

New EU scheme of generalised preferences

OVERVIEW

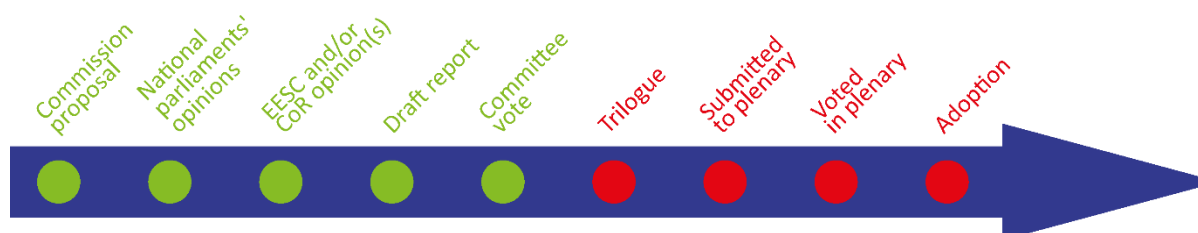
On 21 September 2021, the Commission published its proposal for a new EU scheme of generalised preferences (GSP). Two of the current scheme's three components are due to expire at the end of 2023, which would deprive developing countries of a vital opportunity to trade under preferential terms with the EU. Therefore, renewing the scheme appears to be both a necessity and an opportunity to strengthen its conditionality in the light of lessons learned and the increased urgency for dealing with the climate.

The Commission considers that the scheme has delivered on its objectives, and proposes some 'fine-tuning'. To ensure that its benefits remain broadly shared, it proposes changes to the economic vulnerability criteria for the special incentive strand of the scheme GSP+ and to the product graduation threshold for Standard GSP. Taking on board proposals from civil society, but also from the Parliament, the Commission proposes to extend negative conditionality to environmental and good governance conventions, and to improve monitoring and stakeholders' involvement overall.

Civil society organisations and other stakeholders have put forward some more ambitious proposals, such as making the monitoring fully transparent and rewarding countries that fulfil jointly agreed benchmarks related to the conventions under the GSP with additional preferences.

Proposal for a Regulation of the European Parliament and of the Council on applying a generalised scheme of tariff preferences and repealing Regulation (EU) No 978/2012 of the European Parliament and of the Council

<i>Committee responsible:</i>	International Trade (INTA)	COM(2021) 579
<i>Rapporteur:</i>	Heidi Hautala (Greens/EFA, Finland)	22.9.2021
<i>Shadow rapporteurs:</i>	Gabriel Mato (EPP, Spain) Raphaël Glucksmann (S&D, France) Jordi Cañas (Renew, Spain) Marco Campomenosi (ID, Italy) Emmanouil Fragkos (ECR, Greece) Helmut Scholz (The Left, Germany)	2021/0297(COD) Ordinary legislative procedure (COD) (Parliament and Council on equal footing – formerly 'co-decision')
<i>Next steps expected:</i>	Trilogue negotiations	



Introduction

The EU's current generalised scheme of preferences (GSP) was established through legislation adopted in 2012 ([Regulation \(EU\) No 978/2012](#)), but its history goes back to the [1970s](#). It provides preferential access for products to the EU market originating in developing countries (either zero duties or lower duties) without the need for these countries to open their markets to EU exports in exchange. The Regulation, which entered into force on 1 January 2014, is valid for 10 years for two of its three strands, namely Standard GSP and GSP+; thus, these are set to expire at the end of 2023, while the Everything But Arms (EBA) strand for least developed countries (LDCs) would remain in force. Standard GSP and GSP+ beneficiaries have substantially benefited from the scheme's preferences, and GSP+ countries have made progress (albeit with some limitations) towards the sustainability objectives, ratifying the relevant conventions and taking steps towards implementing them effectively. Therefore, renewing the scheme to prolong preferential access appears to be essential. Against this background, the Commission published a [legislative proposal for a new GSP](#), accompanied by [annexes](#), on 12 September 2021.

Context

The EU's generalised scheme of preferences must comply with WTO rules, and any change should take these into account. The General Agreement on Tariffs and Trade ([GATT](#) 1947) prohibits, in its first article, discrimination among members; i.e. a country cannot provide more advantageous access to its market only to some members and not to the others. This principle is known as the 'most favoured nation' (MFN) clause.

