

Summary of Major Trade Preference Programs

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The immediate objective of the Generalized System of Preferences (GSP) is to provide developing countries with preferential access to developed country markets, usually in the form of more favorable tariff or quota treatment on a defined set of products. First adopted by the United Nations Conference on Trade and Development (UNCTAD) in 1968, the underlying rationale was that preferential trade arrangements could encourage export diversification, in the process freeing beneficiaries from dependence on trade in primary products, spurring export-led growth, and mitigating problems related to trade deficits. At the time of its creation, GSP focused exclusively on creating incentives for access to the larger markets of developed countries, and was intended to be a temporary solution to the problems facing developing countries.

One problem with trade preferences for developing countries is that they are in conflict with the nondiscrimination principle embodied in the General Agreement on Tariffs and Trade (GATT), and now the World Trade Organization (WTO), known as most-favored-nation (MFN) treatment. Since MFN requires GATT/WTO members to provide the same level of access to all other members as it provides to its most-favored partner, a change in rules was required to provide “special and differential treatment” to developing countries. Initially, GATT members approved a waiver for GSP programs, but given that the program was still considered beneficial to developing countries, members adopted an “Enabling Clause” in 1979 that provides for GSP-type programs on a permanent basis.

GATT guidelines state that GSP programs should be unconditional and create no discrimination between developing countries, the only exception being the UN-designated least-developed countries (LDCs). However, from the outset, some preference-giving countries, particularly the United States and European Union, offered differential treatment for specific developing countries or groups of developing countries, an action based primarily on historical or political considerations. In 2004, the WTO Appellate Body substantially modified existing rules when it determined that the Enabling Clause allows developed countries to offer different preferences so long as identical treatment is available to all “similarly situated” GSP beneficiaries. Approval for the implementation of GSP programs that are inconsistent with the general guidelines has been pursued through program-specific WTO waivers, but this approach has become increasingly more contentious over time.

Based on a review and analysis of GSP Handbooks from UNCTAD, Trade Policy Reviews from the WTO, and documents made available from individual governments, this summary outlines the main components of major GSP programs. These include programs in existence and those being created, but it is not an exhaustive list of countries granting unilateral trade preferences.¹ While there has been some convergence in the treatment of LDCs by developed and emerging economies, there are still significant differences in product coverage, rules of origin, and criteria for country eligibility for developing countries.

*Thanks to Randall Soderquist, Kim Elliott and Joel Meister for helpful reviews and amendments. Remaining errors are my own.

¹ For a more comprehensive list of countries that provide preferential treatment for LDCs, see WTO Report WT/COMTD/LDC/W/42/Rev.1 of 26 February 2009.

United States

Implementation and length

The US Generalized System of Preferences (GSP) program was created by the Trade Act of 1974 and is extended in an irregular fashion. It authorizes the President to grant duty-free or duty-limited treatment under GSP for any eligible product from any beneficiary developing country (BDC) or least-developed beneficiary country (LDBC). The program was initially implemented in January 1976, reauthorized retroactively in 1984, and has been renewed 9 times since then: 1994 (retroactively), 1995 (retroactively), 1996 (retroactively), 1997 (retroactively), 1999, 2002 (retroactively), 2006, 2007 and in 2008 (through December 2009). In addition to GSP, the United States maintains three regional preference programs: the Caribbean Basin Initiative (CBI), the Andean Trade Promotion and Drug Eradication Act (ATPDEA), and the African Growth and Opportunity Act (AGOA).

The CBI was launched in January 1984 with the creation of the Caribbean Base Economic Recovery Act (CBERA), which provided Central American and Caribbean countries preferential trade benefits that exceeded those available under GSP. In 2000 the CBERA was enhanced through the U.S.- Caribbean Basin Trade Partnership Act (CBTPA), the goal being to provide CBI countries with NAFTA-equivalent preferences on many products until such a time as they could accede to NAFTA or sign an equivalent FTA with the United States. Currently the CBTPA is authorized until September 2010 and provides duty-free market access on most products for nineteen countries. Trade preferences made available for apparel under CBTPA were again modified in the Trade Act of 2002, which expanded access for some apparel products, and preferences specifically for Haiti were approved in the Haitian Hemispheric Opportunity through Partnership Encouragement (HOPE) Act of 2006. HOPE II further expanded coverage when it was passed in 2008.

