preceded by ILO's withdrawal of its restrictive resolution. The tight connection with ILO reports was also visible in Uzbekistan, for example, which was accused of using child and forced labour, including with the complicity of the government, in its cotton fields. In that case, the European Commission considered that since ILO had not established serious and continued failures to implement the relevant conventions, it was not necessary to withdraw trade preferences. Ultimately, the most effective leverage of the GSP Regulation is not primarily based on the real use of sanctions, but on the EU's

¹⁹⁰ Laura Beke et al., [The integration of human rights in EU development and trade policies](#), Large-Scale FP7 Collaborative Project GA No. 320000: Fostering human rights among European policies, 30 September 2014, p. 35.

¹⁹¹ Jan Vandenberghe, 'On carrots and sticks: The social dimension of EU trade policy', *European Foreign Affairs Review*, 2008, Volume 13, Issue 4, pp. 561-581.

¹⁹² There was a change of government in Sri Lanka following the elections of January 2015, which engaged in significant reforms on the human rights front that have been praised by NGOs. As a result, Sri Lanka decided to reapply for GSP+ in June 2016. GSP+ was reinstated for Sri Lanka in May 2017, rewarding the major steps undertaken by the country to improve governance and respect for human rights, such as re-establishing the independence of key institutions, ensuring that cases of missing persons are examined; offering better protection for witnesses and victims; releasing people detained under controversial anti-terrorism regulations; and combating child labour. See [Human Rights Watch, Sri Lanka: New Government Makes Significant Progress Impunity, Detention Without Trial Persist Amid Reforms](#), New York, NY, 26 January 2017.

¹⁹³ Julia Wallace and Simon Marks, '[EU plays hardball with Cambodian hardman: Europe will end preferential trade terms unless Phnom Penh improves human rights](#)', Politico Europe, 17 October 2018.

¹⁹⁴ Ionel Zamfir, [Human rights in EU trade policy: Unilateral measures](#), EPRS, European Parliament, January 2017, p. 1.

strength to act as a deterrent because of this regulation, due to the consequences of a potential loss of trade preferences.¹⁹⁵

¹⁹⁵ Ionel Zamfir, [Human rights in EU trade policy: Unilateral measures](#), EPRS, European Parliament, January 2017, p. 8.

6. Options for improving GSP Regulation implementation

In response to the challenges that researchers identified in the implementation of the GSP Regulation and that are analysed in the previous chapter, this community of experts has proposed a number of options. These are analysed below.

6.1. More focus on GSP+ countries

This study has demonstrated that further focus on countries on the LDCs is needed even if the monitoring of UN and ILO conventions for GSP+ beneficiaries has improved. The full potential of the GSP+ scheme to improve the situation with regard to workers' rights, promotion of gender equality and abolition of child labour and forced labour can only be fulfilled if monitoring of effective implementation of obligations under the 27 conventions is improved and the incentive of trade preferences is accompanied by other support measures. In that context, labour standards in export processing zones could be addressed by establishing a long-term road map with the partner countries concerned.¹⁹⁶

6.2. Better define which countries are vulnerable

The GSP reform was a response to the EU's relations with developing countries. With its stated aim of helping those most in need, however, it has concentrated on too narrow a spectrum of countries. As a result, this reform resulted in a less generous offer in terms of unilateral trade preferences.¹⁹⁷ This was the result of the criteria chosen to define which were 'the poorest' countries 'most in need'. The sole criterion used was the World Bank indicator of GDP for upper and middle income countries. A mix of development criteria, referring to UN Economic and Social Council categories for the assessment of the LDCs (GDP, the Human Resource Index, the Economic Vulnerability Index, including new criteria of LDC Customs' Union) would have allowed a more disaggregated and beneficial approach to achieving development objectives. After all, non-LDC ACP countries that are now excluded from GSP preferences have no fall-back option in the event that EPAs leave them worse off than before or they are not in a position to sign up to EPAs. Moreover, low-income non-LDC countries, especially in Africa, are often in an economic situation that is just as weak as their neighbouring LDCs.¹⁹⁸

6.3. Stronger role for civil society

In response to the difficulties of monitoring the implementation of the GSP Regulation properly, it has been suggested that civil society should be given a much bigger voice in dialogues and negotiations and that the obstacles to EU funding for NGOs should be addressed in the scorecards and GSP+ dialogues.¹⁹⁹ The participation of civil society in monitoring the effective implementation of human rights commitments set out in international conventions would help enhance

¹⁹⁶ Benjamin Richardson et al., [Labour rights in Export Processing Zones with a focus on GSP+ beneficiary countries](#), Policy Department, DG for External Policies, European Parliament, June 2017.

¹⁹⁷ Karin Ulmer, 'Trade Embedded Development Models', *The International Journal of Comparative Labour Law and Industrial Relations*, 2015, Volume 31, Number 3, pp. 305-330.

¹⁹⁸ Aileen Kwa et al., [African, Caribbean and Pacific \(ACP\) countries position on Economic Partnership Agreements \(EPAs\)](#), Policy Department, DG for External Policies, European Parliament, Brussels, April 2014.

¹⁹⁹ See, European Commission, [Trade and Development Communication, Public Consultation – Listing of answers received](#), 2011, p. 3.

transparency and accountability. Civil society organisations have also proposed carrying out an impact assessment of any trade measures to be taken in response to human rights violations and balance any negative impact on the local population and affected workers against their possible effectiveness.²⁰⁰ This measure would also be important in view of the fact, in particular, that the UN monitoring reports, which are at the heart of the EU assessments of GSP+ beneficiaries, are issued every four to five years, which is a longer interval than the two-year GSP+ reporting cycle.

6.4. Alternative sanctions mechanisms

Analysts argue that it is important to find intermediary tools between the 'soft' ones the European Commission currently uses and the strict last resort sanctions.²⁰¹ It is important to engage more with least developed countries under the EBA scheme with regard to preventing and addressing cases of serious and systematic violation of human rights, since the threat of withdrawal of trade preferences may in itself not be a sufficient measure to promote real compliance with international human rights principles.

On 29 April 2015, the European Parliament adopted a resolution on the second anniversary of the Rana Plaza disaster in Bangladesh, in which it welcomed the EU-led initiative to launch the compact, but also expressed concern about the situation in EPZs, where trade unions were still banned and working conditions, health and safety standards were poor. Parliament further noted the important role played by the EBA initiative in Bangladesh's economic development and its contribution to improving material conditions for millions of people, in particular women. Parliament also required sound conditionality in the area of human and labour rights, without which EBA and GSP risked exacerbating low standards in worker protection.²⁰²

Experts have suggested ways to overcome the narrow alternative 'maintaining-withdrawing preferences', particularly in the EBA and standard GSP schemes, by introducing additional mechanisms. One proposal is to institute an obligation on economic operators who want to export to the EU to enforce respect of human rights and labour rights. Companies would be required to put in place due diligence practices, in line with the UN guiding principles on business and human rights.²⁰³ Others have proposed modifying the standard GSP and EBA schemes, to blacklist companies responsible for serious human rights violations that wish to export to the EU, similar to the lists that have been used to combat money laundering.²⁰⁴

Others, on the contrary, argue that 'the EU's record on enforcement of GSP has been disappointing to date, allowing countries with serious labour violations to continue to benefit from preferential trade despite failing to comply with a plain reading of the eligibility criteria.'²⁰⁵ For this reason, these experts have called for more active use of the human rights clause, which could provide the EU with a human rights instrument to enforce scrutiny, to discourage perverse incentives of investment

²⁰⁰ Ionel Zamfir, [Human rights in EU trade policy: Unilateral measures](#), EPRS, European Parliament, January 2017, p. 9.

²⁰¹ Benjamin Richardson et al., [Labour rights in Export Processing Zones with a focus on GSP+ beneficiary countries](#), Policy Department, DG for External Policies, European Parliament, June 2017, p. 7.

²⁰² [European Parliament resolution of 29 April 2015 on the second anniversary of the Rana Plaza building collapse and progress of the Bangladesh Sustainability Compact \(2015/2589\(RSP\)\)](#), P8_TA(2015)0175.

²⁰³ Ben Rutledge, [Cambodia, Myanmar and the EU's 'Everything But Arms' trade deal](#), Ethical Trading Initiative, 29 June 2016.

²⁰⁴ [Human rights impact assessment of the EU Everything But Arms initiative in Cambodia – includes EU response](#), Business & Human Rights Resource Centre.

²⁰⁵ Jeffrey Vogt, 'A Little Less Conversation: The EU and the (Non) Application of Labour Conditionality in the Generalized System of Preferences (GSP)', *The International Journal of Comparative Labour Law and Industrial Relations*, 2015, Volume 31, Number 3, p. 303.

opportunities under EBA, and to protect EU institutions from inaction and association with human rights violations.²⁰⁶ They also call on the EU to take a fuller account of the entirety of the ILO's supervisory output and make informed decisions based on them. 'The EU does not help to promote the ILO supervisory system and its standards if it in fact continues to provide generous trade benefits for countries that, while not accumulating a requisite number of special paragraphs, are nonetheless widely condemned by other committees in the ILO supervisory system'.²⁰⁷

6.5. Engaging the private sector

It should also be noted that, as numerous experts have argued over the years, helping the bottom billion (GSP+ and EBA beneficiaries) out of their doldrums is not exclusively a government operation. In that context, experts have also made a forceful argument in favour of private sector involvement. The EU, in the framework of the SDGs, has put greater emphasis on the role of the private sector for sustainable development, with particular attention to Africa.²⁰⁸ It is also an area in which the Organisation for Economic Cooperation and Development (OECD) has much experience and many lessons to draw from.²⁰⁹

6.6. Continuing to mainstream human rights obligations in the EU's external action

In spite of the fact that GSP schemes affect only a small portion of EU trade, coherence and transparency nevertheless remain important signifiers of credibility in external action. Article 21 of the Treaty on European Union (TEU) affirms that the EU's external action should be guided by the principle of 'the universality and indivisibility of human rights'. Equally, the EU has committed to ensuring consistency between the different areas of its external action, including its trade and human rights policies, thus mutually enhancing the potential effectiveness of these policies. This is a repeated recommendation for improving EU trade policy.²¹⁰ In that context, when the EU acts coherently and exercises its leverage through different instruments in parallel, it can be more effective.

In their research, Portela and Orbie (2014) showed that GSP suspension has been coherent with CFSP sanctions. They argue that GSP suspension seems to come about when CFSP sanctions are in place and the ILO has set up a Commission of Inquiry that has condemned the beneficiary for failure to apply core standards (as was the case with Myanmar/Burma and Belarus). In the absence of both factors, the EU has refrained from suspending GSP. The Sri Lankan case shows how the GSP can complement CFSP sanctions because of the presence of authoritative assessments on human and labour rights violations. At the same time, however, the link between CFSP and the GSP can have a

²⁰⁶ Karin Ulmer, 'Trade Embedded Development Models', *The International Journal of Comparative Labour Law and Industrial Relations*, 2015, Volume 31, Number 3, pp. 305-330.

²⁰⁷ Jeffrey Vogt, 'A Little Less Conversation: The EU and the (Non) Application of Labour Conditionality in the Generalized System of Preferences (GSP)', *The International Journal of Comparative Labour Law and Industrial Relations*, 2015, Volume 31, Number 3, p. 303.

²⁰⁸ European Commission, [Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, A Stronger Role of the Private Sector in Achieving Inclusive and Sustainable Growth in Developing Countries](#), Brussels, COM(2014) 263 final, 13 May 2014.

²⁰⁹ [Approaches and Tools to Further Private Engagement](#), OECD Development Assistance Committee

²¹⁰ See, for example, Isabelle Ioannides, [The effects of human rights related clauses in the EU-Mexico Global Agreement and the EU-Chile Association Agreement](#), EPRS, European Parliament, February 2017; and Isabelle Ioannides, [The Trade Pillar in the EU-Central America Association Agreement](#), EPRS, European Parliament, October 2018.

detrimental effect on the necessary labour reforms. For example, in Myanmar/Burma and Belarus, GSP withdrawal was subsumed within the CFSP sanctions regime. By way of illustration, the GSP Regulations stipulate that only a change in the 'political situation' – rather than the observance of the relevant labour conventions – justifies reinstatement of trade preferences. This reduces the incentives for the government concerned to correct violations of labour standards, since it cannot expect GSP benefits to be reinstated until the political situation is altered.²¹¹

The mid-term review on the implementation of the EU action plan since 2015 offers a positive assessment of good progress when it comes the EU's efforts 'to ensure the effective interplay between policies, tools and financing instruments in promoting and protecting human rights'. One additional example of effective mainstreaming is given to support this claim: human rights policy tools, such as dialogues, have been increasingly 'linked to relevant provisions in ILO fundamental conventions within GSP+ and free trade and investment agreements, specifically on labour rights'.²¹² Coherence between the EU and the ILO also helps to insulate the EU from charges of arbitrary behaviour.²¹³ Equally, the second European Commission biennial report on the implementation of the GSP demonstrates how the GSP+ has supported countries such as Pakistan, Sri Lanka, Mongolia and Bolivia to intensify their engagement in the EU human rights dialogues. At the same time, the human rights dialogues have provided a platform to discuss GSP+-related human rights issues. GSP+ has improved synergies and led to a mutually re-enforcing leverage of the two tools.²¹⁴

In addition, during the reporting period, the European Commission worked with partners (e.g. the ILO) on specific GSP+ projects, which are ongoing, to support compliance with ILO reporting and implementation requirements. For instance, projects on capacity-building in public administration were carried out in Armenia, Paraguay and the Philippines, Pakistan and Mongolia. Projects on increasing awareness of ILO conventions were carried out in Cape Verde.²¹⁵

²¹¹ Clara Portela and Jan Orbie, 'Sanctions under the EU Generalised System of Preferences and foreign policy: coherence by accident?', *Contemporary Politics*, 2014, Volume 20, Number 1, pp. 63-76.

²¹² European Commission and High Representative of the Union for Foreign Affairs and Security Policy, [Joint Staff Working Document, EU Action Plan on Human Rights and Democracy \(2015-2019\): Mid-Term Review June 2017](#), SWD(2017) 254 final, 27 June 2017, p. 21.

²¹³ Jeffrey Vogt, 'A Little Less Conversation: The EU and the (Non) Application of Labour Conditionality in the Generalized System of Preferences (GSP)', *The International Journal of Comparative Labour Law and Industrial Relations*, 2015, Volume 31, Number 3, p. 303.

²¹⁴ European Commission, [Report from the Commission to the European Parliament and the Council, Report on the Generalised Scheme of Preferences covering the period 2016-2017](#), COM(2018) 36 final, 19 January 2018.

²¹⁵ [Ibid.](#), pp. 11-12.

7. Conclusions

Overall, GSP Regulation 978/2012 can be considered as a facilitator of social development and a way of monitoring the ratification of and legalistic adherence to conventions on fundamental labour and human rights. When it comes to the actual implementation of the protection of social and human rights in beneficiary countries, impact has been mixed. The threat of temporary removal from the scheme in cases where countries fail to comply with international human rights obligations is considered to have the potential to initiate change in the EU's trading partners, but it has yet to be tested, and therefore it has not been possible to evaluate its impact.

The GSP Regulation has had an indirect impact on social indicators and mixed results. GSP+ and EBA beneficiaries, in particular, seem to still struggle with ensuring that rights linked to social development and good governance are actually implemented. Admittedly the impact of the GSP reform could take several years to fully become visible in the social and human rights indicators. In that sense, it is difficult to draw definitive conclusions on the implementation of the regulation. Assessments of the GSP's capacity to tackle such challenges are conflicting. On the one hand, the European Commission argues that the GSP's legal conditionality through the temporary withdrawal mechanism and the GSP+ arrangement has incentivised beneficiary countries to adhere to fundamental labour and human rights (e.g. Sri Lanka). In practice, however, the temporary withdrawal mechanism under the GSP Regulation has not been used. On the other hand, experts argue that it is key reforms initiated on the political will of domestic political actors that have brought about change at the level of social development and good governance, rather than the GSP per se. It could also be added that other international factors and actions may also influence social development outcomes as well as adherence to fundamental political, civil, social, economic and environmental rights in the beneficiary countries.