However, the [Decision of 28 November 1979 by the contracting parties](#)¹ (also known as the 'Enabling Clause'), which was integrated into GATT, allows derogations to the non-discrimination principle in favour of developing countries. This includes preferential tariff treatment (Article 2.a) accorded by developed contracting parties to products originating in developing countries. These preferences must be 'generalized, non-reciprocal and non-discriminatory',² but 'special treatment [of] the least developed among the developing countries' is allowed.³

Moreover, any differential and more favourable treatment provided under the Enabling Clause by developed countries shall be designed to facilitate and promote the trade of developing countries and 'to respond positively to the development, financial and trade needs of developing countries'. It shall not raise barriers to trade.

WTO complaints against the EU GSP

In the history of the EU GSP scheme, two complaints have been brought against it in the WTO framework, both invoking non-compliance with the provisions of Article 1 of GATT and the Enabling Clause. The first complaint, brought by [Thailand](#) in 2001, stopped in the consultation stage in 2002.

The second complaint, brought by [India](#) in 2002, ushered in a dispute settlement procedure. In 2004, the WTO appellate body concluded that the GSP scheme, more precisely the tariff advantages under the Drug Arrangements – which were part of the scheme at the time and limited to certain developing countries – was in breach of the WTO rules. The EU reformed its GSP in 2005 to bring it into line with the panel's conclusions; however, some [legalexperts](#) have argued that, given the general phrasing of WTO rules, some other aspects of the EU GSP would still not be fully immune to challenges.

Existing situation

The EU's generalised scheme of preferences grants preferential access to the EU market for developing countries, to assist them in eradicating poverty and achieving sustainable development objectives. It contains three strands:

- a **general arrangement (standard GSP)**, which provides for tariff reductions on roughly 66% of tariff lines to all eligible developing countries which are [classified](#) by

the World Bank as having low or lower-middle income per capita for at least 1 of the previous 3 years.⁴ Countries which have concluded a bilateral free trade agreement (FTA) with the EU providing similar or better preferences are excluded. In addition, the Standard GSP provides for a **graduation procedure** for each GSP product section,⁵ whereby products under a GSP section stop enjoying preferential tariffs once the share of imports from one GSP country in total EU imports of such products from all GSP countries exceeds a certain threshold for 3 consecutive years (GSP [Article 8\(1\)](#)); the threshold is typically 57 %, but is lower for some sectors, such as certain agricultural products and textiles. The graduation procedure relies on the perception that a high share of imports of a good originating in a single country indicates high competitiveness on the EU market of this good, which thus does not need the GSP tariff. Graduation also preserves the preference margin for goods originating in other GSP countries.

- a **special incentive arrangement for sustainable development and good governance (GSP+)** for countries eligible for GSP and which fulfil additional criteria: 1) **positive conditionality**: ratifying, maintaining ratification, effectively implementing and complying with reporting requirements for 27 international conventions on human rights, labour rights, the environment and good governance; 2) **economic vulnerability**: lack of export diversification (the seven largest GSP sections of a country's GSP-eligible imports into the EU represent more than 75 % in value of its total GSP-eligible imports, and its imports into the EU of GSP-eligible products represent less than 7.4 % of the total GSP-eligible imports into the Union from all beneficiaries).

GSP+ countries enjoy zero duties on all the lines eligible for Standard GSP (66% of all tariff lines), plus some additional products.

- a **special arrangement for the least developed countries (Everything But Arms, EBA)**. All countries which are [classified](#) by the United Nations (based on a resolution of the UN General Assembly) as least developed countries qualify for this strand, which provides duty-free, quota-free access to the EU market for all products except arms.

Monitoring and withdrawal procedure: It is worth noting that the EU can withdraw⁶ preferences under all three strands (**negative conditionality**) in case of serious and systematic violations of the principles of human and labour rights conventions listed in the regulation. This process involves consultations with the concerned country and draws on information from various sources, mainly the reports of the United Nations (UN) and International Labour Organization (ILO) treaty-monitoring bodies, and from civil society, the Council and the Parliament.

For GSP+ beneficiaries, which must apply to obtain access to the scheme, the Commission conducts **systematic monitoring** of their compliance with the obligations under the scheme. It maintains a system of score cards highlighting shortcomings (undisclosed to the public) and holds regular consultations with counterparts in the beneficiary countries. It can withdraw preferences if these countries do not comply with their specific obligations under GSP+.

