

# *“The European Union’s GSP+ Scheme”*

*Presentation by*

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# History and evolution of the EU's GSP

## What is the Generalised System of Preferences?

- The Generalised System of Preferences (GSP) is a system of unilateral trade concessions, which reduces or eliminates tariffs on a range of exports from developing countries and least-developed countries.
- Purpose: to increase export revenue in developing countries in order to reduce poverty and promote sustainable development and good governance.
- Relationship with the WTO framework:
  - The Enabling Clause;
  - Notified under the Transparency Mechanism for PTAs.

## Milestones of the EU's GSP

- The EU's GSP is in place since 1971. The current version is based on Regulation 978/2012 (the GSP Regulation) and is applied as of 1 January 2014.
- Main steps leading towards the adoption of the GSP Regulation:
  - Commission Communication of 7 July 2004;
  - Commission Proposal tabled on 10 May 2011;
  - Adoption by the Parliament on 13 June 2012;
  - Adoption by the Council on 4 October 2012; and
  - Entry into force of the tariff preferences: 1 January 2014.

# The EU's GSP: an overview of the preferential schemes

## Main objectives of the new GSP

- Focus of tariff preferences on the countries mostly in need (*i.e.*, low and middle income countries, to avoid preference erosion. Beneficiary countries reduced from 177 to 90);
- Enhancement of *GSP+* as a tool to support partners, which intend to implement core international conventions on human and labour rights, sustainable development and good governance; and
- Ensure transparency and increase predictability for operators (*e.g.*, longer duration, transition periods for countries which no longer benefit).

## Core elements of the GSP

- Tariff modulation: reduced rates of duty (100% for non-sensitive products; 3.5% of the full *ad valorem* rate for sensitive products; 20% of the full *ad valorem* rate for textile and clothing for the general GSP arrangement);
- Country-sector graduation: where products become competitive and do not need support to access to the EU market they lose the preferences; and
- Provisions for special incentive arrangements: (deeper tariff cuts for countries meeting specific criteria).

## Core elements of the GSP (cont.)

The EU's GSP consists of:

- A general arrangement; and
- Two special arrangements:
  - Special incentive arrangement for sustainable development and good governance (*i.e.*, the 'GSP+'); and
  - Special arrangement for least developed countries (the '*Everything but Arms*' – EBA).
- Currently, there are 88 beneficiaries: 26 are beneficiaries of the general arrangement; 13 are beneficiaries of the GSP+; and 49 LDCs are beneficiaries of the EBA arrangement.

## The general arrangement

- Beneficiary countries (Annex II):
  - Countries that have not been classified by the World Bank as high-income or upper-middle income countries during the last 3 consecutive years; and
  - Countries that do not benefit from preferential market access arrangements with the EU (e.g., FTA partners, overseas territories). Exception: LDCs.
- Status of the country revised continuously: yearly review of compliance with requirements of beneficiary countries.

## The general arrangement (cont.)

- Product scope: About 66% of products classified in the EU's CN.
- Tariff preferences:
  - Duties suspended for non-sensitive products;
  - Reduction of 3.5% of the *ad valorem* duties on sensitive products and 20% reduction for textile and clothing;
  - Maintenance of previous preferential margins where better;
  - Specific duties (other than minimum and maximum duties) on sensitive products reduced by 30%.

## The general arrangement (cont.)

- Sector graduation:
  - When the average value of EU imports of a given product over 3 consecutive years exceeds 14.5% for textile and clothing and 17.5% for all other products;
  - Threshold calculated as a percentage of the total value of EU imports of the same products from all GSP.
- List of graduated sectors for the period 2014-2016 adopted by the Commission on 17 December 2012.

## The GSP+

- Provides for deeper tariff cuts to a range of products originating in countries that:
  - Meet certain conditions relating to economic vulnerability; and
  - Have ratified and are implementing the 27 international conventions on human rights, the environment, labour listed in Annex VIII to the GSP Regulation.
- No sector-graduation occurs for countries granted GSP+ status.

## EBA

- Duty-free access for products listed in the EU's CN chapters 1-97 (with the exception of Chapter 93, which concerns arms, ammunitions, etc);
- Beneficiary countries: countries identified as LDCs by the UN.
- Continuous review of the list of EBA beneficiary countries on the basis of the most recent available data.