On poverty reduction too, the GSP Regulation has had mixed results. The European Commission assessments attempt to show that increased trade flows and improved compliance requirements with international conventions have led to growth in the beneficiaries and supported poverty reduction. However, as in the case of good governance, it is difficult to attribute poverty reduction for the most vulnerable to the GSP. Although increased exports and the resulting economic growth are likely to contribute to social development and poverty reduction, this depends on whether the beneficiary countries have policies and the political will to effectively channel the extra resources to social and distribution-improving policies. In parallel, it should be noted that the European Commission-contracted evaluation, in agreement with other experts, has shown that economic growth and export opportunities can also lead to a worsened social and human rights situation. It pointed to instances of land grabbing (e.g. Ethiopia and Cambodia) and the violation of fundamental labour rights (e.g. Bangladesh).

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The impact of changes in
the GSP Regulation
No 978/2012 with a focus
on the graduation of
countries from the
scheme, the role of
preferences and rules of
origin

Research Paper

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Executive summary

The countries that have graduated from the GSP are those that have been affected by the graduation mechanism provided for in article 4 of GSP Regulation 978/2012 based on a GNP per capita criteria. For these affected countries, the paper finds evidence that graduated beneficiary countries that are oil exporters (Saudi Arabia, Kuwait, Bahrain, Qatar, United Arab Emirates, Oman, Brunei Darussalam, Gabon, Libya) suffered a significant short-term impact of graduation for products classified under the Harmonized System¹ (HS) chapter 27 (petroleum products). Indeed, imports receiving GSP in 2013 amounted to US\$ 15.9 billion and the drop in dutiable imports during the same period amounted to US\$ 12.3 billion (from US\$ 22.9 billion in 2013 to US\$ 10.6 billion in 2014), suggesting a parallel drop of exports due to graduation. However, in 2015 and 2016, exports from the affected countries bounced back at a level that is even higher than that from before graduation, pointing to the fact that graduation had limited impact and that trade performance of petroleum oil net exporters is largely influenced by prices of petroleum products and other tax arrangements in the world market, rather than trade preferences that have limited preferential margins.

The impact of graduation has not been significant in any other country group, namely:

- (a) Eurasian countries (Belarus, Russia, Kazakhstan);
- (b) Asia (Malaysia);
- (c) Islands and autonomous territories (Palau, Macau), and;
- (d) Latin America (Argentina, Brazil, Cuba, Uruguay).

Rather, dutiable imports from Eurasian countries and Asia were stable until 2015. They experienced an exponential increase in 2016 and 2017 (the last two available years).

As for the islands and autonomous territories and Latin America (excluding Venezuela), the (almost linear) decreasing trend in EU dutiable imports from these regions did not change in 2014 and 2015. In the case of the islands and autonomous territories, this result is not surprising given the fact that GSP trade preferences were not used in the period before graduation. Since preferences were not used, there is no impact from graduation.

The case of Venezuela stands alone due to the political unrest that has been affecting the country. The analysis shows that EU imports from Venezuela drastically decreased between 2012 and 2015. However, the sharpest fall in imports occurred prior to graduation, between 2012 and 2013. In 2014, when imports receiving GSP treatment reached zero, the fall in dutiable imports was relatively limited as compared to previous years.

The above findings concerning the overall impact of graduation of trade volumes of exports of graduated countries to the EU should be read with caution, since the research has identified a series of country/product pairs where graduation had an impact on volumes. The impact analysed in the research paper has been identified using a methodology used in a recent study.² Examples of country/product pairs include apples from Argentina, cigars from Cuba, and wires from Bahrain, as analysed in the research paper.

¹ The Harmonized System is an international customs nomenclature for the classification of products negotiated under the World Customs Organization. It allows WTO members to classify traded goods on a common basis for customs purposes.

² See Swedish Board of Trade and UNCTAD, [The Use of the EU's Free Trade Agreements](#), 2018.

As conclusion the majority of the graduated countries have not suffered a long term impact from graduation on their export performance to the EU. The graduation effects have been either of short term nature or caused by heterogeneous factors other than graduation. However, the analysis shows that there has been an impact for some country/pairs that may have adversely affected vulnerable sectors of the society in the graduated countries, i.e., the growers of tobacco leaves in Cuba. The policy recommendation that may be drawn for the future is to carry out a quick ex-ante assessment before graduation of the export structure of each graduating country to identify possible products that may be produced by vulnerable sectors of the society of the graduated countries to avoid undesirable effects of graduation.

This finding further questions the assumption made by the Commission that the graduation of high income countries and upper middle income countries will provide opportunities for the poorest. Such assumption may need further verification, and has been contested in other studies

On the research question on how trade relations between the countries that have recently graduated from the GSP and those that still benefit from it are affected this paper identify the collateral damage that has taken place from the exclusion from cumulation of the inputs originating in the graduated countries on the remaining GSP beneficiaries.

Contrary to past practice Regulation 972/2012 does not allow the use of non-originating inputs from countries that have graduated from GSP and those remaining in the GSP. It follows that ACP states that are beneficiaries of the GSP cannot longer cumulate with other ACP states that have entered into EPAs and have therefore being graduated out of the GSP. Cambodia, another LDC affected by such new provision provides an excellent example of the collateral damage and the impact of the EU reform of rules of origin

In a parallel situation modifications to the rules of origin regulations under Canada's Least Developed Country Tariff (LDCT) regime were made to ensure that LDC exports would continue to be eligible for duty-free treatment when imported to Canada, even when incorporating inputs from countries that will no longer be eligible for the General Preferential Tariff (GPT).

On the contrary, the Mid-Term Evaluation of the EU's Generalised Scheme of Preferences 2017 does not mention anywhere the effect of graduation of the inputs of the graduated countries on those remaining as beneficiaries in the GSP.

Cambodia, together with Bangladesh, is often branded as a success story for the EBA.

Both countries have substantially increased its exports to the EU, started to diversify its exports, and showed high utilization rates under the EBA. In particular, the success of Cambodia's attempts to diversify its economy was also due to the success of the bicycle industry, as a result of EU reform of rules of origin. Moreover, Cambodia's success has been achieved by making use of regional value chains and cumulation with ASEAN countries, according to the EU's stated goal of favouring regional integration

However as mentioned above, the new EU GSP does not allow cumulation of inputs from graduated countries³ by Cambodia and the other remaining ASEAN LDCs. This fact has already triggered two requests by Cambodia for derogation from the rules of origin to respond to the concerns of its bicycle industry, one of the success stories of the Everything but Arms (EBA) and the EU reform on rules of origin. Possible solutions to this collateral damage of graduation

³ Ordinarily, the rules of origin should be complied with within the territory of the beneficiary country. Under cumulation, non-originating inputs of other beneficiaries may be considered as originating from the beneficiary country in question. For example, under regional cumulation rules, non-originating inputs of other ASEAN countries may be treated as Cambodian inputs.

suggested by the European Commission, such as extended cumulation and an EU-ASEAN wide FTA, are either cumbersome or not viable.

The combined effect of these EU trade policy initiatives may create significant collateral damage to Cambodia and other ASEAN LDCs. The Commission has so far not paid sufficient attention and willingness to better understand the implications of the combined policy actions of 1) excluding inputs of graduated ASEAN countries from cumulation and 2) to embark on concurrent negotiations with individual FTAs with ASEAN countries providing for cumulation. This combined trade policy action are cutting of ASEAN LDCs from ASEAN regional integration and are affecting the market access condition of the ASEAN LDCs. To sum up in a period of 4 years from 2014 to present the EU commission is practically reversing and backtracking the positive effects of the EU reform of the GSP rules of origin by excluding the use of inputs of graduated ASEAN countries from cumulation. This is tantamount to reverse discrimination against LDCs country and a systemic trade policy issue that requires correction

Extended cumulation is not a substitute for the regional cumulation that was previously granted to ASEAN countries and other GSP beneficiaries for the last decades of operation of the EU GSP. The provision contained in **GSP Regulation 978/2012** not allowing regional cumulation of graduated countries on spurious legal ground as discussed in section 5 has *de jure* and *de facto* broken down an established pattern of the basic principles in the EU trade policy and aid for trade in the development policy.

Yet, the EU and the European Commission, in particular, is threatening this success story by excluding inputs from graduated countries from cumulation in the EU GSP 2012. At the same time, the EU is negotiating FTAs with other ASEAN countries that will compete with Cambodian exports to the EU. The combined effect of these EU trade policy initiatives may create significant collateral damage to Cambodia and other ASEAN LDCs.

To conclude, the European Commission should reinstate regional cumulation and abandon the series of complex requirements that currently exist to make cumulation operational in the GSP and more generally in the European Partnership Agreements (EPAs) with the Africa, Caribbean and Pacific (ACP) countries.

The main recommendations emanating from this research are the following:

- 1 Overall it appears that the graduated countries under paragraph 4 (a) of the EU GSP 2014 have not suffered a significant shock from graduation. However, this conclusion cannot be generalized since there may be particular country/product pairs adversely affected by graduation (see Section 3.2 above). Due to social inequalities in some beneficiary countries, Article 4(a) of the GSP Regulation 978/2012 could have unforeseen implications for social groups and workers employed in country/product pair sectors that depend on trade preferences. The European Commission and Parliament should take these matters into consideration to ensure that country graduation according to Article 4 (a) does not unduly affect such communities. To this end an ex-ante assessment of trade flows of the graduated countries can be undertaken to verify that graduation does not unduly affect vulnerable communities of producers in the graduated countries
- 2 The main recommendation of this research is to redress the collateral damage resulting from graduation that has affected Cambodia, other ASEAN LDCs and remaining beneficiaries of the GSP as further outlined in following paragraph 3. This recommendation arises directly from the analysis and interviews with beneficiaries and the private sector. The European Commission and Parliament should re-introduce in the EU GSP 978/2012 the possibility of cumulating inputs from graduated countries

while ensuring that the rules of origin negotiated with other ASEAN partners do not affect the cumulation possibilities among ASEAN countries.

- 3 The issue of graduation from the EU GSP and exclusion from cumulation of graduated countries under Article 4(b) of the EU GSP Regulation 978/2012 is not limited to ASEAN LDCs, but is also a systemic issue in the EPAs with ACP countries and ACP GSP beneficiaries. As a result of the abovementioned provision ACP states beneficiaries of the EU GSP cannot longer cumulate with ACP states that have entered with an EPAs. As recommended above the European Commission and Parliament should re-introduce in the EU GSP 978/2012 the possibility of cumulating inputs from graduated countries. In addition the Commission should review and simplify the administrative requirements and conditions attached to cumulation in the EPAs and to facilitate their compliance to enable the pre-existing 'acquis' under the Cotonou Partnership Agreement according to which cumulation was available among all ACP countries.

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Acronyms

ACP	African, Caribbean and Pacific
ASEAN	Association of Southeast Asian Nations
CTH	change of tariff heading
EBA	Everything But Arms
EC	European Community
EPA	Economic Partnership Agreement
EPRS	European Parliamentary Research Service
ESA	Eastern and Southern African State
EU	European Union
DG TAXUD	Directorate General for Taxation and Customs Union, European Commission
DG TRADE	Directorate General for Trade, European Commission
FTA	Free Trade Agreement
GATT	General Agreement on Tariffs and Trade
GNP	gross national product
GPT	general preferential tariff
GSP	Generalized Scheme of Preference
HS	Harmonized System
INTA	Committee on International Trade
LDC	Least Developed Country
LDCT	Least Developed Country Tariff
MAR	Market Access Regulation
MERCOSUR	Southern Common Market (<i>Mercado Común del Sur</i>)
MFN	most favoured nation
RoO	Rules of Origin
SAARC	South Asian Association for Regional Cooperation
TAO	Tariff Analysis Online of the World Trade Organization
UNCTAD	United Nations Conference on Trade and Development
UR	Utilization Rate
WCO	World Customs Organization
WTO	World Trade Organization

1. Introduction

This paper has been drafted for the Ex-Post Evaluation Unit of the European Parliamentary Research Service (EPRS) to feed into a European Implementation Assessment on the implementation of GSP Regulation No. 978/2012, which is being prepared at the request of the Committee on International Trade (INTA).

1.1 The questions

In the context of the changes to the Generalised Scheme of Preferences (GSP), the aim of this paper is to evaluate the impact of the implementation of three particular aspects linked to the new GSP:

- 1 how countries have graduated from the GSP and what role has been played by preferences;
- 2 how trade relations between the countries that have recently graduated from the GSP and those that still benefit from it are affected; and
- 3 the impact of changes in the rules of origin.

When addressing these questions, this paper assesses the following hypotheses:

- 1 GSP supports EU businesses' competitiveness by lowering the cost of imports from GSP beneficiary countries.
- 2 GSP supports economic growth and job creation in beneficiary countries.
- 3 GSP promotes sustainable development and good governance, that is, GSP supports and helps protect labour rights.

The overall objective is to identify the strengths and weaknesses of the changes introduced in the EU GSP 2012 Regulation⁴, and the extent to which these changes have facilitated economic growth in GSP beneficiary countries, both past and present.

1.2 Methodology

The data used in this research paper are the UN Comtrade database, the WTO TAO and the UNCTAD dataset on utilization rates. All the tables and figures are sourced from these datasets based on calculations carried out by the author.

The usual and most straightforward way of assessing the impact of graduation is to carry out an impact analysis examining trade flows before and after graduation since after graduation MFN⁵ tariff will be applied meaning a deterioration of market access.

However it has to be clear that this methodology does not capture external factors such as fluctuations of commodity prices, externals and political shocks that may have affected the trade performance of the graduated countries.

The calculation made in this paper applies only to the countries that have graduated due to the GNP graduation mechanism contained in Article 4(a). A trade flows analysis is not applicable for countries that have graduated under Article 4(b), because they entered Free Trade Agreements

⁴ See [Regulation \(EU\) No 978/2012 of the European Parliament and of the Council of 25 October 2012 applying a scheme of generalised tariff preferences and repealing Council Regulation \(EC\) No 732/2008](#).

⁵ Most Favoured Nation rates of duty according to article I of GATT 1994, i.e., the standard rate of duty.

(FTAs) with the EU. The fact that these graduated countries are now trading under the FTAs means that there is no deterioration of their market access condition.

In this paper the concept of the utilization has been introduced according to recent studies. The concept of utilization is rather straightforward: the mere granting of tariff preferences does not automatically ensure that these preferences are used and granted at the time of customs clearance in the preference giving country. In fact the granting of tariff preferences is conditional upon compliance of a number of substantive and formal requirement like a certificate of origin or an exporter declaration. In case of non-compliance the normal rate of duty is collected and preferences are not used. It follows that if a graduated country show low utilization rate graduation may have limited impact since the country has not been using trade preferences before graduation.

The utilization rate is a clear indicator of the effectiveness of trade preferences used by UNCTAD since the inception of the GSP preferences in late seventies and subsequently adopted in WTO following the Nairobi Decision as discussed in section. Higher or lower utilization rates are mainly the result of the stringency and/or complexity of Rules of origin and ancillary requirements as further developed in the paper. In this paper, the utilization rates of trade preferences are used to exclude the cases where a drop in imports from graduating countries may not be attributed to graduation. Indeed, decreasing imports from graduating countries in sectors where the preference granted under the GSP was not used in the first place cannot be due to graduation. On the other hand, the impact is expected to be stronger when the beneficiary countries where initially fully using the trade preferences and therefore were effectively exporting duty-free to the European Union (high utilization rates).

One of the limits of the use of the utilization rate is that it does not clearly provides the reason for non-utilisation such 1) a ignorance of trade preferences by the exporters, 2) low preferential margin, 3) or issues related to rules of origin compliance, 4) other reasons. Recent studies however point to the latter as the main reason for low utilization.