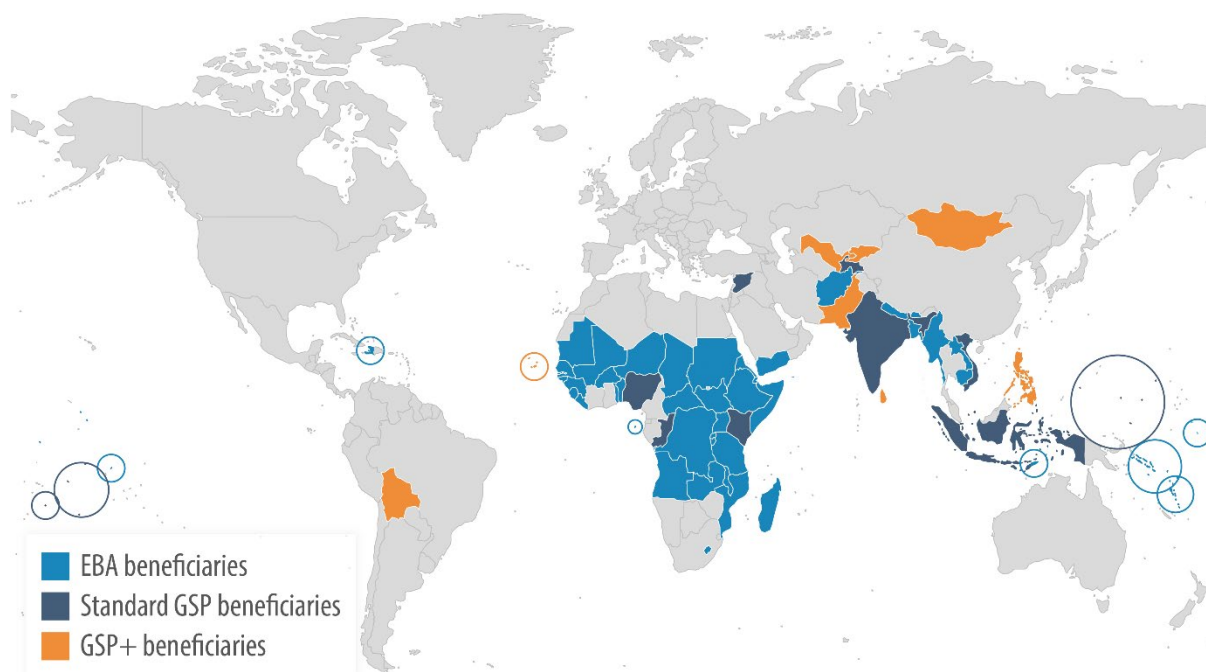
Since 2014, when the current regulation entered into force, withdrawal has been enacted by the EU once – in 2020 against [Cambodia](#), an EBA beneficiary – for certain products, because of breaches of human and labour rights. GSP+ preferences were reinstated for Sri Lanka (which had lost them in 2010) in 2017 after the country brought its legislation into line with international norms.

Beneficiaries and country graduation: All developing countries⁷ are eligible for the scheme, but the EU provides preferences only to lower-middle-income and low-income countries, based on the World Bank classification, and to least developed countries. Thus, the current GSP scheme has [66 beneficiary countries](#) in all, most of them under EBA (47), 8 under GSP+, and 11 under Standard GSP. Some EBA beneficiaries are also parties to FTAs with the EU (Lesotho and Mozambique, which are parties to the Southern African Development Community ([SADC](#))-EU [Economic Partnership](#)

[Agreement](#)). The scheme does not prohibit them from trading under both preferences (bilateral and unilateral).

A significant [number](#) of countries are expected to graduate from EBA over the next 10 years (up to 12 countries according to the GSP impact assessment by the Commission) and will need access to GSP+ if they are to maintain most of their current preferences.

Figure 1 – Current beneficiaries of the EU GSP



Source: EPRS, based on the [consolidated text of the GSP Regulation](#) in force (as of 1 January 2022).