The Andean Trade Preference Act (ATPA) was created in 1991 with the motivation of increasing economic opportunities and providing an alternative to narcotics production and trafficking. Initial beneficiaries included Colombia, Bolivia, Peru and Ecuador. The ATPA was renewed and modified under the Andean Trade Promotion and Drug Eradication Act (ATPDEA) in 2002, which expanded product eligibility and extended preferences through 2006. The program was recently renewed until December 2009 for Peru and Colombia, while Bolivia and Ecuador were granted six-month conditional renewals. Bolivia was subsequently suspended for inadequate cooperation in combating drug-trafficking.

The most ambitious of the U.S. preference programs is the African Growth and Opportunity Act (AGOA), which was implemented in January 2001 and now includes forty-one countries of Sub-Saharan Africa. Twenty-six of these countries have met additional requirements for duty-free treatment for textile and apparel products and twenty-four of those twenty-six qualify for the special rule of origin for lesser-developed countries that allows them to use fabric and other inputs from any source. AGOA was amended to provide additional or modified benefits through provisions in the Trade Act of 2002 and the AGOA Acceleration Act of 2004, the latter of which extended preferential treatment to the AGOA countries through September 2015. Further revisions in 2006 extended duty-free treatment to textiles, as long as they were wholly formed in a beneficiary country.

Country coverage and conditionality

As of 2009, the U.S. GSP program extends benefits to one hundred thirty two developing countries, including forty four least-developed countries. The legislation includes a list of country-eligibility requirements that include level of development, conditionalities related to labor,

intellectual property rights, investment protections, and provisions related to political regime type, support for terrorism, and language directed toward OPEC members. Examples of countries currently ineligible for GSP treatment are Laos (because of its communist past), Myanmar, and Sudan. Other U.S. regional preference programs have, by and large, the same core eligibility criteria but are supplemented by certain additional conditions. As an example, the most recent versions of the Andean and Caribbean programs add conditions related to property rights, counter-narcotics cooperation, and attitudes toward the Free Trade Area of the Americas and WTO negotiations. The HOPE Act, and HOPE II especially, impose new and very strict conditions related to labor standards, human rights, and anti-poverty policies.

In addition to the usual GSP conditions, AGOA countries are required to have established or be taking actions to establish a market-based economy, reinforce political pluralism, improve the rule of law, create mechanisms to combat bribery and corruption, enhance policies to reduce poverty and improve health, and not engage in activities that undermine U.S. national security or foreign policy interests. As of March 2009, twenty six lesser developed countries out of the forty AGOA eligible countries qualify to receive AGOA apparel special benefits upon the fulfillment of specific conditions including an income threshold, visa requirements, prevention of illegal transshipment, strengthened verification of rules of origin and cumulation, and provision of reports on product trade flows. From the forty AGOA eligible countries, eighteen countries² also qualify for AGOA's provisions for hand-loomed and handmade articles (known as Category 9) and five of them (Mali, Niger, Nigeria, South Africa, and Tanzania) have been approved for the ethnic-printed fabric provisions added under the AGOA Acceleration Act of 2004.

Product eligibility and duty treatment

Out of approximately 6,700 dutiable tariff lines, close to 4,650 products from developing countries receive duty-free treatment, with LDCs receiving preferential treatment on more than 1,400 additional items. Specific products from specific countries can be excluded from the program for competitiveness reasons. Approximately 1,500 tariff lines are ineligible, most of them by statute, including steel, glass, electronic articles and certain footwear, textiles and apparel, watches, certain agricultural products (including vegetables and fruits, oil seeds, sugar, and cocoa) and tobacco.

The list of products eligible for duty-free, quota-free treatment (DFQF) under CBI/CBTPA accounts for over 5,600 tariff lines, while eligibility for LDCs encompasses another 600 products. Since 2000, CBTPA countries receive all benefits previously available under CBERA, plus additional articles that meet NAFTA rules of origin requirements, including canned tuna, petroleum products, footwear, handbags, luggage, and some leather apparel. Additional apparel is eligible for duty-free and quota-free treatment if they are from fabrics made and cut in the United States (the so-called "yarn forward" rule) or if they are sewn with U.S. thread if the fabric is cut in the region. Limited amounts of knit apparel are eligible for duty-free treatment if they are made from materials not available in commercial quantities in the United States.