The analysis includes twenty-six countries (twenty-two graduating in 2014 and four graduating in 2015) that have graduated due to the GNP graduation mechanism contained in Article 4(a). A trade flows analysis is not applicable for countries that have graduated under Article 4(b), because they entered Free Trade Agreements (FTAs) with the EU. The fact that these graduated countries are now trading under the FTAs means that there is no deterioration of their market access condition. Due to space limitation, the countries graduating in 2014 could not be all analysed independently but where grouped into the following categories:

- 1 *Petroleum net exporters:* Azerbaijan, Iran, Saudi Arabia, Kuwait, Bahrain, Qatar, United Arab Emirates, Oman, Brunei Darussalam, Gabon, Libya;
- 2 *Eurasian countries:* Belarus, Russia, Kazakhstan;
- 3 *Asia:* Malaysia
- 4 *Islands and autonomous territories:* Palau, Macau;
- 5 *Latin America:* Argentina, Brazil, Cuba, Uruguay; and
- 6 Venezuela.

The Petroleum net exporters are lumped together since these countries exports and economics are heavily dependent on the petroleum products following specific trade patterns and are highly affected by the fluctuation of world prices. The countries where oil industry is the major source of income will therefore be likely to be affected in a relatively similar way by graduation. In addition, the high values of trade in these industry may bias the results and hide interesting results for other sectors. For this group of countries, the methodology will therefore be applied including and excluding HS Chapter 27 (petroleum products).

Venezuela has been singled out given its status as an oil exporter and its political situation.

All findings of the paper assume that all other factors (except trade flows and utilization rates) are kept constant. Results should therefore be interpreted with caution. Each identified product/sector has to be carefully analysed and facts further corroborated by interviews with the private sector.

The analysis has been carried out within the time limits and constraint of the assignment. More in depth research, interviews with private sectors of the graduated countries would be needed to further corroborate and qualify the results of this preliminary research.

The Cambodia case has been selected as case study given its triple relevance for the scope of this paper: a) Cambodia has been one of the LDC beneficiaries that has most benefitted from the reform of the EU rules of origin and 2) at the same time Cambodia is one of the most affected LDC by the new policy of the EU commission in the Regulation 978/2012 of not allowing the use of inputs originating from graduated countries 3) Cambodia is affected by the current policy of replacing unilateral tariff preferences with reciprocal trade preferences under FTAs.

1.3 Definition of key technical terms

Cumulation (WCO definition): The concept of 'cumulation' or 'cumulative rules of origin' allows countries which are part of a preferential trade agreement to share production and jointly comply with the relevant rules of origin provisions. Otherwise said, the concept of accumulation/cumulation or cumulative rules of origin allows products of one country of a free trade area to be further processed or added to products in another country of that free trade area as if they had originated in the latter country. In this way, production may be aggregated with other countries' inputs, thus, offering additional opportunities to source input materials.

Extended cumulation:

Rules of Origin: set of rules and criteria used to confer the origin to a product. In the case of preferential rules of origin such as in the GSP, the origin entities to the preferential tariff rate to be applied at the time of importation.

Tolerances allow alleviating specific origin rules when small quantities of prohibited non-originating inputs/materials are used, e.g. a change in tariff classification requirement excludes the use of inputs which are classified in the same heading as the final product or the use of certain inputs which are excluded in specific operation requirements, even in very small quantities.⁶

Utilization rate (UR)⁷: ratio of the amount of imports that actually received trade preferences at the time of customs clearance in the preference-giving country with respect to the amount of dutiable import eligible for preferences:

$$UR = \frac{\text{Value of the dutiable imports covered by the preferential arrangement}}{\text{Value of dutiable imports being granted preferential duty rates}} \times 100$$

⁶ [WCO definition](#).

⁷ UNCTAD's definition.

2. Graduation mechanisms applicable under the EU GSP

Box 1 - Article 4 of the EU GSP 978/2012

1. An eligible country shall benefit from the tariff preferences provided under the general arrangement referred to in point (a) of Article 1(2) unless:
 - (a) it has been classified by the World Bank as a high-income or an upper-middle income country during three consecutive years immediately preceding the update of the list of beneficiary countries; or
 - (b) it benefits from a preferential market access arrangement which provides the same tariff preferences as the scheme, or better, for substantially all trade.

In this section the various country graduation mechanisms⁸ applied under the EU GSP 2014 are outlined identifying the countries that have been affected. Article 4 of the EU GSP 2014 below contains the two main country graduation mechanisms. The first criterion is based on GNP per capita. Beneficiary countries that have achieved and maintained a particular GNP for a number of years are considered to have progressively matured into a diversified and resilient economy that no longer needs trade preferences. The second criterion exists because GSP treatment is redundant for beneficiary countries that benefit from equal or better trade preferences.

In 2015, the European Commission listed the following countries as having graduated from the GSP according to paragraph (a) of Article 4.⁹ (See Box 1)

High-income countries (7) and territories (1) according to the World Bank classification include:

- 1 Countries: Saudi Arabia, Kuwait, Bahrain, Qatar, United Arab Emirates, Oman, Brunei Darussalam;
- 2 Territory: Macao.

Upper-middle income countries (18) according to the World Bank classification include:

- 1 Latin America (6): Argentina, Brazil, Cuba, Ecuador, Uruguay, Venezuela;
- 2 Ex-USSR (4): Azerbaijan, Belarus, Russia, Kazakhstan;
- 3 Other (8): People's Republic of China, Iran, Gabon, Libya, Malaysia, the Maldives, Palau, Thailand.

In the same year, the European Commission also listed the following countries as graduating from the GSP according to paragraph (b) of Article 4:

- 1 *Euromed* (6): Algeria, Egypt, Jordan, Lebanon, Morocco, Tunisia;
- 2 *Cariforum* (14): Belize, St. Kitts and Nevis, Bahamas, Dominican Republic, Antigua and Barbuda, Dominica, Jamaica, Saint Lucia, Saint-Vincent and the Grenadines, Barbados, Trinidad and Tobago, Grenada, Guyana, Surinam;

⁸ This paper only deals with Country graduation mechanisms as stipulated in paragraph 1(a) of article 4 of the [EU GSP regulation 978/2012](#), that regulation.

⁹ For the European Commission's list see the document [The EU's Generalised Scheme of Preferences \(GSP\)](#), Directorate General for Trade, August 2015, available at the following link: http://trade.ec.europa.eu/doclib/docs/2015/august/tradoc_153732.pdf

- 3 *Economic Partnership Agreement Market Access Regulation* (12): Côte d'Ivoire, Ghana, Cameroon, Kenya, Seychelles, Mauritius, Zimbabwe, Namibia, Botswana, Swaziland, Papua New Guinea, Fiji;
- 4 *Other* (2): Mexico, South Africa.

Article 5 of the EU GSP provides for the administration of the graduation process that started immediately with the 2012 Regulation to be applied at the entry into force of the EU GSP in 2014. Following the entry into force of the EU GSP in 2014, the European Commission will announce the changes to the beneficiary list according to the conditions outlined in Box 2 below by 1 January of each year.

Box 2 - Article 5 of the EU GSP 978/2012

1. A list of GSP beneficiary countries meeting the criteria laid down in Article 4 is established in Annex II
2. By 1 January of each year following the entry into force of this Regulation the Commission shall review Annex II to provide a GSP beneficiary country and economic operators with time for orderly adaptation to the change in the country's status under the scheme:
 - (a) the decision to remove a beneficiary country from the list of GSP beneficiary countries, in accordance with paragraph 3 of this Article and on the basis of point (a) of Article 4(1), shall apply as from one year after the date of entry into force of that decision;
 - (b) the decision to remove a beneficiary country from the list of GSP beneficiary countries, in accordance with paragraph 3 of this Article and on the basis of point (b) of Article 4(1), shall apply as from two years after the date of application of a preferential market access arrangement.
3. For the purposes of paragraphs 1 and 2 of this Article the Commission shall be empowered to adopt delegated acts, in accordance with Article 36, to amend Annex II on the basis of the criteria laid down in Article 4.

The list of beneficiaries has been amended in a number of cases since the EU GSP entered into force in 2014.¹⁰

Following the second annual review of the EU GSP beneficiary list, the EU announced in Regulation 1421/2013 that China, Thailand, Ecuador and the Maldives would be removed as of 1 January 2015, following a one-year transition period. Lastly, Delegated Regulation (EU) 2018/148¹¹ records the graduation of Paraguay from the GSP as of 1 January 2019 and of Equatorial Guinea as of 1 January 2021.

¹⁰ See [Commission Delegated Regulation \(EU\) No 1015/2014 of 22 July 2014 amending Annexes II and III to Regulation \(EU\) No 978/2012 of the European Parliament and of the Council applying a scheme of generalised tariff preferences, and repealing Commission Delegated Regulation \(EU\) No 154/2013](#), OJ L 283/20, 27 September 2014; [Commission Delegated Regulation \(EU\) No 1016/2014 of 22 July 2014 amending Annex II to Regulation \(EU\) No 978/2012 of the European Parliament and of the Council applying a scheme of generalised tariff preferences](#), OJ L 283/23, 27 September 2014; [Commission Delegated Regulation \(EU\) No 1421/2013 of 30 October 2013 amending Annexes I, II and IV to Regulation \(EU\) No 978/2012 of the European Parliament and of the Council applying a scheme of generalised tariff preferences](#), OJ L 335/1, 31 December 2013.

¹¹ [Commission Delegated Regulation \(EU\) 2018/148 of 27 September 2017 amending Annexes II, III and IV to Regulation \(EU\) No 978/2012 of the European Parliament and of the Council applying a scheme of generalised tariff preference](#), OJ L 26/8, 31 January 2017.

3. Impact of graduation on trade flows of graduated countries

The European Commission has stated the reasons for the graduation of high income and upper middle income countries as follows:

‘They clearly no longer need unilateral preferences such as the GSP to successfully trade with the rest of the world — and they have the resources to tackle more complex development problems such as income distribution, which require adequate internal policies.’¹²

The European Commission has also stated that ‘negative impacts on these countries’ exports are typically expected to be marginal (total exports fall by less than 1%)’. According to the European Commission, such limited negative effects occurred for the following reasons:

- 1 For more advanced developing countries, exports under the GSP were not necessarily a significant proportion of their total exports to the EU (the average was 8%).
- 2 The margins of preference¹³ provided by the EU GSP are on average relatively low, given the EU's already low applied (most favoured nation, MFN) tariff levels. The argument advanced by the European Commission relates to the fact that the average EU tariff was already low after negotiations at the WTO and the preferential margin for sensitive products under the EU GSP was fixed at 3.5%.
- 3 Even marginal drops in exports by the more advanced, bigger economies can potentially provide significant opportunities for the poorest, whose exports are very small in comparison.

While the data examined below corroborates some of these statements, the assumption that the graduation of high income countries and upper middle income countries will provide opportunities for the poorest may need further verification, and the assumption has been contested in other studies.¹⁴

3.1 Examining global trade flows

The usual way of assessing the impact of graduation is to carry out an impact analysis examining trade flows before and after graduation. The data used in this research paper are the UN Comtrade database, the WTO TAO and the UNCTAD dataset on utilization rates. All the tables and figures are sourced from these datasets based on calculations carried out by the author.

This section provides an overview of the evolution of dutiable imports and imports receiving GSP treatment for a selection of 22 graduated countries grouped into six categories as follows:

¹² See European Commission, [The EU's Generalised Scheme of Preferences \(GSP\)](#), Directorate General for Trade, August 2015.

¹³ The margin of preference is the difference between the Most Favored Nation rate (normal rate) and the GSP rate. For sensitive products under the standard GSP, the margin is fixed at 3.5%. In the case of bicycles, the EU MFN rate is 14% and therefore the GSP rate is 10.5%.

¹⁴ See Christopher Stevens, Kate Bird, Jodie Keane, Jane Kennan, Dirk Willem te Velde (Overseas Development Institute) and Kate Higgins (North–South Institute, Ottawa), *The poverty impact of the proposed graduation threshold in the Generalised System of Preferences (GSP) trade scheme*, 2011.

- 1 *Petroleum net exporters*: Azerbaijan, Iran, Saudi Arabia, Kuwait, Bahrain, Qatar, United Arab Emirates, Oman, Brunei Darussalam, Gabon, Libya;¹⁵
- 2 *Eurasian countries*: Belarus, Russia, Kazakhstan;
- 3 *Asia*: Malaysia
- 4 *Islands and autonomous territories*: Palau, Macau;
- 5 *Latin America*: Argentina, Brazil, Cuba, Uruguay; and
- 6 Venezuela.

For each of the country groups, the graphs in Figure 1 below show the value of EU imports from these countries

- 1 receiving GSP treatment and dropping to zero in 2014 figures (red line) as a result of graduation; and
- 2 the value of dutiable imports, i.e. facing a non-zero MFN applied tariff (blue line).

The analysis is carried out using utilization rates where possible, in order obtain a concrete picture of the loss of preferences. The utilization rate as defined by the European Commission¹⁶ is the percentage of GSP preferential imports out of all eligible imports under the respective GSP arrangement. Preference utilization is one of the most important indicators of a trade arrangement's efficiency, as it indicates the extent to which a country is taking advantage of the tariff preferences for which it is eligible.¹⁷ Ultimately, this means that the higher the utilization rate of preferences, the more effective the implementation of the agreement since economic actors are able to benefit from it¹⁸.

The calculation in the section below applies only to the countries that have graduated due to the GNP graduation mechanism contained in Article 4(a). A trade flows analysis is not applicable for countries that have graduated under Article 4(b), because they entered Free Trade Agreements (FTAs) with the EU. The fact that these graduated countries are now trading under the FTAs shows that there is no deterioration of their market access condition.¹⁹

3.1.1 Petroleum oil net exporters

For the first group of countries, Figure 1 below shows the significant short-term impact of graduation, in particular for products of HS chapter 27 (petroleum products). In the graph on the left, the drop of imports receiving GSP treatment to zero in 2014 is directly reflected in the value of dutiable exports to the EU from the selected countries. Imports receiving GSP in 2013 amounted to US\$ 15.9 billion with a drop in dutiable imports to US\$ 12.3 billion (from US\$ 22.9

¹⁵ Petroleum products follow specific trade patterns and are highly affected by the fluctuation of world prices. The countries where oil industry is the major source of income will therefore be likely to be affected in a relatively similar way by graduation. In addition, the high values of trade in these industry may bias the results and hide interesting results for other sectors. For this group of countries, the methodology will therefore be applied including and excluding HS Chapter 27 (petroleum products).

¹⁶ See European Commission, [Commission staff working document. Midterm Evaluation of the Generalised Scheme of Preferences accompanying the document Report from the European Commission to the European Parliament and the Council on the application of Regulation \(EU\) No 978/2012 applying a Scheme of Generalised Tariff Preferences and repealing Council Regulation \(EC\) No 732/2008](#), SWD(2018) 430 final, 4 October 2018.

¹⁷ See supra note 7.

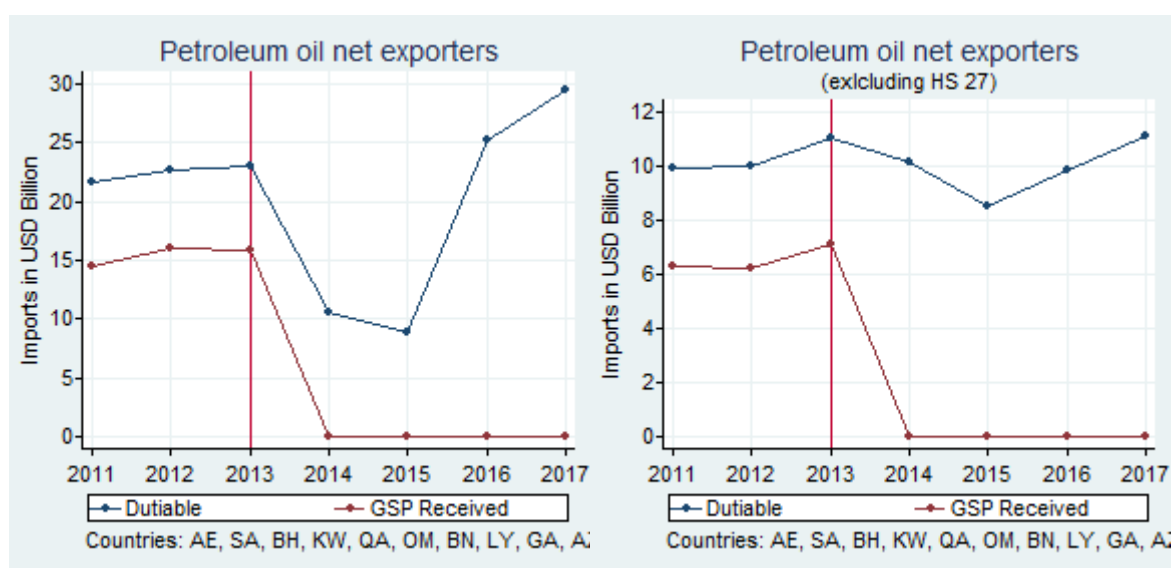
¹⁸ The use of utilization rates to measure the effectiveness of trade agreements has been highlighted in the publication Swedish Board of Trade and UNCTAD, [The use of the EU's Free Trade Agreements](#), 2018.