The scheme is important for most eligible developing countries, but not to the same extent for all, taking into account varying preference margins (the difference between MFN duties and GSP duties). More than 85 % of total GSP imports into the EU (as of [2018](#)) originate from only six beneficiaries, all from Asia: Bangladesh, India, Vietnam, Indonesia, Pakistan and Cambodia. Textiles and apparel remain the largest imports into the EU under the GSP; the preferences awarded by the GSP scheme (particularly under EBA and GSP+) are substantial and vital in this sector, with high international [competition](#) around production costs.

According to the Commission's [GSP report on the period 2018-2019](#), '[in] terms of product sections, the majority of imports under GSP (47.9 % of €33 billion) remains in apparel and clothing, followed by footwear (11 %), mechanical appliances (7 %), fish products (4 %), leather (3.7 %) and plastics (2.7 %)'.

South Asian countries are the main sources of EU imports under the GSP and its largest beneficiaries. For African countries, the picture is mixed. For oil and mineral exporters (which is the case for several GSP-eligible African countries, such as Angola, Nigeria, Republic of Congo, Guinea, Sudan, etc.) the scheme does not provide any benefits for these products, which enter the EU market free of duty anyway (under the default MFN duties). This is also the case, for example, for unroasted coffee (an important export for Rwanda and Ethiopia).⁸ But other [agricultural imports](#) benefit considerably from GSP preferences, since tariff preference margins for these, particularly under EBA, are among the highest for all GSP imports.

Other GSP schemes around the world

US GSP programme

As of December 2020, 119 beneficiary countries and dependent territories were eligible for the US GSP: the top five in terms of exports to the US under GSP were Thailand, India, Indonesia, Brazil and the Philippines. Unlike the EU GSP, the [US GSP](#) does not provide preferences for sensitive products, such as most textile and apparel goods. Preferences are conditional on countries granting internationally recognised worker rights, and eliminating the worst forms of child labour.

The US GSP programme [expired](#) at the end of 2020, but this is not an unusual situation, as it has already occurred 10 times before. According to [existing practice](#), if Congress renews the system, it can allow for duty-free treatment to be applied retroactively to GSP-eligible products, allowing importers to seek refunds of duties paid.

According to [WTO data](#), there are currently 15 GSP schemes in force around the world.⁹

Table 2 – GSP systems in force around the world

Provider	Name	Sub-schemes	Initial entry into force
Armenia	Generalized System of Preferences- Armenia	1	10 Oct 2016
Australia	Generalized System of Preferences- Australia	1	1 Jan 1974
Canada	Generalized System of Preferences- Canada	1	1 Jul 1974
European Union	Generalised Scheme of Preferences - EU	2	1 Jul 1971
Iceland	Generalized System of Preferences- Iceland	0	29 Jan 2002
Japan	Generalized System of Preferences- Japan	1	1 Aug 1971
Kazakhstan	Generalized System of Preferences- Kazakhstan	1	10 Oct 2016
Kyrgyz Republic	Generalized System of Preferences- Kyrgyz Republic	1	10 Oct 2016
New Zealand	Generalized System of Preferences- New Zealand	1	1 Jan 1972
Norway	Generalized System of Preferences- Norway	1	1 Oct 1971
Russian Federation	Generalized System of Preferences- Russian Federation	1	10 Oct 2016
Switzerland	Generalized System of Preferences- Switzerland	1	1 Mar 1972
Turkey	Generalized System of Preferences- Turkey	2	1 Jan 2002
United Kingdom	Generalised System of Preferences – United Kingdom	3	1 Jan 2021
United States of America	Generalized System of Preferences- United States	1	1 Jan 1976

Source: WTO, Preferential trade agreements (PTAs).

Parliament's starting position

Parliament outlined proposals for the reform of the GSP scheme in a [resolution of 14 March 2019 on the implementation of the GSP Regulation](#), which upheld the overall positive assessment of the [2018 report](#) by the Commission. It recommends changes to increase export diversification in

beneficiary countries, improve environmental conditionality by adding compliance with the [Paris Agreement](#), make monitoring more transparent, and improve stakeholder engagement. It suggests the possibility of introducing preferential tariffs for products that are produced sustainably, based on certification. In various other country-related resolutions, Parliament has emphasised the need to improve monitoring and transparency, and to apply conditionality more effectively, such as in the [June 2021 EP Resolution on Sri Lanka](#) asking for the possible withdrawal of the GSP+ benefits if Sri Lanka does not amend its anti-terrorism legislation.