The HOPE Act of 2006 further amended the CBERA program by establishing new "flexible sourcing" rules of origin for Haiti. Specifically, it allows apparel imports from Haiti to enter the U.S. duty-free if at least 50 percent of the value of inputs and/or costs of processing originate from the United States, U.S. FTA partner countries, or regional preference program beneficiary countries. The quantity of apparel eligible for duty-free treatment under this provision is subject to a limit of one percent of overall U.S. apparel imports in the first year, expanding gradually over a five year period and reaching two percent in the final year. HOPE II of 2008 extends duty-free treatment to articles

² Botswana, Ethiopia, Ghana, Kenya, Lesotho, Madagascar, Malawi, Mali, Mozambique, Namibia, Niger, Nigeria, Senegal, Sierra Leone, South Africa, Swaziland, Tanzania, and Zambia.

covered under the HOPE Act but allows treatment regardless of the country of origin of the fabric or yarn used to make them together with articles directly imported from the Dominican Republic. It also alters the cap limitations on woven and knit materials and extends duty-free treatment to brassieres, luggage, headwear, sleepwear, and apparel articles covered by the DR-CAFTA single transformation rule.

Products eligible for duty-free treatment under ATPA/ATPDEA account for approximately 5,500 tariff lines, including certain textile and apparel articles, subject to strict rules of origin, footwear, tuna packaged in foil or other flexible packages, petroleum and petroleum derivatives, watches and watch parts, and certain leather goods. Products still excluded from receiving preferential treatment include rum and above-quota imports of certain agricultural products subject to tariff rate quotas (TRQs), examples being sugars, syrups and sugar-containing products, and tuna in cans.³ Following the modification of the ATPA in 2002, certain footwear products were determined to be import sensitive and are no longer eligible for duty-free treatment.

AGOA-designated countries receive longer-term access to U.S. markets, and as of 2008 almost 6,500 products are granted duty-free treatment, bringing the duty-free share (including MFN) to roughly 98 percent of tariff lines. President Bush signed the Africa Investment Incentive Act of 2006, which added most textiles to the list of eligible products and extended through September 2012 duty-free treatment on imports of clothing produced in "lesser developed" AGOA beneficiaries, regardless of the origin of the fabric or yarn.⁴

AGOA-eligible products excluded from GSP, even for LDCs, include watches, electronic articles, steel articles, footwear, handbags, luggage, flat goods, work gloves and leather wearing apparel, and semi-manufactured and manufactured glass products, as well as most textiles and apparel, subject to strict rules of origin and quotas.

Quotas and graduation

Under all the US preference programs, the over-quota tariff on agricultural products subject to tariff-rate quotas is generally excluded from preferential treatment, though the regional programs waive the in-quota duty. In addition, GSP beneficiaries may lose eligibility for specific products if U.S. imports of that product surpass the designated "competitive need limit" (CNL). In 2009, the import threshold for products is defined at the 8-digit tariff line level as \$140 million, increasing by \$5 million each year, or fifty percent of total U.S. imports of that product in the previous calendar year. Although some countries may obtain waivers to the CNLs, countries that have exceeded the CNL can by law be permanently graduated from GSP treatment for that product. The regional programs eliminate the competitive-needs limit provisions.

Countries will generally be graduated from the GSP program if the President determines that a developing country has become a "high income" country, if they are determined by the president to have reached a level of development and competitiveness to no longer need preferences, or if a country has entered into a FTA with the United States or a bilateral agreement with another country. Examples of the latter are when Romania and Bulgaria joined the European Union in 2007.

Rules of origin and cumulation

In order to receive preferential treatment, eligible products must meet rules of origin designed to prevent minimal processing or transshipment from third countries. The general U.S. rule for most

³ http://www.ustr.gov/assets/Trade_Development/Preference_Programs/ATPA/asset_upload_file186_11132.pdf

⁴ Lesser developed beneficiary sub-Saharan African countries are defined as countries with a per capita gross national product of less than US\$1,500 a year in 1998 as measured by the World Bank.

products recognizes origin in the beneficiary country if the product is wholly produced there or if the value added in that country is at least thirty-five percent of the final value of the product when it enters the United States (not including transportation costs). The rules also allows for some regional cumulation, meaning that the thirty-five percent value-added can include imported inputs from other eligible members of the same economic association (ASEAN, CARICOM, SADC and WAEMU). Imported materials from other countries can be included in the thirty-five percent value-added only if they were ‘substantially transformed’ into new and different constituent materials which are then used to produce the eligible article.