¹⁹ See also the discussion in section 6 below about the Cambodia case study.

billion in 2013 to US\$ 10.6 billion in 2014), suggesting a parallel drop due to graduation. However, in 2015 and 2016, exports from the affected countries bounced back to levels that are higher than even those before graduation, which demonstrates that graduation had a limited impact, and that trade performance of petroleum oil net exporters is largely influenced by prices of petroleum products and other tax arrangements in the world market rather than trade preferences, which have limited preferential margins.²⁰

The graph on the right excludes petroleum products of HS chapter 27. In that case, total imports receiving GSP treatment represented US\$ 7.1 billion in 2013. Dutiable imports also decreased in 2014 and 2015 but only by US\$ 900 million, not reflecting the US\$ 7.1 billion of imports that were receiving GSP treatment in 2013. Overall, the effect of graduation is relatively limited when products of HS chapter 27 are excluded, and are only temporary. Indeed, both graphs show a significant increase in dutiable imports from 2015 onwards.

Figure 1 - EU imports from Petroleum Oil net exporters



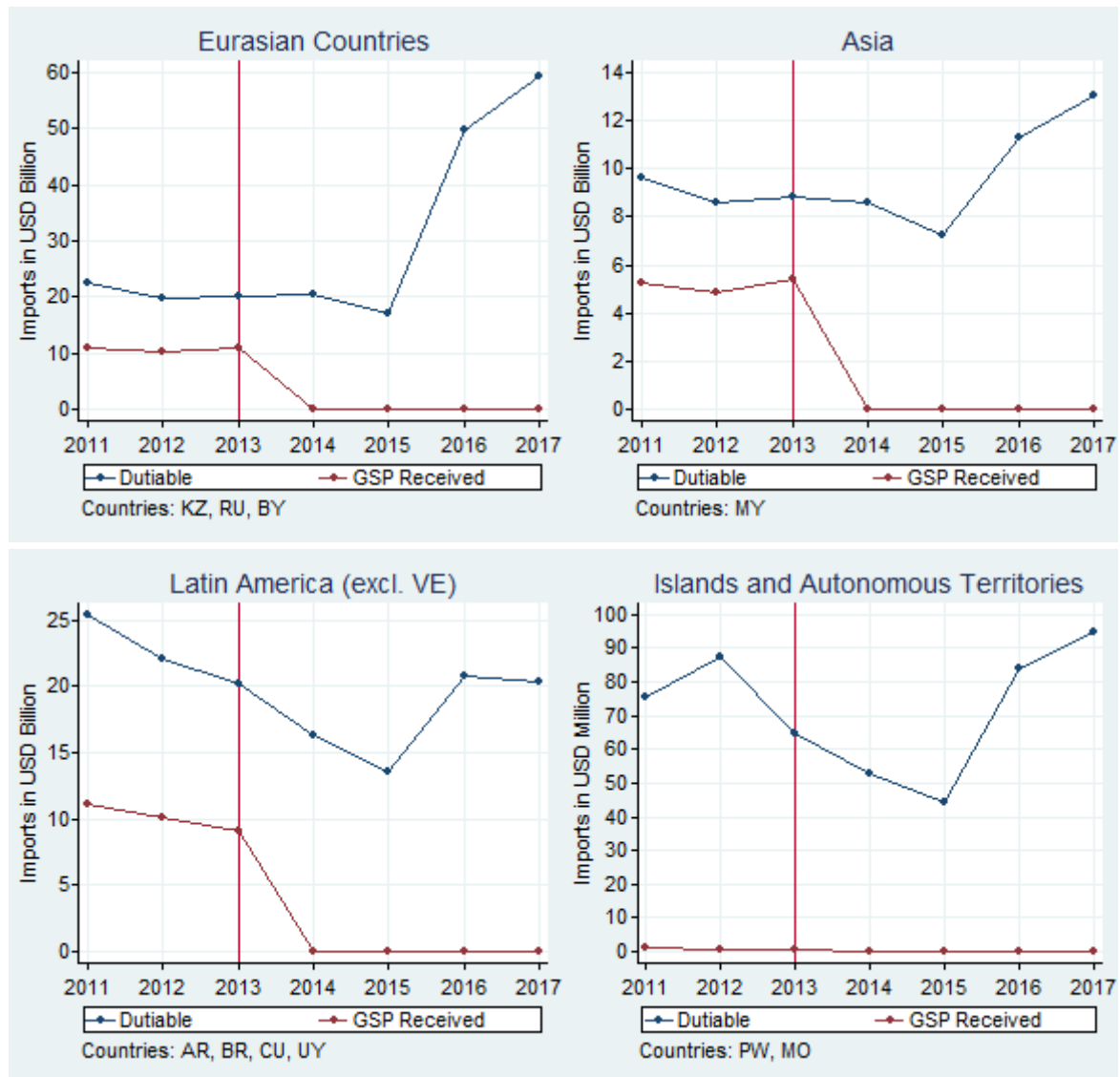
3.1.2 Other selected country groups

In all other country groups, no significant impact of graduation could be identified. Indeed, as Figure 2 shows, dutiable imports from Eurasian countries and Asia were stable until 2015 and experienced an exponential increase in the last two available years.

The same figure also shows that, as for the islands and autonomous territories as well as for Latin America (excluding Venezuela), the (almost linear) decreasing trend in the EU dutiable imports from these regions does not show any change in 2014 and 2015. In the case of the islands and autonomous territories, this result is not surprising given that GSP trade preferences were not used in the period before graduation (see Figure 2, where the imports receiving GSP treatment as a red line, which is at zero level).

²⁰ For similar comments in another research paper for the US Congress see: Jones, Vivian C. et al., [Trade Preferences: Economic Issues and Policy Options by Trade Preferences](#), Congressional Research Service, 10 January 2013.

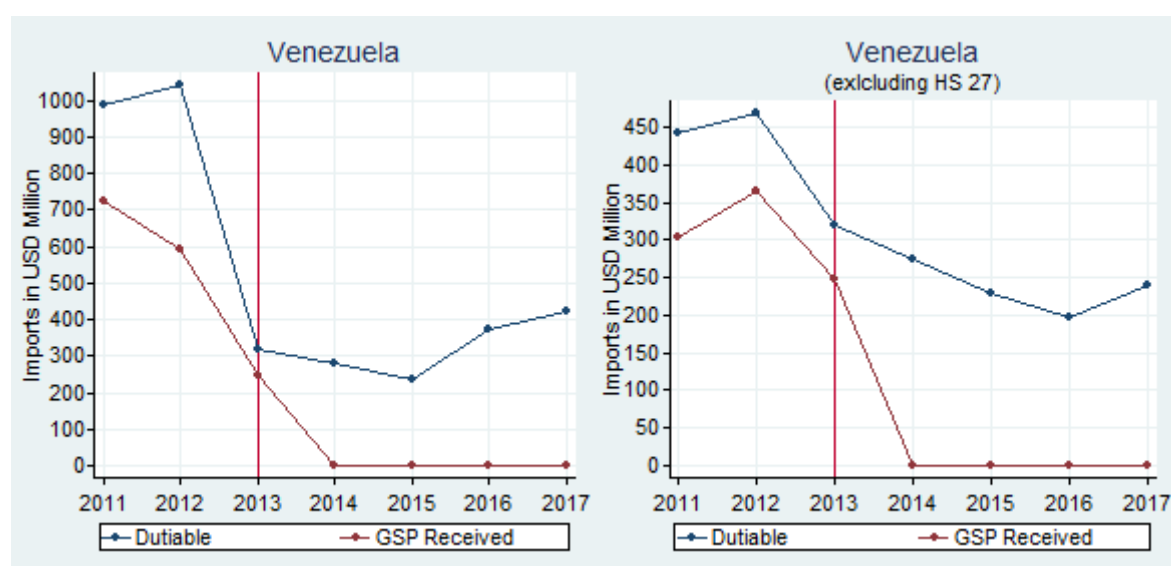
Figure 2 - EU imports from other selected country groups



3.1.3 Venezuela

Venezuela has been singled out given its status as an oil exporter and its political situation. As can be seen in Figure 3, EU imports decreased drastically between 2012 and 2015. However, the sharpest fall in imports occurred prior to graduation, between 2012 and 2013. In 2014, when imports receiving GSP treatments reached zero, the fall in dutiable imports was relatively limited as compared to the previous year. Excluding petroleum products (HS chapter 27) from the data reduces the value of imports, but does not significantly change the overall observed patterns since the value of dutiable exports even with the exclusion of petroleum products of HS chapter 27 shows a decline. However, this decline of exports of dutiable products may be due to the overall deterioration of the economy due to political unrest rather than graduation.

Figure 3 - EU imports from Venezuela



3.2 Examining selected specific products based on utilization rates

As discussed in the previous section, part from some initial shocks, graduation does not seem to have drastically affected in a permanent way the export capacity of graduated countries. However, a general analysis of the trade flows may hide products where graduation has had a trade effect. A methodology that measures the relative importance of particular products using the utilization rate of GSP trade preferences is required to detect products where graduation may have had a commercially meaningful adverse impact. As explained earlier, the utilization rate is the ratio of imports receiving GSP treatment divided by the total value of imports covered by the agreement.

In this section, four additional countries that graduated in 2015 have been added in the analysis: China, Ecuador, the Maldives, and Thailand. Given the mass of data available, the following methodology has been elaborated to identify what products and what countries may have been suffering due to graduation. The methodology adopts a filter on export trade data at the HS 4-digit level for the 26 countries included in the analysis using criteria with lower (L) and upper (U) stringency thresholds as follows:²¹

²¹ The methodology and the filters used are similar to those used in Swedish Board of Trade and UNCTAD, [The use of the EU's Free Trade Agreements](#), 2018.

Table 1 - Filtering Methodology at the HS 4-digit level

No	Filter Description	Threshold	
		Lower bound X_L	Upper bound X_U
	Average utilization rate (2011-2013) above or equal to X%	50	70
	Average MFN (2011-2013) rate above X percentage point	1.5	3
	Average share (2011-2013) in EU total imports from the selected graduating country above X%	0.5	1
	Average dutiable imports (2011-2014) percentage change above or equal to X%	-10	-5
	Percentage change in dutiable imports lower or equal to X% of the percentage change in received imports before and after the graduation date (2013-2014 and 2014-2015 for countries that graduated respectively in 2014 and 2015)	50	70

Note: Averages are between 2011 and 2013 for countries graduated in 2014, and between 2011 and 2014 for countries graduated in 2015.

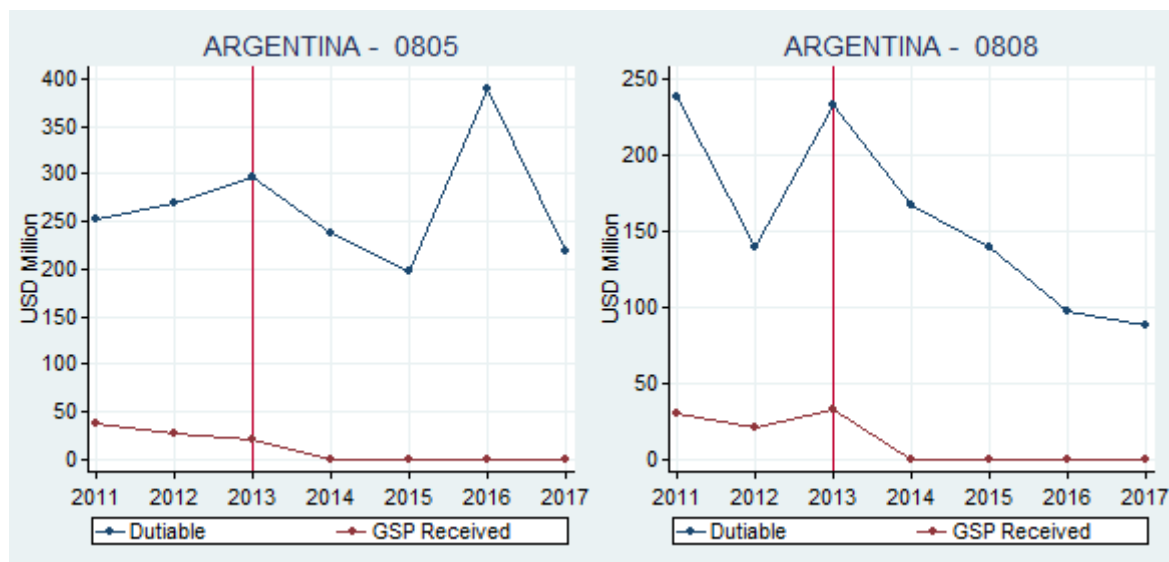
The rationale of the methodology used in Table 1 is as follows:

- 1 Under point 1. above, the utilization rates of 50 under the lower bound and 70 under the upper bound have been selected to identify products where there is significant utilization, i.e., where the impact of graduation will affect industries that were effectively utilising the trade preferences before the graduation.
- 2 Under point 2. above, an average MFN rate of 1.5% and 3% have been selected to capture respectively products where there are even minimal preferential margins, so as to be as inclusive as possible. The loss of trade preferences will affect trade flows more severely in cases where the preference margin is relatively high.
- 3 Under point 3. above, a share of 0.5% and 1% has been selected to capture significant trade flows of exports from the graduated country to the EU, i.e., the impact of graduation will affect industries effectively utilising the trade preferences before the graduation.
- 4 Only sectors with commercially meaningful trade values are reported in the analysis, that is, the benchmark is trade values representing at least 0.5% or 1% of EU total imports from the selected partner.
- 5 Only sectors in which the average value of dutiable imports (2011-2013) has been either growing or declining by less than 5% or 10% have been selected. The reduction of trade flows in the declining trade sectors that meet the criteria cannot be attributed to the loss of trade preferences.
- 6 The key assumption is that if graduation impacts trade flows, then the drop of preferences received on imports to zero in 2014 as a result of graduation will be fully or partially reflected in a drop of dutiable imports. The analysis considers the cases where dutiable imports decrease by at least 50% or 70% of the 2013 amount of imports receiving preferences.

3.2.1 Results of the 'upper-bound' scenario (restrictive filters)

Using the most stringent threshold of the filtering methodology contained in section 3.2 above, 87 products have been identified. The results of this 'upper bound' scenario with restrictive filters are reported in the figures below.

Figure 4 - EU imports from Argentina of citrus (HS 0805) of apples (HS 0808)



For Argentina, two products emerge from the filtering: citrus (HS heading 0805) and apples (HS heading 0808), as reported in Figure 4. In this specific case, despite the utilization rates of 96% and 86% respectively, the red and blue lines are quite distant due to the limited coverage of the GSP. While in the case of citrus the effect of graduation has only been temporary with increasing imports between 2015 and 2016, the case of apples shows a different pattern with continuous decreasing EU imports until 2017.