Preparation of the proposal

In preparation for the proposal, the Commission ordered an [external study](#), which constituted the basis for its impact assessment. The external study found that the positive impact of supporting growth and trade diversification had been most significant in the case of EBA beneficiaries, and more important for GSP+ countries than for Standard GSP countries. According to the study, in consultations the vast majority of respondents supported maintaining GSP preferences, including the three strands. The study analyses various policy options, presenting the pros and cons, and concludes, among other things, that the current three-strand structure should be preserved. Based on this study, the Commission drafted [an impact assessment report](#), which justifies the options retained in the legislative proposal. EPRS has prepared an [initial appraisal](#) of the Commission's impact assessment.

Both the external study and the impact assessment took into account the evaluation included in the report on the EU's generalised scheme of preferences (GSP), published in 2018 (see also the [Commission staff working document](#)¹⁰ (SWD) accompanying the communication). This evaluation found that the scheme had achieved a positive economic impact in terms of growth in exports from GSP beneficiaries, with an overall 21.7% increase in 2016 compared to the pre-reform phase (before 2014) and a 62.1% increase in imports from EBA countries; growth in the textile sector, in particular, was considerable. It also found a significant increase in the use of preferences by EBA and GSP+ beneficiary countries. However, the impact on export diversification was more modest, with EBA countries continuing, despite some improvements, to exhibit very low levels of diversification.

The scheme had considerable positive social and human rights impacts, although some negative impacts were also witnessed (such as violations of fundamental labour rights). The environmental impacts are difficult to measure, but there is evidence of both positive and negative effects: according to the SWD, 'the positive impact of technology (greater energy efficiency and sustainable use of natural resources) was often offset by the negative impact of the scale factors (more pollution and emissions of greenhouse gases)'.

The changes the proposal would bring

In line with this 2018 mid-term evaluation, as well as the 2021 impact assessment, the Commission starts from the overall assessment that the 'GSP is a mature part of the EU's trade policy toolbox. Its review is about fine-tuning the way the GSP works and improving its efficiency and effectiveness.' The proposed changes aim for 'specific and limited improvements'.

They follow from a twofold requirement: first, to preserve the benefits of the scheme for beneficiaries, primarily for countries expected to graduate from EBA, by giving them access to GSP+ as the only way to maintain existing preferences (zero duties, with a few exceptions, mainly for agricultural products, sugar and alcohol); second, there is a need to improve conditionality by extending it to other relevant international conventions, including new ones, and by strengthening compliance and monitoring mechanisms.

The Commission proposes to maintain the three-strand structure and make the following changes:

Maintain benefits where needed:

- The **export competitiveness vulnerability criterion** for GSP+ is deleted. In practice, this change will benefit Bangladesh; according to the impact assessment report, it is the only one of the 10 countries expected to graduate from LDC status over the next 10 years that could not accede to GSP+ because it does not meet the current economic vulnerability conditions for GSP+. The fall in exports, if it trades under Standard GSP, would cause a large decline in its real GDP (-1.66%), according to the external study. This change will ensure that it can preserve duty-free access to the EU market.
- The **product graduation threshold** is lowered from 57 % currently to 47 %. This threshold applies to Standard GSP, and lowering it has the purpose of suppressing preferences for exporting industries that are already competitive, to preserve room for others to benefit. According to the impact assessment report by the Commission, this change 'would impact only India, meaning 44 % of its GSP-eligible exports to the EU would be graduated versus around 40 % under the current thresholds'.
- The proposal introduces **increased flexibility under the rules of origin**, allowing cumulation of production across countries from different regional groups, as well as extended cumulation, to be granted 'preferential origin' status.¹¹ However, this is granted only upon application by the beneficiary country, which has to show sufficient evidence that cumulation responds to its development, financing and trade needs; this change is intended to mitigate the [effects](#) of graduation from EBA. Rules of origin for some products under GSP+ and Standard GSP are currently less advantageous than under EBA.