# A closer review of the EU's GSP+ arrangement

## Product scope

- Covered products: over 66% of tariff lines in the EU's CN; and
- They include (*inter alia*): certain agricultural products and fisheries; tobacco; products of cement; mineral fuels; chemical products; plastic, rubber, and articles thereof; raw hides and skins and leather; wood, cork, and articles thereof; textiles (including silk, wool, cotton, and other vegetable textile fibres, synthetic fibres), apparel, footwear, articles of stone, plaster, cement, asbestos; ceramic products, glass and glassware; articles of iron and steel, copper and articles thereof; certain nickel products; aluminium and articles thereof; lead, zinc and articles thereof; certain articles of base metals; nuclear reactors, boilers, machinery and mechanical appliances and parts thereof; electric machinery and equipment.

## Product scope (cont.)

- Products are listed at the two, four, six or eight-digit level, according to the product concerned;
- HS Chapters 50 to 63 are covered at the two-digit level. This means that the GSP+ benefits extend to all products classified under such chapters;
- No distinction between sensitive and non-sensitive products;
- In sum: essentially the same coverage of the general arrangement, but deeper tariff preferences and no sector graduation.

## Tariff concessions

- Total suspension of duty for all eligible products where the duty is composed of an *ad valorem* duty only;
- Total suspension of duty for all eligible products where the duty is composed of a specific duty only;
- When the duty rate of an eligible product is composed of both an *ad valorem* and a specific duty, the *ad valorem* duty is totally suspended;
- Exception: chewing gum (for which specific duty shall be limited to 16% of customs value).

## Tariff concessions (cont.)

- Duty rate comparison:

	MFN	GSP	GSP+
5205 Cotton yarn (not sewing thread) 85% or more cotton, not retail	4%	3.2%	0%
5208 Woven cotton fabrics, 85% or more cotton, weight less than 200 g/m2	8%	6.4%	0%
5209 Woven cotton fabrics, 85% or more cotton, weight over 200 g/m2	8%	6.4%	0%

	MFN	GSP	GSP+
6203 Men's suits, jackets, trousers etc & shorts	12%	9.6%	0%
6204 Women's suits, jackets, dresses skirts etc & shorts	12%	9.6%	0%
6211 Track suits, ski suits and swimwear; other garments	12%	9.6%	0%

## Which countries can benefit?

- Three cumulative criteria:
  - Be a GSP beneficiary country;
  - Meet the economic vulnerability criteria; and
  - Comply with the obligations to ratify and implement the 27 international conventions on human rights, environment and labour listed in Annex VIII to the GSP Regulation.

## Which countries can benefit? (cont.)

- Only countries that are already GSP beneficiaries are eligible for the GSP+ scheme: Article 9 of the GSP Regulation states that “[a] GSP beneficiary country may benefit from the tariff preferences provided under the special incentive arrangement for sustainable development and good governance if...”.
- This means that any given country wishing to apply for GSP+ status must also not have been classified by the World Bank as a high-income or an upper-middle income country during the 3 consecutive years immediately preceding the update of the list of beneficiary countries.

## Which countries can benefit? (cont.)

- Definition of economic vulnerability (Article 9(1)(a) and Annex VII to the GSP Regulation):
  - Non-diversification criterion: countries whose 7 largest sections of GSP-covered imports represent more than 75% in value of its total GSP-covered imports to the EU, as an average during the last 3 consecutive years; and
  - Import-share criterion: countries whose GSP-covered imports to the EU represent less than 2% in value of imports by all GSP beneficiaries, as an average during the last 3 consecutive years.

## Which countries can benefit? (cont.)

- Compliance with core human, environment and social standards contained in 27 conventions listed in Annex VIII:
  - 15 core human and labour rights UN/ILO conventions; and
  - 12 conventions related to environment and governance principles.

## Which countries can benefit? (cont.)

- Criteria for compliance with sustainability standards:
  - Ratification of the conventions and no records of failure to implement the conventions;
  - Refrain from formulation of reservations, which are prohibited or incompatible with the object of the conventions;
  - Binding undertaking to maintain ratification and ensure effective implementation;
  - Acceptance of reporting requirements and binding undertaking to accept regular monitoring and review of implementation records ; and
  - Binding undertaking to participate in and cooperate with the monitoring procedure.

## Procedural aspects

- GSP+ status non automatic: in order to benefit from such status Tajikistan needs to apply in writing;
- Application can be submitted at any time (no entry windows);
- The GSP+ status is granted if :
  - A GSP beneficiary country has made a request to that effect; and
  - Examination of the request shows that the requesting country fulfils the conditions for eligibility.
- Detailed procedures established in Commission Delegated Regulation No. 155/2013.

## Procedural aspects (cont.)

- The request must be submitted in writing, and be accompanied by comprehensive information on:
  - Ratification of the conventions, including ratification instruments, reservations made and objections thereof;
  - A commitment to (i) maintain ratification and ensure effective implementation; (ii) accept and fully comply with reporting requirements and monitoring mechanisms of the relevant conventions; and (iii) participate in and cooperate with the Commission's monitoring procedure.
- The Commission finalises the examination of the request and decides within 6 months from acknowledgment of receipt of the request.