Figure 5 - EU imports of cigars (HS 2402) from Cuba

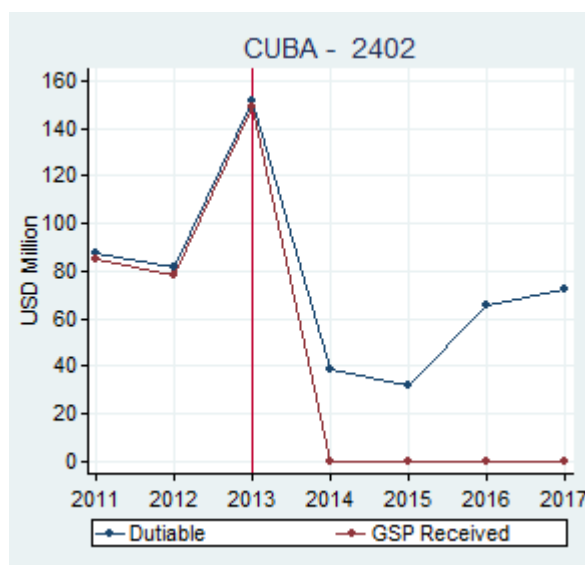
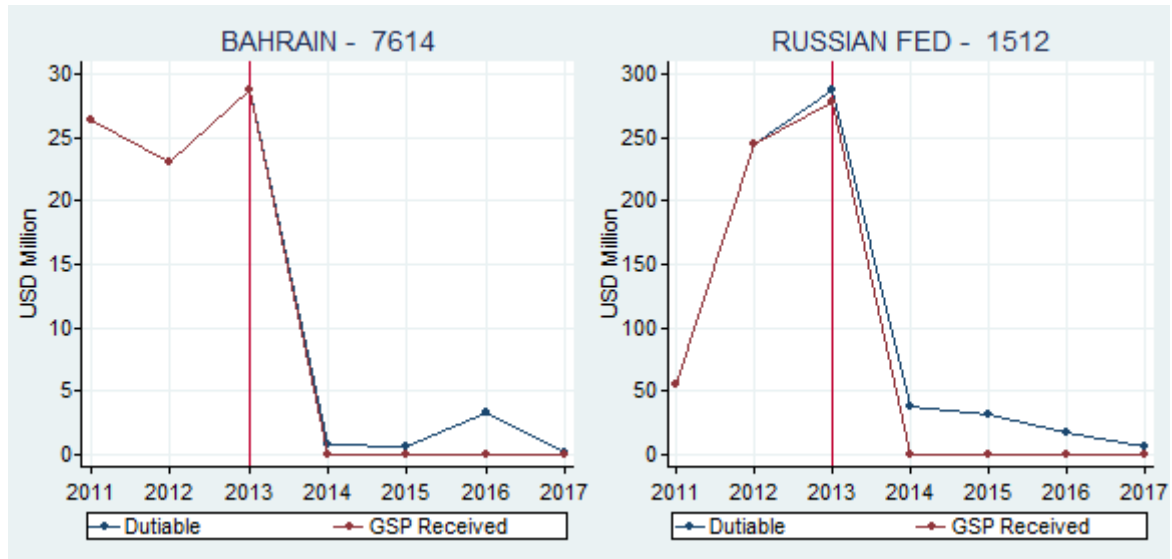


Figure 5 above shows that, following graduation, exports of cigars (HS 2402) from Cuba to the EU have been significantly affected. The impact has been particularly strong in the short to medium-term. Since 2015, exports have started rising again, but are still far from their pre-graduation level of US\$ 151 million.

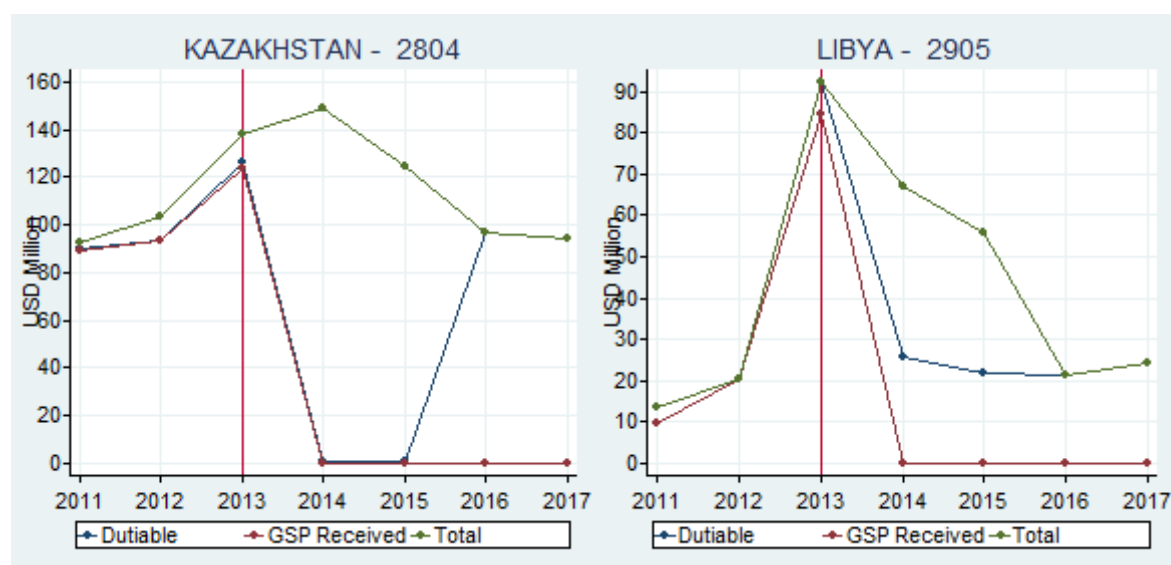
Figure 6 - EU imports from Bahrain – aluminium casks, drums, cans (HS 7614) and from Russia – Sunflower-seeds (HS 1512)



In the two cases illustrated in Figure 6 above, dutiable imports following graduation have dropped significantly and did not show any sign of recovery. There is therefore a persistent impact in the medium- and long-term. In Bahrain, exports of stranded wire cables to the EU amounted to US\$ 28 million in 2013 and fell to US\$ 793 000 after graduation. Four years after graduation, this value dropped even lower to US\$ 177 000.

Exports of sunflower-seeds and safflower or cotton-seed oil (HS 1512) from the Russia to the EU have followed a similar pattern. With a utilization rate of trade preferences of 98.8%, post-graduation export values fell from US\$ 287 million in 2013 to US\$ 38 million in 2014 and to US\$ 6 million in 2017, with no sign of recovery.

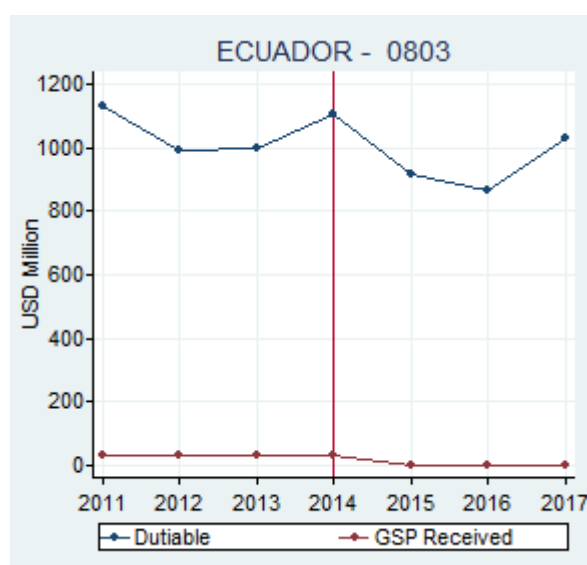
Figure 7 - EU imports from Kazakhstan and Libya of hydrogen (HS 2804) and acrylic alcohols (HS 2905)



In the case of Kazakhstan, the only product resulting from the filtering methodology is hydrogen, rare gases and other non-metals (HS 2804). However, in this specific case, the graph on the right in Figure 7, shows that the drop in dutiable imports is not due to graduation since the value of total imports (green line) is not affected.

In the case of Libya, the effect of graduation using the filtering methodology described above is also magnified by the difference in dutiable and total imports observed between 2013 and 2016. However, in this case, while the sector was on the rise before graduation, a long lasting effect can be observed in subsequent years. Ultimately, in 2017, dutiable and total values of trade are identical and represent only US\$ 24 million against a pre-graduation value of US\$ 92 million in 2013.

Figure 8 - EU imports from Ecuador of bananas (HS 0803)



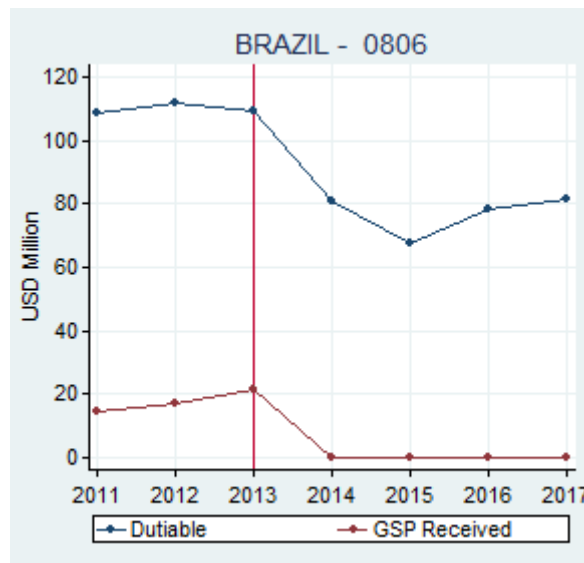
As illustrated in Figure 8, with a coverage of only 3% of dutiable imports, the result of the analysis indicates that the banana sector (HS 0803) in Ecuador suffered from the graduation until 2016. Indeed, dutiable imports dropped by US\$ 240 million, which is eight times more than the value

of imports receiving preferences prior to graduation (US\$ 32 million). This indicates that graduation might have seriously affected the sector beyond the initial value of the trade preferences. However, in 2017, the sector showed signs of recovery.

3.2.2 Results of the 'lower bound' scenario

Applying less restrictive filters results in identifying 12 additional country-product combinations²² that show some signs of impact from graduation. As demonstrated in the cases of Kazakhstan and Libya in Figure 7 above, results have to be interpreted with caution and placed in the given context of the specific countries analysed.

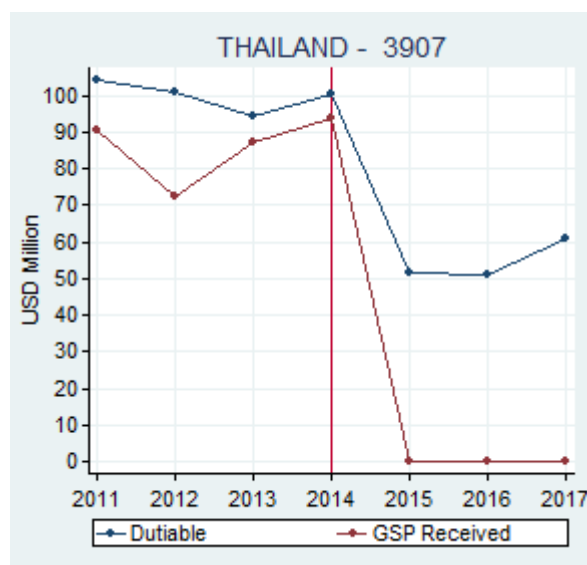
Figure 9- EU imports of grapes (HS 0806) from Brazil



An interesting example is the case of Brazilian grapes (HS 0806), illustrated in Figure 9 above, where EU dutiable imports decreased in 2014 by a higher amount (US\$ 28 million) than when Brazil was receiving GSP preferences (in 2013) and the decrease of EU dutiable imports was equal to US\$ 21 million. This appears to have a long-lasting impact, since both in 2014 and 2017, the trade value amounted to US\$ 81 million.

²² Dyad means pairs in this context since the overall methodology is construed to identify where graduation has been affecting specific products of the graduated countries at national level.

Figure 10 - EU imports of polyacetals, other polyethers and epoxide resins (HS 3907) from Thailand



Another example in the group of countries that graduated in 2015 is the case of Thailand exports of polyacetals (HS 3907). As can be seen in Figure 10 above, there is a sharp drop of dutiable imports by US\$ 49 million between 2014 and 2015. Despite the recent signs of recovery, with US\$ 61 million in 2017, the sector is still far from the pre-graduation import level of US\$ 100 million.

Table 2 - Results of the 'lower-bound' scenario graduated in 2014

Country	HS4	Product Description	Change in imports 2013-2014 (US\$ thousands)			Utilization rate (%) 2011-2013	Average MFN rate (%)	HS 4 Dutiable Import Share (%)
			GSP Received	Dutiable	Total			
ARGENTINA	0805	Citrus fruit, fresh or dried	-20 261	-60 018	-60 018	95.9	13.1	4.7
ARGENTINA	0808	Apples, pears and quinces, fresh	-33 543	-66 665	-66 665	85.8	4.7	3.5
ARGENTINA	2401	Unmanufactured tobacco; tobacco refuse	-65 405	-43 851	-43 851	70.3	7.9	1.5
AZERBAIJAN	3824	Prepared binders for foundry moulds or cores; chemical products and preparations of the chemical or allied industries	-2 336	-1 327	-1 327	99.9	3.6	2.4
BAHRAIN	7605	Aluminium wire	-15 009	-9 259	-9 259	93.3	7.5	2.1
BAHRAIN	7614	Stranded wire, cables, plaited bands and the like, of aluminium	-28 675	-27 892	-27 892	100.0	6	1.7
BRAZIL	0806	Grapes, fresh or dried.	-21 353	-28 562	-28 562	83.7	11.5	0.7
BRAZIL	2909	Ethers, ether-alcohols, ether-phenols, ether- alcohol-phenols	-325 388	-181 971	-181 972	69.4	5.5	2.5
BRAZIL	2922	Oxygen-function amino-compounds	-64 696	-42 309	-42 407	95.5	6.4	0.5
CUBA	2402	Cigars, cheroots, cigarillos and cigarettes	-149 260	-112 910	-112 910	97.3	27.4	17.8
IRAN	0806	Grapes, fresh or dried	-34 063	-21 261	-21 261	89.3	2.4	6.7
IRAN	2815	Sodium hydroxide (caustic soda); potassium hydroxide (caustic potash); peroxides of sodium or potassium	-6 907	-4 744	-4 744	100.0	5.5	0.7
IRAN	7202	Ferro-alloys	-27 634	-18 371	-18 452	97.1	2.7	4.6

Country	HS4	Product Description	Change in imports 2013-2014 (US\$ thousands)			Utilization rate (%) 2011-2013	Average MFN rate (%)	HS 4 Dutiable Import Share (%)
			GSP Received	Dutiable	Total			
KAZAKHSTAN	2804	Hydrogen, rare gases and other non-metals	-123 637	-125 542	11 156	99.9	5	8.1
KAZAKHSTAN	7202	Ferro-alloys	-141 423	-74 257	-70 423	94.5	3.9	9.7
LIBYA	2814	Ammonia, anhydrous or in aqueous solution	-2 610	-20 632	-20 632	57.3	5.5	3.6
LIBYA	2905	Acyclic alcohols and their halogenated	-84 352	-66 406	-25 253	87.5	5.5	7.7
OMAN	7325	Other cast articles of iron or steel	-11 959	-9 918	-9 918	99.5	2	1.2
OMAN	8544	Insulated (including enamelled or anodised) wire, cable (including co-axial cable)	-4 052	-4 324	-4 321	93.1	2.8	0.7
RUSSIA	1512	Sunflower-seed, safflower or cotton-seed oil and fractions thereof	-277 943	-248 894	-248 894	98.8	7.2	1.1
RUSSIA	1514	Rape, colza or mustard oil and fractions thereof	-192 491	-108 086	-108 086	97.0	4	1.0
UNITED ARAB EMIRATES	2909	Ethers, ether-alcohols, ether-phenols	-90 511	-90 146	-90 146	99.1	5.5	0.9
VENEZUELA	0306	Crustaceans, whether in shell or not	-49 111	-30 962	-14 060	99.5	12	6.2

Table 3 - Results of the 'lower-bound' scenario – countries graduated in 2015

Country	HS4	Product Description	Change in imports 2014-2015 (US\$ thousands)			Utilization rate (%) 2011-2014	Average MFN rate (%)	HS 4 Dutiable Import Share (%)
			GSP Received	Dutiable	Total			
ECUADOR	803	Bananas, including plantains, fresh or dried	-32 348	-187 334	-187 334	99.3	22.9	36.3
THAILAND	3907	Polyacetals, other polyethers and epoxide resins, in primary forms; polycarbonates, alkyd resins, polyallyl esters	-93 859	-48 607	-48 694	91.6	6.5	0.7

4. Impact of changes introduced in the rules of origin in the EU GSP 978/2012

The reform of the EU GSP rules of origin undoubtedly marked a turning point in the EU' policy on the matter. The positive impact of the reform and the appreciation of the beneficiary countries has been reflected in a number of official documents in which LDCs refer to this reform as a positive example, compared to other GSP preference giving countries that have not undergone a similar exercise.²³ Bangladesh's submission to the WTO on behalf of the LDC group on the rules of origin²⁴ included excerpts from the European Commission's impact assessment to exemplify what these LDCs considered an example of courageous and positive reform. This was later reiterated by Nepal's submission on behalf of the LDCs to the WTO.²⁵

Paradoxically, in the debates and negotiations carried out, from 2013 to the present, in the WTO Committee on Rules of Origin, which has led to the Bali and Nairobi Decisions on preferential rules of origin for LDCs after the implementation of the reform to the GSP, the European Commission has been conspicuously shy in asserting the positive impact of the EU reform on the rules of origin.²⁶

The reluctance of the European Commission to claim ownership of the reform was even more evident when the LDC WTO group presented the findings of a paper²⁷ at the WTO Committee on Rules of Origin in October 2014. Presentations by the LDC WTO group contained examples of the trade effects of the EU and Canada as compared to the United States and Japan, which have left their rules of origin practically unchanged for decades.²⁸ The European Commission's approach did not change during the negotiations leading to the Nairobi decision on preferential rules of origin for LDCs and the subsequent WTO Committee on Rules of Origin.