Improve conditionality

- **Negative conditionality**, which under the current scheme is applicable only to human and labour rights conventions, is extended to all conventions, i.e. all GSP beneficiaries can lose their access to the scheme if they commit serious and systematic violations of the *principles* of these international conventions. EBA and Standard GSP countries do not therefore have to ratify and implement them as the GSP+ countries do.
- The list of **human rights and environmental conventions** is extended to 32, with five conventions being added, including the Paris Agreement on climate change.
- The **withdrawal procedure** will include a socio-economic impact assessment of the suspension of preferences. It will also provide for a rapid response mechanism in case of a crisis, with shorter periods for consultations and activation of withdrawal.
- GSP+ candidate countries will have to submit a **plan of action** for effective implementation of the conventions as part of their GSP+ application. GSP+ beneficiaries in 2023 will have a **transitional period** of 2 years to comply with the additional requirements (new conventions).
- The **monitoring cycle** is extended from 2 to 3 years to align it with the monitoring cycle of international treaties.
- The Commission pledges in the explanatory memorandum – without introducing additional provisions in the legislative text – to **improve transparency and inclusion of civil society** by publishing guidance on the monitoring cycle and the opportunities for involving civil society.
- The proposal **removes China, Hong Kong, Macao and Russia** from the list of eligible countries, because they are powerful economies with a strong position in international trade. In practice, this has no effect, as these countries did not qualify for

preferences because of their income level. In the current scheme, China qualified only for 1 year in 2014, due to its becoming a higher-middle-income country.

Advisory committees

The advisory committees have not adopted opinions on the legislative proposal. In a 2017 [opinion on the core role of trade and investment in meeting and implementing the sustainable development goals](#), the EESC recommends that the 'EU should also look to develop greater synergies between the 27 core Conventions relevant to its GSP+ programme and the SDGs, as far as its competences will allow'.

National parliaments

Several national parliaments have started their [scrutiny](#) of the proposal, but the 'yellow card' procedure does not apply. As the proposed regulation falls under the EU common commercial policy, where the EU has exclusive competences, the question of subsidiarity does not arise.

Stakeholder views¹²

Recommendations from European and international civil society grouped under the [EU GSP Platform](#) focus firstly on increasing transparency of the monitoring procedure and on providing more structured channels for input from civil society and other stakeholders. Civil society asks the Commission to make publicly available eligibility assessments for GSP+, scorecards, compliance reports and complaints. Another proposal refers to providing roadmaps of additional tariff reductions for countries that fulfil the sustainability objectives agreed with the EU. On the other hand, certain exporters that commit serious violations of norms enshrined in the EU GSP should be 'blacklisted'. Also, the withdrawal of preferences should be limited to certain sectors. Extending the obligation to ratify and effectively implement all the 32 conventions to all the beneficiaries, including LDCs, is another [proposal](#) put forward by civil society.

Providing 'positive economic incentives' to complying countries, such as a staged implementation of tariff reductions linked to implementation of the scheme's new provisions, increasing transparency in the monitoring and setting of benchmarks in the scorecards, are proposals also supported by think-tanks ([Friends of Europe](#), [Institute for Human Rights and Business](#)). The Institute for European Environmental Policy ([IEEP](#)), a sustainability think-tank, proposes relaxing the conditions surrounding the 'rules of origin' and the 'graduation of products' for low-carbon and sustainable (e.g. circular) goods and warns that the EU's planned carbon border adjustment mechanism (CBAM) could create significant barriers for GSP countries.

[Euratex](#), an organisation representing the EU textile and apparel industry, asks for more transparency on the processes of temporary suspension of tariff preferences to allow economic operators to adapt their supply chains in due time. Product graduation should apply to individual products instead of sections of products, as this would incentivise export diversification.

[Amfori](#) (a global business association for open and sustainable trade) argues in favour of extending preferences to include more processed food, and fish, and proposes lower duty rates for the Standard GSP – particularly for ready-made garments, where the reduction is only 20 % compared to MFN levels. It also warns of the risk that increased production driven by the GSP is achieved at the expense of workplace standards, workers' rights and the environment.

Academic views

Axel Marx and other authors, in a [study](#) published in 2018 by the Leuven Centre for Global Governance, analyse the possibility of integrating voluntary sustainability standards ('also known as private standards, eco-labels and sustainability certificates') in the GSP. The study proposes either

to provide additional preferences for certified sustainable products entering the EU market or to make preferences conditional on respecting such standards.