The rules of origin provisions under the regional programs (ATPA, CBTPA and AGOA) are the same as the general GSP rule, except that they allow up to fifteen percent of the thirty-five percent local content to originate in the United States. The special rules for textile products under CBTPA and AGOA vary according to the origin of the fabric or yarn used. Duty-free and quota-free treatment is provided only for apparel assembled in CBI (or AGOA) countries from U.S. fabrics formed from U.S. yarns and cut in the United States. Under CBTPA, apparels made of U.S. fabrics that were cut in any CBI country must also be sewn with thread from the U.S. duty free treatment is also available for certain knit apparel made in CBTPA beneficiary countries from regional fabrics formed with U.S. yarns. This “regional fabric” benefit for knit apparel is subject to an annual quantitative limit, with a separate limit provided for t-shirts.

ATPA allows that apparel assembled in the Andean region from U.S. fabrics formed from U.S. yarns and cut in the United States may enter the United States duty free in unlimited quantities. However, apparel assembled from regional fabric or components may enter duty-free subject to a cap of 5 percent of the aggregate square meter equivalents of all apparel articles imported into the United States in the preceding 12-month period for which data are available.⁵

AGOA’s special provision for textile and apparel provides duty-free and quota-free treatment for apparel made of U.S. yarns and fabrics with no quantity limit. Apparel made of Sub-Saharan African (regional) yarns and fabrics are subject to a cap of 6.5 percent (in 2006) of all apparel articles imported into the United States. Apparel made in designated lesser-developed beneficiary countries (LDBC) from third-country yarns and fabrics also receive duty-free treatment and are subject to a cap of 3.5 percent of total U.S. annual apparel imports until 2012. This benefit is not available if the third-country fabric or yarn is available in "commercial quantities" in AGOA countries.

European Community

Implementation and length

The European Union first implemented a GSP program in 1971 and has renewed it every ten years, subject to annual reviews. In 1991 it was extended with amendments resulting from the Uruguay Round, and then renewed in 1995 through 2005. Trade arrangements between the EU and the Africa, Caribbean, and Pacific (ACP) countries under the 1975 Lomé Convention were continued under the Cotonou Agreement from 2000 through 2008. A new arrangement that reduced the number of available programs from five to three was implemented in January 2006 and extended through December 2008. It was renewed again in January 2009, extending through 2011. A revised proposal published in November 2008 reflects concerns related to rules of origin and states more simplified rules should be introduced in January 2010 (rules determining origin) and January 2013 (rules for procedures).⁶

⁵ <http://otexa.ita.doc.gov/fr2008/atpcap2-08.htm>

⁶ http://ec.europa.eu/taxation_customs/customs/customs_duties/rules_origin/preferential/article_777_en.htm

In addition to the regular GSP for all developing countries, the EU also has a “GSP +” program, implemented in January 2006, which provides additional preferences to beneficiary countries adhering to international labor standards, sustainable development, and good governance conditions. The “Everything But Arms” (EBA) initiative was implemented in March 2001 and provides fifty LDCs with unconditional duty-free quota-free (DFQF) access to EU markets for all products (phasing in DFQF for sugar, rice, and bananas). Currently the EU is negotiating Economic Partnership Agreements (EPAs) with the ACP countries to replace the Cotonou agreement, which a WTO dispute settlement panel ruled illegal because it discriminated against exports of non-member developing countries.