When comparing the current EU GSP Regulation 978/2012 to the previous one, changes in the following three areas have been introduced. They are presented in order of practical importance²⁹:

1. **Changes in product specific rules of origin.** The reform introduced more lenient criteria for a number of sectors, especially for the LDCs. The new regulation introduced a differentiation among beneficiary countries, between developing countries and LDCs. In a number of HS chapters and headings, especially in the textile and clothing sector but also in machinery and electronics, more lenient rules of origin are set for developing countries and LDCs. For developing country beneficiaries the double

²³ Namely Japan and the United States as far as the QUAD countries (Canada, European Union, Japan, United States) are concerned. In the same vein, a number of developing countries like China, India, Chile, Thailand, and the Eurasian Customs Union have not showed particular attention or willingness to enter into a reform of their rules of origin for the LDCs under their respective Duty Free Quota Free schemes.

²⁴ [Communication from Bangladesh on behalf of the LDC Group, least developed countries proposal on rules of origin \(TN/CTD/W/30/Rev.2; TN/MA/W/74/Rev.2; TN/AG/GEN/20/Rev.2\)](#), WTO, 24 June 2011.

²⁵ See [Ninth WTO Ministerial Conference, Bali, Indonesia, 3-6 December 2013, LDC package for Bali, Communication by Nepal on behalf of the LDC group, TN/C/W/63](#), 31 May 2013.

²⁶ See Stefano Inama, 'Ex ore tuo te iudico: the value of the WTO Ministerial Decision on Preferential RoO for LDCs', *Journal of World Trade*, 2015.

²⁷ WTO, [Challenges faced by LDCs in complying with preferential rules of origin under unilateral trade preferences schemes, Paper Presented by Uganda on Behalf of the LDCs Group, WTO \(G/RO/W/148\)](#), 28 October 2014.

²⁸ Japan introduced limited reform for knitted garments and clothing of HS chapter 61.

²⁹ See Stefano Inama, 'The reform of the EC GSP Rules of Origin: per aspera ad astra?', *Journal of World Trade*, 2011.

transformation for textile and clothing is still in place, but the dying process has been recognized as a processing requirement.

In the case of LDCs, the double processing requirement in the textile and clothing sectors (weaving of the yarn into fabrics being the first processing requirement, while make and trim of fabrics into finished garments being the second process in the clothing sector) has been replaced with a single processing requirement where make and trim into complete garments of non-originating fabric is recognised as origin conferring. This constitutes a major achievement, in favour of which the LDCs have argued for years.

In HS chapter 84 (machineries) and HS chapter 85 (electronics), the chapter rule³⁰ previously requiring a change of tariff heading (CTH) and a maximum allowance of non-originating materials of 40% out of the ex-works price has been replaced with a CTH or a maximum allowance of 70% of non-originating materials out of the ex-works price for developing countries and LDCs alike.

Suppose a bicycle with an ex works price of 100 \$. Before the reform an LDC producer could use up to 40\$ of imported non originating materials to manufacture such bicycle (40% of 100 \$ ex works price) After the reform such limit as be raised up to 70 dollars facilitating compliance with rules of origin requirements

The analysis for agricultural products and proceeds of agricultural products is more complex. In some chapters with high MFN duties, such as HS chapter 15, the rules of origin have been substantially liberalised. In others, such as HS chapter 4 (dairy products), limits concerning the use of non-originating sugar have been introduced while the use of non-originating fruit juices previously restricted have been liberalised.

There are also a number of technical improvements to the rules of origin where in certain cases the tolerance rule is expressed as a percentage of weight rather than value. The tolerance rule has been generally raised from 10% to 15% and could also be applied to the wholly obtained product when used as a product specific rule of origin criterion as explained below.

Suppose a manufacturer is producing a doll HS 9502 and the rule of origin is change of tariff heading (CTH).The manufacturer uses imported plastic of HS chapter 39 to manufacture the body of the doll, the cotton fabrics of HS chapter 52 to make the dresses and the eyes of the doll that are classified in the same heading of the doll. According to the CTH rule the doll will not be considered as originating since the eyes are classified in the same heading of the finished product even is the eyes of the doll represent a minor part of the doll. The tolerance rules intervene by allowing the use of the eyes on the condition that they do not represent more than 15% of the ex-works price of the doll.

2. **Cumulation of origin.** Regional cumulation has always featured in the EC GSP rules of origin. Mercosur was added as new entity benefitting from regional cumulation. The rule for the allocation of origin among the different members of a regional organisation has been relaxed.

Under the previous regulation, origin was conferred to the country of last manufacturing only, if the value added there was greater than the customs value of the imported inputs from another country that is a member of the regional organisation. In

³⁰ The chapter rules apply to all headings within the chapter except to headings that are singled out as a specific exception to the chapter rule.

practical terms, it meant that Cambodian producers wishing to use fabrics originating in Thailand could not obtain Cambodian origin since the value of the fabrics was greater than the value added achieved in Cambodia.

In the new EU GSP, this requirement has been lifted as far as the inputs originating in the other members of the regional group has undergone working or processing going beyond minimal working processing operations. Some agricultural and fishery products are excluded from cumulation.³¹

In addition a new type of cumulation was introduced: extended cumulation. Such cumulation may be applied between GSP beneficiary countries and EU Free Trade Agreement with partner countries under certain conditions, explained later in this research paper, in Section 6.3. However, agricultural products classified in HS chapters 1 - 24 are excluded from extended cumulation.

3. **The reform drastically changed the EC administration of rules of origin** providing a transitional period until 2017 and beyond. The current system of certification of origin, which is based on certificate of origin Form A officially stamped by the certifying authorities, is currently being replaced by statements on origin to be given directly by registered exporters. A database will have to be established in each beneficiary and administered and updated by the authorities of the country concerned. This entails a drastic change of business practices from the certifying authorities of beneficiary countries that will be responsible for maintaining and administering the database. Only exporters registered in the database will be able to issue statements of origin for receiving trade preferences. The current system will remain in place until 2017 with a provision for extending it until 2020 for beneficiaries asking for a longer transitional period.

³¹ The list of excluded products is contained in annex XIII B of the regulation. The products excluded are changing depending on the regional groups.

5. Impact of graduation on trade relations between the countries that have recently graduated from the GSP and those that still benefit from it

A significant change that has occurred from graduation is the exclusion of originating inputs and materials of the graduated countries from regional cumulation. Regional cumulation is granted under the EU GSP to various regional groupings.³² Under this arrangement, beneficiaries that are members of the same regional trade arrangement may consider inputs originating from other beneficiaries of the same regional group as their own inputs. This greatly facilitates compliance with rules of origin requirements. Given its technical nature, this factor has been largely unnoticed since the effective utilization of cumulation is relatively limited outside the Asian region according to available data and research.³³

Under the EU GSP Regulation no. 978/2012, there has been a significant change in the treatment of inputs and materials originating in graduated countries. These changes have significant and concrete implications, especially for the countries that still benefit from GSP preferences. The previous EU GSP Regulation (no. 732/2008) contained an express provision that was maintaining the 'acquis' of regional cumulation even in the case where one of the member of such a regional group has graduated out of the GSP. This key provision was somewhat hidden in the EU GSP Regulation of 2008. It read as follows (see Box 3).

Box 3 - Paragraph 3, Article 5 of the EU GSP Regulation of 2008

Regional cumulation within the meaning and provisions of Regulation (EEC) No 2454/93 shall also apply where a product used in further manufacture in a country belonging to a regional group originates in another country of the group, which does not benefit from the arrangements applying to the final product, provided that both countries benefit from regional cumulation for that group.

There is no equivalent provision in the EU GSP Regulation of 2012. The absence of such a provision means that the inputs of the graduated countries can no longer be used for cumulation purposes under the regional cumulation provisions. For example, inputs originating in Malaysia cannot be used to manufacture finished products in Cambodia for exports to the EU.

The European Commission explains the absence of such a provision in the EU GSP 978/2012 as being motivated by the fact that the continued use of inputs of graduated countries run against the reasons underlying graduation. According to this reasoning, the products originating in the graduated countries no longer need the preferences to be competitive and the allowance to use such products when incorporated into finished products manufactured in other countries of the region, may frustrate the objective of graduation. Above all, the argument of the European Commission is that the use of originating inputs of the graduated countries is inconsistent with

³² The EU grants regional cumulation to Association of South East Asian Nations (ASEAN), mercad comun del Sur (Mercosur) and South Asian as follows:

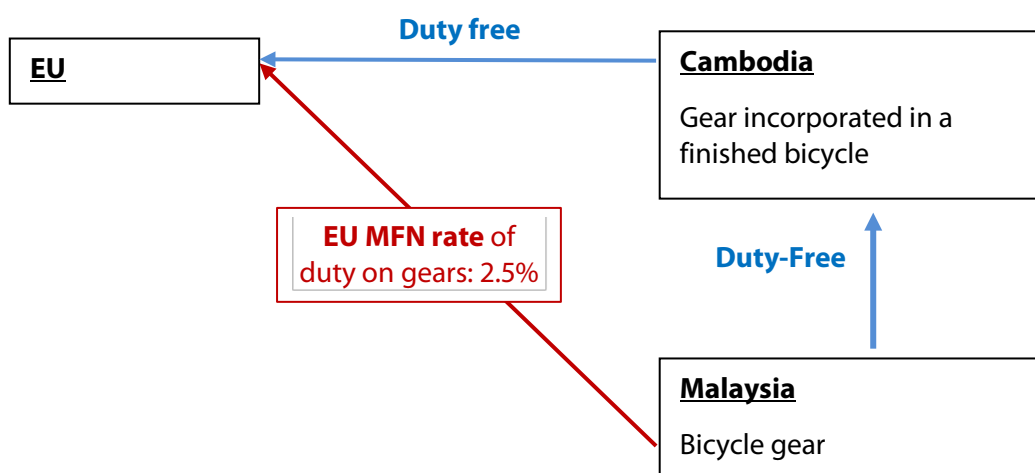
- (a) Group I: Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar/Burma, Philippines, Thailand, Vietnam; (ASEAN)
- (b) Group II: Bolivia, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Honduras, Nicaragua, Panama, Peru, Venezuela;
- (c) Group III: Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan, Sri Lanka; (SAARC)
- (d) Group IV: Argentina, Brazil, Paraguay, Uruguay. (MERCOSUR)

³³ See Stefano Inama, *Rules of origin in international trade*, Cambridge University Press, Cambridge, UK, 2009.

Article I of GATT 1994 since the graduated countries may not have equivalent preferential market access with the EU.³⁴

Figure 11Figure 1 depicts the inconsistencies in the possible scenarios to which Malaysia's products would be confronted depending on how they entered the EU market.³⁵ After the graduation of Malaysia from the EU GSP 978/2012, a bicycle gear (HS sub-heading 87141020) exported from Malaysia to the EU is subject to a MFN customs duty of 3.7% *ad valorem*. However, under ASEAN regional cumulation, if the same gear was incorporated into a bicycle that originated in Cambodia, it would enter the EU market duty free, thanks to the EBA.

Figure 11 - Possible WTO inconsistency of regional cumulation of inputs and materials of graduated countries in the absence of equivalent market access between the EU and the graduated countries



The European Commission has justified this discontinuity in the treatment of inputs of graduated countries between EU GSP Regulation of 2008 and that of 2012, by saying that the situation depicted in figure 11 would be potentially equivalent to tariff circumvention and constitute a breach of Article I of GATT 1994.³⁶

The argument of WTO compatibility is not entirely convincing since it is not clear why such an argument was not raised before under the EU GSP Regulation of 2008. Moreover, it could be argued that when the inputs of graduated countries are incorporated into a finished product, they are substantially transformed into a new product, as indicated in the Union Customs Code.³⁷ (See Box 4.)

³⁴ At least this is the argument used by the Commission to justify the absence of the provision contained in paragraph 3 of article 5 of EU GSP Regulation 2008 in the GSP Regulation of 2014.

³⁵ The figure has been adapted from Transatlantic Value Chains with Swiss Participation and Rules of Origin is trade creation dominating trade diversion available at: <http://www.news.admin.ch/NSBSubscriber/message/attachments/35612.pdf?>

³⁶ Article I of GATT 1994 provides as follows: '...any advantage, favour, privilege or immunity granted by any contracting party to any product originating in or destined for any other country shall be accorded immediately and unconditionally to the like product originating in or destined for the territories of all other contracting parties...'

³⁷ Available at <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02015R2446-20160501&from=EN>

Box 4 - Paragraph 4 of Article 55 of the Union Customs Code

Regional cumulation between beneficiary countries in the same regional group shall apply only under the condition that the working or processing carried out in the beneficiary country where the materials are further processed or incorporated goes beyond the operations described in Article 47(1) and, in the case of textile products, also beyond the operations set out in Annex 22-05.

Article 47(1) of the Union customs code lists a series of insufficient working or processing operations that are not origin conferring.³⁸ Hence, as long as the working and processing operation carried out in a country are not those listed in Article 47, the materials that have been worked and processed are conferred a new origin.

5.1 Comparable lessons

Canada, another major preference giving country, has adopted a significantly different approach. As part of its 2013 Economic Action, Canada carried out a review of its General Preferential Tariff (GPT) regime. The review led to the graduation from GPT treatment in 2015 of 72 trading partners considered higher income or trade-competitive partners. The Canadian experience with these changes to its GPT regime carries important lessons for the potential impact of the implementation of the EU GSP.

³⁸ Article 47 of the [Union Code](#) provides as follows

(1) Without prejudice to paragraph 3, the following operations shall be considered as insufficient working or processing to confer the status of originating products, whether or not the requirements of Article 45 are satisfied:

- (a) preserving operations to ensure that the products remain in good condition during transport and storage;
- (b) breaking-up and assembly of packages;
- (c) washing, cleaning; removal of dust, oxide, oil, paint or other coverings;
- (d) ironing or pressing of textiles and textile articles;
- (e) simple painting and polishing operations;
- (f) husking and partial or total milling of rice; polishing and glazing of cereals and rice;
- (g) operations to colour or flavour sugar or form sugar lumps; partial or total milling of crystal sugar;
- (h) peeling, stoning and shelling, of fruits, nuts and vegetables;
- (i) sharpening, simple grinding or simple cutting;
- (j) sifting, screening, sorting, classifying, grading, matching(including the making-up of sets of articles);
- (k) simple placing bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards and all other simple packaging operations;
- (l) affixing or printing marks, labels, logos and other like distance gushing signs on products or their packaging;
- (m) simple mixing of products, whether or not of different kinds; mixing of sugar with any material;
- (n) simple addition of water or dilution or dehydration or denaturation of products;
- (o) simple assembly of parts of articles to constitute a complete article or disassembly of products into parts;
- (p) a combination of two or more of the operations specified in points (a) to (p).
- (p) slaughter of animals.