[The authors](#) of an external EP study (2017) called for a targeted withdrawal of tariff preferences for economic operators responsible for grave violations of labour rights. [Clara Portela \(2018\)](#) makes an argument for extending targeted sanctions (currently under the common foreign and security policy) to the GSP. The key feature to be included in the new scheme would be the 'possibility of blacklisting individuals and companies responsible for the violation of core labour standards', which would be excluded from enjoying preferences. This would avoid the serious economic and social consequences of withdrawing preferences for whole sectors.

Legislative process

The Commission published its proposal in September 2021. The Committee on International Trade (INTA) in the European Parliament adopted its report on the proposal (rapporteur: Heidi Hautala), on 3 May 2022. The Committee on Foreign Affairs (AFET) and the Committee on Development (DEVE) each delivered an opinion containing proposals for amendments; Maria Arena (S&D, Belgium), chair of the DROI Subcommittee, and Anna-Michelle Asimakopoulou (EPP, Greece) were the rapporteurs for these opinions.

In its [report](#), the INTA committee proposes the opening of interinstitutional negotiations. At the June 2022 plenary session, Parliament tacitly endorsed this position (in line with [Rule 71](#) of its Rules of Procedure). The INTA report proposes several important changes. First and foremost, it aims at strengthening conditionality, by extending the obligation to ratify relevant international conventions (those listed in the annex to the regulation, as proposed in the Commission draft) to all standard GSP countries. The latter would have to commit to ratifying the conventions, and within five years of application of the trade preferences, effectively ratify them. Moreover, the report proposes to add three further conventions to this list of relevant conventions – to be ratified by all standard GSP and GSP+ countries, namely: the [First](#) and [Second](#) Optional Protocols to the International Covenant on Civil and Political Rights, on accepting an individual complaint procedure before the UN treaty body and, respectively, on the obligation to abolish the death penalty; as well as the [Rome Statute of the International Criminal Court](#).

The report aims to improve monitoring for GSP+, by enhancing and clarifying the role of the mandatory plan of action to be submitted upon application to the GSP+ scheme; it proposes for instance that preferences be gradually withdrawn for serious failure to realise the objectives of this plan in line with a tariff suspension schedule, included in it. It also proposes the establishment of a permanent advisory body consisting of stakeholders from both the GSP+ beneficiary country and the EU, to assist the Commission with the monitoring.

The report finds that the GSP should play an important role in promoting trade in sustainably produced goods. The EU should use its EU [aid for trade](#) strategy and [development funding instruments](#), including '[blending](#)' (of development grants with public and private financing), to support economic and export diversification, including with regard to sustainable products. The objective is for the beneficiary countries to achieve reciprocity with the EU in production standards in the long term.

The report proposes a change to the legislative text, to make sure that the scheme will apply to the entirety of the territory of beneficiary countries, including to special economic zones and export processing zones. The exclusion of these zones from the application of some national labour rights norms, particularly in Pakistan, has been a major [issue](#) of concern with the current system.

The report further makes the existing practice of conducting an 'enhanced engagement' into a formal procedure that the Commission must activate as soon as it has reason to believe that there are serious shortcomings with respect to obligations under relevant international norms. If these reach the threshold of serious and systematic violations of principles of relevant conventions, the

report asks for the withdrawal procedure to be launched immediately. The report aims to clarify in this context how the Commission should decide if 'serious and systematic violations' occur.

The report proposes a definition of 'sensitive products', namely those for which standard GSP beneficiaries enjoy only limited tariff reductions. It highlights that the Union needs to do more to protect its internal production through effective and enforceable safeguards. The report also asks the Commission to improve monitoring of such sensitive products under the product graduation mechanism, in order to improve export diversification in beneficiary countries and make sure tariff preferences are withdrawn for competitive products. The report also wants the Commission to be given the power to modify the list of sensitive products through delegated acts, if necessary.

The Trade Policy Committee of the Council has held several [meetings](#) since September 2021 to discuss the proposal.

EUROPEAN PARLIAMENT SUPPORTING ANALYSIS

Ioannides I., [Initial Appraisal of a European Commission Impact Assessment 'Towards a future Generalised Scheme of Preferences Regulation for developing countries'](#), EPRS, December 2021.

Ioannides I., [The Generalised Scheme of Preferences Regulation \(No 978/2012\): European Implementation Assessment](#), EPRS, 2018.