Country coverage and conditionality

The EU program provides preferences for one hundred seventy-six developing countries with no a priori conditions. However, preferences can be withdrawn if the country engages in egregious violations of human rights, including fundamental worker rights, or other unacceptable activities.⁷ The GSP + program provides additional access to “vulnerable” developing countries committed to the ratification and implementation of a set of international standards on human rights, labor standards, sustainable development, and good governance (currently there are sixteen). To be considered “vulnerable,” the country cannot have been classified as “high-income” for three consecutive years and must have limited export diversification.⁸ Eligible countries for the EBA program must be formally recognized by the United Nations as an LDC. Forty-nine countries currently participate in this program.⁹

Product eligibility and duty treatment

Under the EU GSP program, approximately 6,350 products (of 7,357 dutiable products) receive preferential treatment, divided into sensitive (about 3,900 tariff lines) and non-sensitive. Non-sensitive products can enter duty-free, while sensitive products (mostly agricultural and textiles) enjoy tariff reductions of 3.5 percentage points from the MFN ad valorem rate, or thirty percent on specific duties. Limited exceptions apply for textiles and clothing (products of HS Chapters 50-63), whose MFN duties are reduced by twenty percent and ethyl alcohol (HS heading 2207), whose MFN duties are reduced by fifteen percent. Products from some countries are excluded from preferential agreement when they reach certain competitiveness thresholds (see below).

GSP + suspends Common Customs Tariff specific duties on all GSP eligible products (including sensitive), except for products for which the Common Customs Tariff duties include an ad valorem duty in which case the ad valorem duty, but not the specific duty, is eliminated. For sugar confectionary products (subheading 1704 10 90) the duty is limited to sixteen percent of the customs value.

The EBA gives LDCs duty-free access to the EU for all products, except arms and ammunition and forty-one tariff lines related to rice and sugar, which will be phased out later in 2009 (September for rice, October for sugar).

Quotas and graduation

⁷ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:211:0001:0039:EN:PDF>.

⁸ Armenia, Azerbaijan, Bolivia, Colombia, Costa Rica, Ecuador, Georgia, Guatemala, Honduras, Sri Lanka, Mongolia, Nicaragua, Peru, Paraguay, El Salvador, Venezuela.

⁹ After the exclusion of Cape Verde from the UN list of LDC, the EU has established a transitional period for withdrawing the benefits for that country in 2010.

The EU can withdraw preferential treatment from a GSP or GSP+ beneficiary country when it has been classified by the World Bank as a high-income country during three consecutive years and if imports of a product from a beneficiary country exceed fifteen percent of the value of EU's imports of the product from all beneficiary countries and territories over three consecutive years.¹⁰ Under various of these rules, benefits for the following have been restricted: Brazil (foodstuffs, beverages and spirits, wood and others), China (certain chemicals, plastic items, toys, textiles and textile articles, footwear, jewels, consumer electronics and watches and clocks), Indonesia (animal and vegetable fats), India (textiles), Malaysia (animal and vegetable fats), Thailand (pears and precious jewelry) and Vietnam (footwear, umbrellas, and others).¹¹ LDCs are not subject to this mechanism but when a country graduates from the UN LDC list, it is also withdrawn from the EU list of EBA beneficiary countries, usually with a transition period of at least three years.

Rules of origin and cumulation

Both the GSP and EBA programs provide preferential treatment if a product is wholly produced in a beneficiary country or for products that are manufactured totally or partially from imported materials are “sufficiently worked/processed” or do not exceed forty percent of the value of the finished product. The rules differ by product. Like the United States’ general rule for apparel, the EU uses a yarn-forward rule for apparel, meaning that the use of imported fabric does not confer origin. This also applies to plastic products, for which the total value of non-originating inputs must not exceed fifty percent of the final price.

The EU GSP and GSP + programs permit partial cumulation on a regional basis for four economic regions: ASEAN (Brunei Darussalam, Cambodia, Indonesia, Lao People's Democratic Republic, Malaysia, Myanmar, Philippines, Singapore, Thailand and Viet Nam), the Central American Common Market (Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua), the Andean Group (Bolivia, Colombia, Ecuador, Peru and Venezuela) and the South Asia Association for Regional Cooperation (Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka). Products originating from Norway and Switzerland are also considered as originating in the beneficiary country. Under EBA, full cumulation is allowed among LDCs.

Canada

Implementation and length

Canada first implemented a GSP program – called the General Preferential Tariff (GPT) program – in 1974. It is renewed every ten years with annual reviews. It has been renewed and modified three

¹⁰ For each textiles and textiles articles, the threshold is 12.5 %. However this rule does not apply to a beneficiary country in respect of any section which represents more than fifty percent in value of all GSP-covered imports into the Community originating from that country. Clothing and textiles from China have already achieved the threshold.