(2) For the purposes of paragraph 1, operations shall be considered simple when neither special skills nor machines, apparatus or tools especially produced or installed for those operations are required for their performance

(3) All the operations carried out in a beneficiary country on a given product shall be taken into account when determining whether the working or processing undergone by that product is to be regarded as insufficient within the meaning of paragraph 1.

According to the Canadian GPT, countries meeting one of the two criteria below will cease to be eligible for the GSP scheme. This happens when:

- 1 they are classified for two consecutive years as high-income or upper-middle income economies according to the latest World Bank income classifications;
- 2 they have a 1% or greater share of world exports for two consecutive years, according to the latest World Trade Organization statistics.

Beneficiaries' eligibility shall be reviewed every two years. The graduation of 72 countries out of the Canadian GPT could potentially have had a series of negative implications for the remaining beneficiaries.

This potential negative impact was reflected in the views expressed by Canadian importers in the review carried out by Canadian government on the impact of the proposed changes to the Canadian GPT schemes, especially on graduation. As reported in the outcome of the impact exercise out of the 105 submissions 'approximately half of the submissions received during consultations expressed concern that changes to GPT country eligibility would reduce the benefits of Canada's LDCT and outward processing regimes. Grandfathering the pre-January 1, 2015, list of GPT beneficiaries for these regimes responds to these concerns'.³⁹

Accordingly, modifications to the rules of origin regulations under Canada's LDCT regime were made to ensure that LDC exports would continue to be eligible for duty-free treatment when imported to Canada, even when incorporating inputs from countries that will no longer be eligible for the GPT

On the contrary, the Mid-Term Evaluation of the EU's Generalised Scheme of Preferences 2017⁴⁰ does not mention anywhere the effect of graduation of the inputs of the graduated countries on those remaining as beneficiaries in the GSP.

The trade effects and implication of the exclusion of inputs from graduated countries under the new cumulation are further discussed in section 6 of this research paper.

³⁹ See Government of Canada, [General Preferential Tariff Withdrawal Order \(2013 GPT Review\)](#), P.C. 2013-967 27 September 2013.

⁴⁰ DEVELOPMENT Solutions, [Mid-Term Evaluation of the EU's Generalised Scheme of Preferences \(GSP\), Final Interim Report](#), Prepared for the European Commission, 21 September 2017.

6. Collateral damage from graduation – The case of Cambodia

Cambodia, together with Bangladesh, is often branded as a success story for the EBA. It is considered that thanks to the EBA, Cambodia has substantially increased its exports to the EU, started to diversify its exports, and showed high utilization rates under the EBA. As pointed out by the European Commission,⁴¹ Cambodia (along with Bangladesh and Mozambique) is considered a main beneficiary of the EBA. The feature distinguishing Cambodia from Bangladesh and Mozambique is that the success of Cambodia's attempts to diversify its economy was also due to the success of the bicycle industry, as a result of EU reform of rules of origin. Moreover, Cambodia's success has been achieved by making use of regional value chains and cumulation with ASEAN countries, according to the EU's stated goal of favouring regional integration.

Yet, the EU and the European Commission, in particular, threaten this success story by excluding inputs from graduated countries from cumulation in the EU GSP 2012. At the same time, the EU is negotiating FTAs with other ASEAN countries that will compete with Cambodian exports to the EU. The combined effect of these EU trade policy initiatives may create significant collateral damage to Cambodia and other ASEAN LDCs. The Commission has so far not paid sufficient attention and willingness to better understand the implications of the combined policy actions of 1) excluding inputs of graduated ASEAN countries from cumulation and 2) to embark on concurrent negotiations with individual FTAs with ASEAN countries providing for cumulation. This combined trade policy action are cutting off ASEAN LDCs from ASEAN regional integration and are affecting the market access condition of the ASEAN LDCs. To sum up in a period of 4 years from 2014 to present the EU commission is practically reversing and backtracking the positive effects of the EU reform of the GSP rules of origin by excluding the use of inputs of graduated ASEAN countries from cumulation. This is tantamount to reverse discrimination against LDCs country and a systemic trade policy issue that requires correction.

6.1 The positive effects of the EU reform of rules of origin on Cambodian exports to the EU

The overall trade effects of graduation applied by the EU GSP Regulation of 2012 may be difficult to quantify. However, the tangible and concrete trade effects of the EU reform of rules of origin for Cambodia have been dramatic. As mentioned above, the EU reform for clothing products of chapter 62, not knitted and crocheted garments, confer origin status to garments assembled and sewn from fabric produced anywhere. As argued in other studies,⁴² for the first time, garments produced in Cambodia from fabric manufactured in China could secure duty-free access to the EU. This change produced an immediate reaction: garment exports to the EU under the EBA doubled in 2011, and there was a surge of Chinese garment producers (and other producers using Chinese fabric) setting up factories in Cambodia.

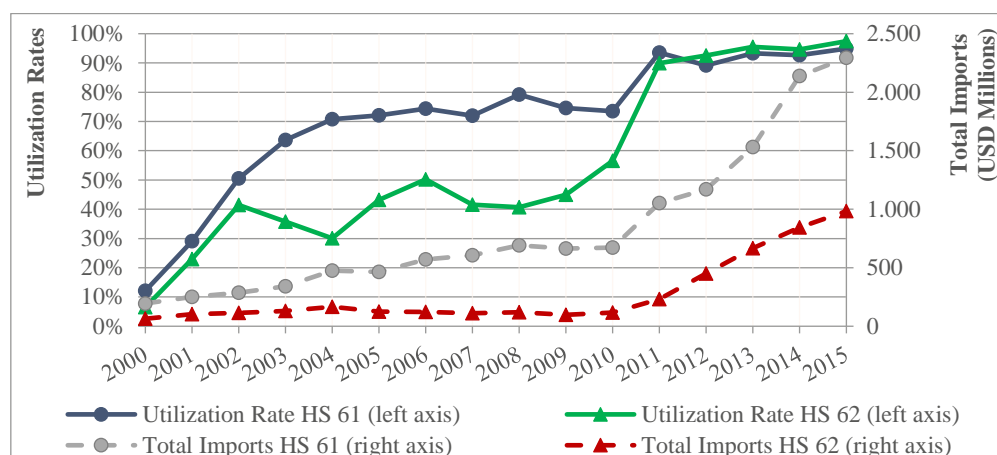
The utilization rate of Cambodian exports to the EU increased from 57% to 90% (see Figure 12). This surge in exports to the EU market between 2010 and 2011 was particularly strong for garments not knitted or crocheted (HS 62), with a rise in EU imports of 96%. The increase in utilization rates of

⁴¹ See European Commission, [Commission staff working document. Midterm Evaluation of the Generalised Scheme of Preferences accompanying the document Report from the European Commission to the European Parliament and the Council on the application of Regulation \(EU\) No 978/2012 applying a Scheme of Generalised Tariff Preferences and repealing Council Regulation \(EC\) No 732/2008](#), SWD(2018) 430 final, 4 October 2018.

⁴² [Trade preferences for LDCs: an early assessment and possible improvements](#), UNCTAD, 2003.

knitted or crocheted garments (HS 61) has been moderate, as these products began from a much higher value than in the case of HS 62. Indeed, on average, Cambodian exporters used the GSP preferences with a rate of 74% in 2010 and of 94% in 2011. The rise in import values was nevertheless significant: US\$ 2 billion (+33%) for all LDCs and US\$ 379 million for Cambodia (+56%).

Figure 12 - EU imports from Cambodia and GSP utilization rates (art of apparel & clothing access, HS 61 knitted/crocheted and HS 62 not knitted/crocheted)⁴³



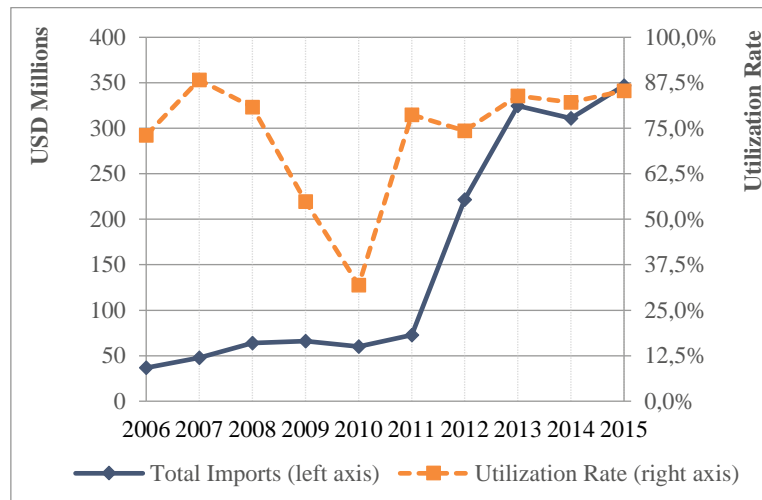
Most importantly, it has been emphasized⁴⁴ that the EU reform has produced an impact beyond the traditional garment sector by substantially liberalising the rules of origin in entire HS chapters, such as HS 87 Vehicles, other than railway or tramway rolling stock and parts and accessories thereof, have allowed for the use of up to 70% of non-originating materials for bicycles and the easing of ASEAN cumulation rules.

Figure 13 below shows that the utilization rate of bicycles exported from Cambodia to the EU has increased in 2011 to around 80% from the rate of 33% of the previous year. Moreover, between 2010 and 2013, import values have multiplied by a factor of 5.4, increasing from US\$ 60 million to US\$ 325 million (+442%).

⁴³ As adapted and updated from the Stefano Inama, 'Ex ore tuo te iudico: the value of the WTO Ministerial Decision on Preferential RoO for LDCs', *Journal of World Trade*, 2015.

⁴⁴ See Stefano Inama, 'Ex ore tuo te iudico: the value of the WTO Ministerial Decision on Preferential RoO for LDCs', *Journal of World Trade*, 2015.

Figure 13- EU imports from Cambodia and GSP utilization rates: Bicycles



A critical liberalising factor of the reformed EU rules of origin was the changes in cumulation rules. The new cumulation relaxed the value added principle in the allocation of origin when two or more ASEAN countries are involved in the process of manufacturing. In Table 4, a comparison of the wording of the two articles concerning the allocation of origin is presented and commented on.

Table 4 - Old and new regulations under the reformed EU rules of origin

Old regulation	New regulation ⁴⁵	Comments
<p>Article 72a</p> <p>1. When goods originating in a country which is a member of a Regional group are worked or processed in another country of the same regional group, they shall have the origin of the country of the regional group where the last working or processing was carried out, provided that: the value added there, as defined in paragraph 3, is greater than the highest customs value of the products used originating in any one of the other countries of the regional group, and the working or processing carried out there exceeds that set out in Article 70 and, in the case of textile products, also those operations referred to at Annex 16.</p>	<p>Where products manufactured in a beneficiary country of Group I (ASEAN) or Group III (SAARC) using materials originating in a country belonging to the other group are to be exported to the European Union, the origin of those products shall be determined as follows: materials originating in a country of one regional group shall be considered as materials originating in a country of the other regional group when incorporated in a product obtained there, provided that the working or processing carried out in the latter beneficiary country goes beyond the operations described in Article 78(1) and, in the case of textile products, also beyond the operations set out in Annex 16. where the condition laid down in point (a) is not fulfilled, the products shall have as country of origin the country participating in the cumulation which accounts for the highest share of the customs value of the materials used originating in other countries participating in the cumulation.</p>	<p>In the case of the old regulation under paragraph (a) the value of materials calculation was carried out automatically while in the case of the new regulation under (a) the test is not carried out unless the imported materials only undergo insufficient working or processing as contained in art 78 (1) and the operations described in annex 16 for textiles and clothing⁴⁶</p>

This new cumulation rule allowed bicycle manufacturers based in Cambodia to use ASEAN parts, such as bicycle frames made in Vietnam and Shimano gears made in Malaysia, without these inputs being counted against the 70% threshold of non-originating materials. Moreover, the origin of the finished bicycle would remain in Cambodia and be entitled to duty free treatment in the EU, as long as the working or processing in Cambodia went beyond the simple assembly of the product. The combination of the higher allowance threshold of 70% on the use of non-originating material combined with the new rules on cumulation created a bonanza situation that was exploited by a number of companies producing bicycles in Cambodia in particular AJ bikes,⁴⁷ Bestway and Smartech.⁴⁸

⁴⁵ The wording of this article has been changed in the Union customs code to the formulation used in this section while the substance remains the same. See section 3 above.

⁴⁶ See Annex 22-05 of the [Union Code](#).

Working such as: fitting of buttons and/or other types of fastenings, making of button-holes, finishing off the ends of trouser legs and sleeves or the bottom hemming of skirts and dresses etc., hemming of handkerchiefs, table linen etc., fitting of trimmings and accessories such as pockets, labels, badges, etc. ironing and other preparations of garments for sale 'ready made', or any combination of such working.

⁴⁷ See <https://www.ajsbikes.com/>.

⁴⁸ See <https://panjiva.com/Smart-Tech-Cambodia-Co-Ltd/5476217>.

6.2 The negative effects of graduation of ASEAN countries for Cambodia

Nevertheless, in the case of bicycles, following the changes introduced in the EU GSP Regulation 978/2012, Malaysian inputs (mainly gears produced by the Shimano factory in Malaysia) could no longer be used by Cambodia for ASEAN cumulation purposes. At that time, similar changes in Canadian GSP rules of origin raised concerns and caused significant difficulties for the majority of bicycle industries based in Cambodia.⁴⁹ Such concerns were later addressed by the Canadian government, as discussed in Section 5.1, through the adoption of new rules in the Canadian graduation policy allowing the use of inputs from graduated countries.⁵⁰

Faced by this situation, the bicycle manufacturers contacted the Ministry of Commerce of Cambodia to request a derogation from the European Commission to continue using inputs originating in Malaysia as eligible under ASEAN cumulation, during a transitional period.⁵¹ This request was granted with a quota on the amount of bicycles that can use cumulation⁵² and for a time limitation of three years, from 29 July 2014 until 31 December 2016.

This derogation, however, did not address the production cycles, as best reported by bicycle manufacturers located in Cambodia:

'The derogation for Malaysia took much too long to put in place, we missed a whole model year with no Shimano as local content. Then when it was granted, it took a long time for the Malaysia government to start to issue form A⁵³. Frankly, we will only start to feel the benefit from this model year production, which starts in May, and we just have until the end of 2016 before [the EU GSP Regulation no. 978/2012] expires. Brands won't want to change specification half way through a model year in 2016. So for us it's almost all over from May 2016'.⁵⁴

During the period of the first derogation (29 July 2014 until 31 December 2016), several consultations and exchanges of letters took place among the Cambodian Minister of Commerce and Commissioner Malmstrom, wherein the Cambodian Minister reiterated the need to find a permanent solution to the Cambodian situation that could not be addressed by the temporary nature of a derogation. However, the European Commission did not provide any substantive reply.⁵⁵ It simply outlined the procedure to request a new derogation and the modalities to request extended cumulation, discussed below.

⁴⁹ See Stefano Inama, 'Ex ore tuo te iudico: the value of the WTO Ministerial Decision on Preferential RoO for LDCs', *Journal of World Trade*, 2015.

⁵⁰ See also the Canadian circular available at <http://www.cbsa-asfc.gc.ca/publications/dm-md/d11/d11-4-4-eng.html>.

⁵¹ See Stefano Inama, 'Ex ore tuo te iudico: the value of the WTO Ministerial Decision on Preferential RoO for LDCs', *Journal of World Trade*, 2015.

⁵² [*Commission Implementing Regulation \(EU\) No 822/2014 of 28 July 2014 on a derogation from Regulation \(EEC\) No 2454/93 as regards the rules of origin under the scheme of generalised tariff preferences in respect of bicycles produced in Cambodia regarding the use under cumulation of bicycle parts originating in Malaysia*](#), OJ L 223, 29 July 2014, p. 19.