Richardson B., Harrison J. and Campling L., [Labour rights in Export Processing Zones with a focus on GSP+ beneficiary countries](#), Policy Department for External Relations, European Parliament, 2017.

Van Der Loo G., [The Commission proposal on reforming the Generalised System of Preferences: Analysis of human rights incentives and conditionalities](#), Policy Department for External Relations, European Parliament, January 2022.

Zamfir I., [Human rights in EU trade policy: Unilateral measures applied by the EU](#), EPRS, 2018.

OTHER SOURCES

[Generalised scheme of tariff preferences \(GSP\) legislative procedure](#), Legislative Observatory (OEL), European Parliament.

[GSP Hub](#) (extensive collection of resources).

UNCTAD, [GSP Handbook on the Scheme of the European Union](#), 2022.

ENDNOTES

- ¹ According to [Bartels, L. \(2003\)](#), 'the legal status of this instrument is not entirely clear. To put it bluntly, the Enabling Clause is not a "waiver" from Article I of GATT in a strict sense [...] However, strange though this may seem, panels do not have a direct jurisdiction to hear a claim that the Enabling Clause has been violated.'
- ² 'Non-reciprocal' means that developing countries do not have to provide any preferences to developed countries in exchange. On what 'non-discriminatory' means, see the [Appellate Body report](#) on the European Communities-India dispute, which reached the conclusion that, 'by requiring developed countries to "respond positively" to the "needs of developing countries", which are varied and not homogeneous, paragraph 3(c) indicates that a GSP scheme may be "non-discriminatory" even if "identical" tariff treatment is not accorded to "all" GSP beneficiaries. Moreover, paragraph 3(c) suggests that tariff preferences under GSP schemes may be "non-discriminatory" when the relevant tariff preferences are addressed to a particular "development, financial [or] trade need" and are made available to all beneficiaries that share that need'.
- ³ In line with the [Decision of contracting parties of 25 June 1971](#) relating to the establishment of a Generalized System of Preferences (the '1971 Waiver Decision'), to which the Enabling Clause makes reference.
- ⁴ Note that many of the remaining 33 % of tariff lines actually have zero duty under the most favoured nation system (the default option for all WTO members). Those for which this is not the case are mainly sensitive agricultural products.
- ⁵ GSP preferences are organised in product sections, which include one or several chapters from the [EU Combined Nomenclature](#) (CN). There are, in total, 32 GSP sections, grouping together the 96 chapters of the CN, which is based on the World Customs Organization's Harmonized System (HS). Basing graduation on such heterogeneous sections combining different products remains controversial (see [external study](#): 'EU industry representatives maintain that product graduation might therefore not be applied even though some products within a section might be highly

competitive. Conversely, product graduation might take place although certain products within a section are far from reaching international competitiveness.').

- ⁶ The Commission effects the withdrawal through a delegated act (to which Parliament and Council can object)
- ⁷ The [status](#) of developing countries is based on self-declaration at the WTO, although other members can challenge this self-determination when providing preferences. The EU has made clear that it has stopped considering China a developing country (see Joint Communication [EU-China – A strategic outlook](#), March 2019).
- ⁸ Tariffs increase on coffee with the degree of processing ('[tariff escalation](#)'). Therefore, the scheme would be beneficial, should these countries develop their coffee processing capacities.
- ⁹ Currently, the WTO lists several other schemes based on the Enabling Clause, which are not designated as GSP. For example, some WTO members (Morocco, Chile, China, Taiwan, Kyrgyz Republic, Montenegro, Tajikistan and Thailand) only grant preferences to LDCs. The United States, in addition to its GSP, has set up specific systems for certain groups of countries: African, Caribbean and Andean.
- ¹⁰ See also the [external mid-term evaluation](#), on which the Commission's report is based.
- ¹¹ According to the [Commission website](#), 'Extended cumulation between a beneficiary country and a country with which the European Union has a free-trade agreement in force, may be granted by the Commission upon request of a beneficiary country, provided that the countries involved in the cumulation have undertaken, inter alia, to provide the necessary administrative co-operation both with regard to the European Union and also between themselves and that the undertaking has been notified to the Commission by the beneficiary country concerned.'
- ¹² This section aims to provide a flavour of the debate and is not intended to be an exhaustive account of all different views on the proposal. Additional information can be found in related publications listed under 'European Parliament supporting analysis'.

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