## Procedural aspects (cont.)

- GSP+ treatment will apply from the date of the entry into force of the Commission's decision.
- 13 countries have been granted GSP+ beneficiary status so far: Armenia, Bolivia, Costa Rica, Cape Verde, Ecuador, El Salvador, Georgia, Guatemala, Mongolia, Panama, Peru, Pakistan and Paraguay.

# Review

*A closer review of the EU's GSP+ arrangement*

## Mechanisms tailored to track implementation of the conventions:

- Obligation for the Commission to review the status of ratification of the relevant conventions and monitor effective implementation and cooperation with relevant monitoring bodies, coupled with an obligation of the country concerned to cooperate in the monitoring procedure; and
- Biannual review by the Commission, which is to present a report to the European Parliament and the Council on the status of ratification of the relevant conventions, compliance of GSP beneficiary countries with reporting obligations and effective implementation of the conventions.

## Review (cont.)

- Important: the report that the Commission is to issue for its biannual review, will include:
  - The conclusions or recommendations of the relevant monitoring bodies in respect of each GSP+ beneficiary country; and
  - The Commission's conclusions on GSP+ countries' respect of the binding commitments.
- In drawing its own conclusions, the Commission may take into account information submitted by third parties (i.e., civil society, NGOs, stakeholders). The new GSP Regulation grants private parties a role in the collection of information on compliance with the conventions for the Commission's scrutiny.

## Withdrawals and other mechanisms

- The following mechanisms can affect the enjoyment of preferences under the GSP+ arrangement:
  - Removal and temporary withdrawal mechanisms specific to GSP+ countries; and
  - Temporary withdrawal mechanism common to all GSP arrangements.
- In addition, the GSP Regulation caters for:
  - General safeguard measures and surveillance procedures and safeguard measures in the textile, agriculture and fisheries sectors. These mechanisms apply to all GSP arrangements.

## **Withdrawals and other mechanisms (cont.)**

### GSP+ specific mechanisms:

- Removal from the GSP+ scheme if a given country no longer fulfils the vulnerability criteria or its obligations relating to reservations, or withdraws any of its binding undertakings relating to ratification, effective implementation, acceptance of reporting requirements and cooperation with the monitoring procedure; and
- Temporary withdrawal from the GSP+ scheme: where a country does not respect its binding undertakings referred to above or has formulated a reservation which is prohibited by, or which is incompatible with, the object or purpose of that convention.

## Withdrawals and other mechanisms (cont.)

### Temporary withdrawal mechanism:

- The procedure is initiated by the Commission in consultation with EU Member States, where the Commission has “*reasonable doubt*” that a particular GSP+ beneficiary country finds itself in one of the situations described above;
- Evidence needed to trigger the procedure must point to a lack of “*effective implementation*” and can be obtained by a broad range of sources, including third parties;
- The burden of proving positive record concerning commitments *vis-à-vis* international conventions is on the beneficiary country concerned; and
- Investigation to last no more than nine months plus six months delay for the entry into force of the temporary withdrawal if granted.

## **Withdrawals and other mechanisms (cont.)**

### Temporary withdrawal mechanism common to all GSP arrangements:

- In case of serious and systematic violations of core principles laid down in core human and labour rights conventions and obligations concerning the conservation and management of fisheries resources, as well as in case of unfair trading practices; and/or
- In cases of fraud or irregularities, or failure to comply with, or to implement, the rules on the origin of the products subject to preferences, as well as to grant administrative cooperation to implement and police the preferential arrangements.

## Withdrawals and other mechanisms (cont.)

### Safeguard mechanisms and surveillance:

- General safeguard mechanism;
- *Ad hoc* safeguard mechanism for the textile, agriculture and fisheries sectors; and
- Surveillance in the agriculture and fisheries sector.

## Withdrawals and other mechanisms (cont.)

### General safeguard mechanism:

- Allows non-preferential tariff rates to be re-introduced in cases where a product originating from a beneficiary country is imported into the EU at such volumes or prices that cause or threaten to cause “*serious difficulties*” to the EU industry;
- Serious difficulties: instances of deterioration of the economic and/or financial situation of EU operators in like or directly competing products. An indicative list of factors includes, *inter alia*: market share, production, stocks, bankruptcies, imports; and prices; and
- Investigation opened by the Commission *ex officio* or following a request lodged by an EU Member State, or by any legal person or association without legal personality acting on behalf of EU producers.