⁵³ The Form A was adopted in 1970 by the UNCTAD's Working Group on Rules of Origin as a common certificate of origin for the purposes of the GSP (TD/B/AC.5/38).

⁵⁴ Inputs from AJ Company, September 2018.

⁵⁵ See letter of Commissioner Malmstrom of 9 November 2016 addressed the Minister of Commerce of Cambodia, available at http://ec.europa.eu/carol/?fuseaction=download&documentId=090166e5ae183eb7&title=CM_signed%20-%20ASEAN%20letter%20to%20Sorasak.pdf

Building up the necessary information to apply for a second derogation took time before it was finally granted.⁵⁶ However, according to the Cambodian bicycle manufacturers the difficulties of taking advantage of the derogation remain:

‘As with the last derogation, the long lead times in our industry create a problem, which I suppose the [European] Commission don’t really understand. The fact is that now that we have the confirmation of form A, we can go the customers and try to get them to change specification of models already in production elsewhere, and move that production to Cambodia. Assuming they agree, the lead time from order to production is 4 months, so after the technical checks, we can start to export these additional models in February 2019. So a long period has lapsed with no use at all since the extension was granted by the EU. Furthermore, customers also face losing it again through expiry (for EU arrivals) in December 2019, which means shipments [made] in November, so orders placed in July should again be without derogation. Therefore the actual production, which really benefits from derogation, is from January – July 2019 (6 months) whereas the derogation was granted for 18 months’.⁵⁷

6.3 Pursuing extended cumulation as an alternative route: a narrow and unpredictable path for Cambodia and other beneficiaries

Box 5 - Paragraph 7 of Article 86 of the EU regulation

At the request of any beneficiary country’s authorities, extended cumulation between a beneficiary country and a country with which the European Union has a free-trade agreement in accordance with Article XXIV of the General Agreement on Tariffs and Trade (GATT) in force, may be granted by the Commission, provided that each of the following conditions is met:

- (a) the countries involved in the cumulation have undertaken to comply or ensure compliance with this Section and to provide the administrative cooperation necessary to ensure the correct implementation of this Section both with regard to the European Union and also between themselves.
- (b) the undertaking referred to in point (a) has been notified to the Commission by the beneficiary country concerned.

The request referred to in the first sub-paragraph shall contain a list of the materials involved in the cumulation and shall be supported with evidence that the conditions laid down in points (a) and (b) of the first sub-paragraph are met. It shall be addressed to the Commission. Where the materials concerned change, another request shall be submitted. Materials falling within HS chapters 1 - 24 shall be excluded from extended cumulation.

The particular situation of the bicycle industry is not concerning just for that industry. Rather, it constitutes a warning of a forthcoming challenge for the entire market access and trade policy of Cambodia, as further analysed in section 6.4. The Ministry of Commerce of Cambodia initially considered the option of pursuing what is defined as ‘extended cumulation’ in the GSP rules of origin regulation⁵⁸ just to find out the following: *extended cumulation* can only be granted upon

⁵⁶ [Commission Implementing Regulation \(EU\) 2018/348 of 8 March 2018 on a temporary derogation from the rules of preferential origin laid down in Delegated Regulation EU\) 2015/2446 in respect of bicycles and other cycles produced in Cambodia regarding the use under cumulation, of parts originating in Malaysia](#), OJ L67/24, 09.3.2018, p. 1.

⁵⁷ Statement by Cambodia bicycle producer.

⁵⁸ Now in Article 56 of the [Union Code](#).

request and has a number of conditionalities easily detected from the wording of paragraph 7 of Article 86 of the EU regulation.⁵⁹

These conditionalities could be summarised as follows:

1. Extended cumulation is not automatic as it may be granted only upon presentation of a request with a motivated dossier;
2. Extended cumulation applies only to specific products (it is not clear how specifically these products should be defined, i.e., whether at HS chapter level;
3. Extended cumulation does not apply to agricultural products;
4. There a number of procedures to be followed when requesting extended cumulation and during its implementation;
5. Graduated countries, such as Vietnam, will have a two-year transitional period, while Cambodia has to wait until the entry into force of the EU-Vietnam FTA before starting the procedure to apply for extended cumulation.

Consultations held by officials in the Cambodian Ministry of Commerce with officials from the Directorate Generals for TRADE and for TAXUD, in the European Commission, on the exact procedures, including possible formats and required information to apply for extended cumulation, were not particularly fruitful.⁶⁰

Be this as it may, it is clear that extended cumulation is not a substitute for the regional cumulation that was previously granted to ASEAN countries for the last decades of operation of the EU GSP. The graduation policy provision of not allowing regional cumulation of graduated countries on spurious legal ground as discussed in section 5 has *de jure* and *de facto* broken down an established pattern of the basic principles in the EU trade policy and aid for trade in the development policy.

6.4 Cambodia and the combined effect of the graduation policy and the EU's Free Trade Agreements with ASEAN Members

The combined effect of graduation on inputs from ASEAN countries and progressive entry into force⁶¹ of the EU-Vietnam FTA is threatening value chains for the bicycle industry and creating further challenges and imbalances for the overall Cambodia trade policy. As discussed later in the section, this is not an isolated issue. It first manifested itself in Cambodia because of the success of Cambodia in exploiting the trading opportunities provided by the reform of the EU GSP rules of origin and the favourable investment climate at the time of the implementation of the EU GSP reform.

In addition to being unable to cumulate with ASEAN Members that have graduated, such as Singapore and Malaysia, Cambodia will no longer be able to cumulate with Vietnam. Vietnam has concluded an FTA with the EU according to the Article 4(b) of the EU GSP Regulation no. 978/2012. When the EU-Vietnam FTA enters into force, ASEAN countries including Vietnam will become direct competitors with Cambodia for investors seeking duty-free access to the European market. In addition, two facts have to be taken into account:

⁵⁹ Now in Article 56 of the [Union Code](#).

⁶⁰ Meetings among Cambodia delegation and Taxud and Trade directorate officials of 2016 and 2017.

⁶¹ According to EP legislative train, the EU-Vietnam FTA is expected to come into force in April 2019: <http://www.europarl.europa.eu/legislative-train/theme-a-balanced-and-progressive-trade-policy-to-harness-globalisation/file-eu-vietnam-fta>.

- 1 Once the EU-Vietnam FTA enters into force, inputs originating in Vietnam will no longer be used under the ASEAN cumulation. This adds to the fact that Cambodia will only be able to cumulate with other ASEAN LDCs and Indonesia. This will potentially have an immediate effect on Cambodia since it is currently using this cumulation with Vietnam to maintain the viability of the bicycles industry.
- 2 Once the FTAs with the EU are concluded,⁶² these ASEAN countries will be able to progressively cumulate among themselves⁶³ while Cambodia will not be able to cumulate with them. This is almost the reverse of the actual situation where Cambodia was benefitting substantially from cumulation with ASEAN countries, before the introduction of the graduation policy. Paragraph 2 of Article 3 of protocol 1 to the EU-Singapore FTA, is rather clear in this regard. See Box 6 - Paragraph 2 of Article 3 of protocol 1 to the EU-Singapore FTA
- 3 **Materials** originating in an ASEAN country which is applying with the Union a preferential agreement in accordance with Article XXIV of the GATT 1994, shall be considered as materials originating in a Party when incorporated in a product obtained in that Party provided that they have undergone working or processing in that Party which goes beyond the operations referred to in Article 6 (Insufficient Working or Processing).

Box 6 - Paragraph 2 of Article 3 of protocol 1 to the EU-Singapore FTA

Materials originating in an ASEAN country which is applying with the Union a preferential agreement in accordance with Article XXIV of the GATT 1994, shall be considered as materials originating in a Party when incorporated in a product obtained in that Party provided that they have undergone working or processing in that Party which goes beyond the operations referred to in Article 6 (Insufficient Working or Processing).

A comparison of the utilization rates for selected chapters by ASEAN countries and LDCs, including Cambodia, shows that Cambodia is performing much better than the remaining ASEAN countries even if the latter have a much greater industrial base. This higher utilization rate is mainly due to the more lenient product specific rules of origin applicable to LDCs under the EU reform of rules of origin and the combined effect of cumulation.

As already discussed, the preferential margin of cumulation will disappear once ASEAN countries have finalised their FTAs with EU. It appears that product specific rules of origin may not significantly change, at least for the sectors in which Cambodia is most interested. However, the crippling effect of graduation will remain in place, combined with the fact that competitive ASEAN countries like Vietnam and Singapore could be benefitting from regional cumulation under the new EU-FTAs.

⁶² At present the negotiations on the EU-Singapore FTA and EU-ASEAN FTA have been concluded and are awaiting ratification. The EU- Philippines FTA is near conclusion.

⁶³ While the provisions of the EU-Singapore FTA expressly provides for ASEAN cumulation, the similar provision in the EU-Vietnam FTAs are providing more limited scope for cumulation with ASEAN countries while providing for extended cumulation with South Korea for a number of textile inputs for clothing products.

7. A systemic issue arising from graduation: Cumulation in Economic Partnership Agreements (EPA) and graduated countries under graduation provision of Article 4(b) of the EU GSP

As outlined under Section 3 of this paper, the analysis has focused on the possible impact of graduation on countries affected under the paragraph 4(a) that have graduated because of the application of the graduation mechanism. Countries that graduated under the application of Article 4(b) should not be adversely affected by graduation, since they become beneficiaries of arrangements that 'provide the same tariff preferences as the scheme, or better, for substantially all trade'.⁶⁴

However a closer look to the implementation provisions of cumulation under the EPAs and FTAs signed with different Asian partners provides room for further reflection, since the provision on cumulation applicable under these FTAs and EPAs is subject to a number of conditionalities for the implementation of these cumulation provisions. These conditionalities echo those for extended cumulation analysed above.

An example of the relevant provision contained in paragraph 5 of Article 3 of the Protocol on rules of origin of the EU-Vietnam FTA can be found in Box 7 below.

Box 7 - Paragraph 5 of article 3 of the Protocol on rules of origin of the EU-Vietnam FTA

The cumulation provided for in paragraphs 2 to 4 shall only apply provided that:

- (a) the ASEAN countries involved in the acquisition of the originating status have undertaken to:
 - (i) comply or ensure compliance with this Protocol; and
 - (ii) provide the administrative cooperation necessary to ensure the correct implementation of this Protocol both with regard to the Union and among themselves;
- (b) the undertakings referred to in subparagraph (a) have been notified to the Union;
- (c) the tariff duty applicable by the Union to the products in Annex IV obtained in Vietnam by use of such cumulation is higher or the same than the duty applicable by the Union to the same product originating in the ASEAN country involved in the cumulation.

⁶⁴ Article 4 of the [EU GSP 978/2012](#).

Box 8 - Paragraph 6 or Article 4 in the EU-ESA EPAs

The cumulation provided in this Article may only be applied provided that:

- (a) the countries involved in the acquisition of the originating status and the country of destination have concluded an agreement on administrative cooperation which ensures a correct implementation of this Article;
- (b) materials and products have acquired originating status by the application of the same rules of origin as provided in this Protocol; and
- (c) the ESA States will provide the Community, through the European Commission, with details of agreements on administrative cooperation with the other countries or territories referred to in this Article. The European Commission shall publish in the Official Journal of the European Union (C series) and the ESA States shall publish according to their own procedures the date on which the cumulation provided for in this Article may be applied with t those countries or territories listed in this Article which have fulfilled the necessary requirement

The mirror provision contained in paragraph 6 or Article 4 in the EU-ESA EPAs provides for similar conditionalities for the implementation of cumulation.

It follows from the abovementioned examples that the cumulation provisions that were respectively a) included under the GSP provisions prior 2014, i.e. ASEAN cumulation for Vietnam, and b) Cotonou and later Market Access Regulation (MAR) for ACP countries and other countries that have entered or will be entering an FTA with the EU, have not been automatically transferred to new trade arrangements.

Put simply, graduation out of the GSP schemes means that the cumulation provisions that were granted under the former GSP are made subject to conditionalities for the entry into force of the cumulation under the new trade arrangements. For instance on the occasion of:

- 1 the signing of an agreement on administrative cooperation;
- 2 notification of the details of the agreements to the EU;
- 3 official publication of the entry into force of cumulation.

As things stand today, countries that have entered FTAs and that were previously benefitting from cumulation under the GSP Regulation no. 978/2012, such as Vietnam, and those that are concluding FTAs, such as Mercosur, will have to re-apply for cumulation according to the provisions contained in their respective FTAs.

8. Main conclusions and recommendations

The main conclusions and recommendations emanating from this research are the following:

- 1 Overall it appears that the graduated countries under paragraph 4 (a) of the EU GSP 2014 have not suffered a significant shock from graduation. However, this conclusion cannot be generalized since there may be particular country/product pairs adversely affected by graduation (see Section 3.2 above). Due to social inequalities in some beneficiary countries, the application of Article 4(a) of the GSP Regulation 978/2012 that is excluding a beneficiary based on a GNP criteria could have unforeseen impact for social groups and workers employed in country/product pair sectors that depend on trade preferences. The European Commission and Parliament should take these matters into consideration to ensure that country graduation according to Article 4 (a) does not unduly affect such communities. As a suggestion the application to Article 4 (a) should be made subject to an ex ante assessment to ensure that graduation does not have adverse effects on products of rural communities or small producers. If positive evidence is found an additional transitional period of 4 years could be adopted for these particular products.
- 2 The EU reform on rules origin has brought considerable benefits to LDCs, especially on Asian LDCs but also to some African LDC that are progressively starting to mature a productive capacity. The EU reform has been branded by the LDC WTO group as a model to follow to other preference countries in formal WTO meetings. On one hand the Commission has been conspicuously reluctant to brand the results achieved by the result of the reform of EU rules of origin to other preference giving countries in WTO meetings, on the other hand the Commission has, with the introduction of the exclusion from cumulation of the inputs originating in graduated countries, backtracked and crippled the outstanding results of the EU reform of rules of origin for no apparent and valid reason.

The main recommendation of this research is to redress the collateral damage that results from graduation that has affected Cambodia and other ASEAN LDCs. This recommendation arises directly from the analysis and interviews with beneficiaries and the private sector. The European Commission and Parliament should re-introduce in the EU GSP 978/2012 the possibility of cumulating inputs from graduated countries while ensuring that the rules of origin negotiated with other ASEAN partners do not affect the cumulation possibilities among ASEAN countries.

- 3 The issue of graduation from the EU GSP and exclusion from cumulation of graduated countries under Article 4(b) of the EU GSP Regulation 978/2012 is not limited to ASEAN LDCs, but is also a systemic issue in the EPAs with ACP countries. As a result of the abovementioned provision ACP states beneficiaries of the EU GSP cannot longer cumulate with ACP states that have entered with an EPAs. As recommended above the European Commission and Parliament should re-introduce in the EU GSP 978/2012 the possibility of cumulating inputs from graduated countries. In addition the Commission should review and simplify the administrative requirements and conditions attached to cumulation in the EPAs and to facilitate their compliance to enable the pre-existing 'acquis' under the Cotonou Partnership Agreement according to which cumulation was available among all ACP countries.

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By providing preferential access to the EU market, the EU Generalised Scheme of Preferences (GSP) has aimed to assist developing countries generate additional revenue through international trade in an effort to reduce poverty, and promote good governance and sustainable development.

This evaluation is organised in two parts. The first part, which has been prepared within EPRS, focuses on the incentives in the GSP provisions that aim to push beneficiaries to comply with human rights, and the extent to which these have been implemented and have had an impact on poverty reduction and good governance. In doing so, it analyses the European Commission's assessments, the European Parliament's oversight work and relevant studies prepared by the research community.

The second part, prepared by an external expert, is an economic evaluation of the GSP Regulation, and examines three inter-related questions: how beneficiaries have graduated from the GSP and what role preferences have played; how trade relations between the countries that have recently graduated from the GSP and those that still benefit from it are affected; and what the impact of changes in the rules of origin has been.

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