## **Withdrawals and other mechanisms (cont.)**

### *Ad hoc* safeguard mechanism for the textile and clothing

- This mechanism may be triggered on 1 January of each year by the Commission on its own initiative (and in consultation with EU Member States) where textiles and clothing originate in a GSP or GSP+ beneficiary country and the following conditions are met:
  - Their total increases by at least 13,5% in quantity (by volume), as compared with the previous calendar year; or
  - Their total exceeds 14,5% of the value of EU imports of textile and clothing products from all countries and territories benefiting from the GSP general arrangement during any period of 12 months.
- Mechanism without prejudice to the general safeguard clause.

## Withdrawals and other mechanisms (cont.)

- Ad hoc safeguard mechanism for the agriculture and fisheries sectors
  - Possibility of suspension of preferences for certain agriculture and fisheries products where such imports cause or threaten to cause serious disturbance to the EU's markets (in particular to its outermost regions).
  - Mechanism without prejudice to the general safeguard clause.
- Special surveillance mechanism in the agriculture and fisheries sector: to avoid disturbances in EU markets of products from Chapters 1-24 of the EU's CN.

# How to benefit from the EU's GSP+?

## Conditions to benefit from the EU's GSP+

- Tajikistan granted GSP+ beneficiary country status (responsibility of the Government); and
- Exports satisfy eligibility, origin and documentary requirements (responsibility of the exporters).

## Tajikistan as GSP+ potential beneficiary

- Is Tajikistan a GSP beneficiary? —→ Tajikistan is an eligible country and a beneficiary of the EU's GSP arrangement.
- Does Tajikistan comply with vulnerability criteria: —→ according to Commission data it meets the vulnerability criteria.
- Has Tajikistan ratified the 27 conventions?
- Need to submit an application and engage in the process can be submitted at any time.

## Product eligibility

- Need to establish the tariff classification of the good for export under the EU's CN;
- Need to verify that the good is covered by the GSP+ scheme: Annex IX to the GSP Regulation.

# Origin criteria

*How to benefit from the EU's GSP+?*

- The good must originate in Tajikistan, in accordance with the EU's GSP Rules of Origin;
- Two criteria to determine origin:
  - Goods are wholly obtained in Tajikistan; or
  - Non-originating materials are sufficiently worked or processed there;
  - Tolerance (*de minimis*) rule (special for textiles and cloth.);
- Annex 13a to the Commission Regulation establishing the provisions implementing the Customs Code contains specific rules on the working or processing operations that confer originating status.

## Origin criteria (cont.)

- Examples of processing operations that confer originating status to key textile goods include:
  - Cotton (residual category, where nowhere else specified): Manufacture from materials of any heading, except that of the product;
  - Yarn and thread of cotton: Spinning of natural fibres or extrusion of man-made fibres accompanied by spinning;
  - Articles of apparel and clothing accessories, not knitted or crocheted (residual category):
    - LDCs: Manufacture from fabric; and
    - Other beneficiary countries: (i) Weaving accompanied by making-up; or (ii) Making-up preceded by printing accompanied by at least two preparatory or finishing operations.

## Origin criteria (cont.)

- Working and processing for origin purposes must have been carried out in the individual beneficiary country of export, but there are two exceptions:
  - Bilateral cumulation, which occurs with the EU: the so-called “*donor country content*”); and
  - Regional cumulation: between the countries of one of the regional groups recognised by the EU's GSP (this does not concern Tajikistan).

## Origin criteria (cont.)

- Derogations to the RoO may be granted to beneficiary countries upon the Commission's initiative or in response to a request from the country concerned, where:
  - Internal or external factors temporarily deprive it of the ability to comply with the applicable rules of origin where it could previously do so; or
  - It requires time to prepare itself to comply with the '*normal*' rules of origin.

## Criteria relating to the conditions of the consignments

- Products declared for release in the EU must be the same as those exported from the beneficiary country where they are considered to originate.
- No alteration or transformation other than necessary to preserve the goods in good condition.

## Documentary evidence

- Evidence that goods have satisfied the rules of origin;
- Proof of origin may be shown presenting:
  - The certificate of origin Form A;
  - The Invoice Declaration; and
  - The Movement Certificate EUR1.
- The proof of origin must be presented to the customs authority of the importing country within 10 months following the date of issue.

# Conclusions

- GSP+ poses a burden for the Government, which must ratify and implement the conventions and secure compliance with the sustainability requirements and monitoring mechanism.
- However, it foresees overall significant advantages (deeper tariff preferences, including total tariff elimination, and no sector graduation) as compared to the general arrangement.
- Main exports from Tajikistan to the EU include textiles and clothing and aluminium products (please note that raw aluminium is not an eligible product under GSP or GSP+).
- Increased export opportunities in other sectors and potential for diversification.

# THANK YOU!

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