¹¹ Before the 2008, the threshold for graduation of particular products from particular countries was an index indicating the “degree of development”. The index combined three criteria: 1) a “development index”, calculated on the basis of the beneficiary country per capita income and the level of its exports compared with those of the EU; 2) the level of imports of products from a certain sector of a beneficiary that exceeds twenty percent of imports of the same products from all beneficiary countries, and; 3) a “sector specialization” index, based on the ratio of a beneficiary country’s share of total EU imports in a given sector as compared to the beneficiary country’s share of total EU imports in all sectors. If the first condition, combined with one of the other two, exceeded a designated threshold, that sector can be removed from eligibility for that country. This method was replaced by the current one in order to simplify the calculations.

times and extended through 2014. In 1983, Canada also implemented a Least-Developed Country Tariff (LDCT) program, which was modified and enhanced in 2003 and extended through 2014.

Country coverage and conditionality

The Canadian GPT benefits one hundred seventy-three developing countries (including China), including the forty-nine LDCs covered by the LDCT. There are no a priori conditions for either program, but the withdrawal of GPT benefits is the government's prerogative and is done by Order in Council based on a recommendation from the Minister of Finance. Canada has excluded countries that ascended to the EU and also Belarus due to concerns about human rights and democracy.

Product eligibility and duty treatment

Under the GPT more than 5,700 product tariff lines, or about sixty-seven percent of Canada's tariff schedule, enters the country duty-free.¹² The remainder faces tariffs lower than MFN rates. Refined sugar, most textiles, apparel, footwear, products of chemical, plastic and allied industries, specialty steel and electron tubes, are excluded from the program. Handicraft products accompanied by proper documentations have duty-free access to Canada.

The LDCT was expanded in 2003 to provide duty-free and quota-free treatment to virtually all products (98.9 percent of all products) from forty-six lesser-developed countries, including textile and apparel products that receive special treatment as result of Canada's Market Access Initiative for Least Developed Countries. The only excluded products are supply-managed agricultural products—eggs, poultry, and dairy.

Quotas and graduation

Canada does not apply any quotas or export restrictions for eligible products under GPT or LDCT, except for the quotas on agricultural products. Except for when they are no longer developing countries, or countries that have joined the EU, there are no formal graduation mechanisms included in the programs of Canada.¹³

Rules of origin and cumulation

Products exported by eligible countries under both the GPT and LDCT must comply with rules of origin provisions in order to receive the preferential treatment. Under the GPT, products containing imported material from an outside country or product of unknown origin are considered to have originated in the beneficiary country if the value of the imported component does not exceed forty percent of the final value of the good. Canada allows for cumulation among GPT beneficiary countries and Canada, meaning that any material or input originating in any GPT country or Canada, is considered to have originated in the beneficiary country and therefore does not apply to the forty percent of rule.

Under the LDCT, goods from beneficiary countries are allowed to consist of up to sixty percent of imported materials. In addition, full cumulation is allowed among LDCs and partial cumulation among GPT beneficiaries (twenty percent of the final value of the product). The special rules for

¹² WTO Trade Policy Review WT/TPR/S/179 of 2007.

¹³ <http://www.gazette.gc.ca/archives/p1/2007/2007-04-28/pdf/g1-14117.pdf>; see also Anthony, Daniel. "Unilateral Preferential Trade Programs Offered by the United States, the European Union and Canada: A Comparison". The Trade Partnership, Dec. 2008, USA.

textile and apparel allows that apparel products produced in an LDC can use textile inputs from any developing country or Canada, including China.

Japan

Implementation and length

Japan first implemented a GSP program in 1971 and it has been renewed four times, each time for ten years. The current program was renewed in April 2001 and is valid through March 2011. Japan also provides special preferential treatment for LDCs, an arrangement that was enhanced in 2007 to reduce the number of exclusions.

Country coverage and conditionality

Japan's GSP covers one hundred five developing countries (including China and Vietnam) and forty-nine LDCs as defined by the United Nations. Countries can be graduated from the GSP if they are classified as "high income" by the World Bank or when they are no longer classified as LDC by the UN.¹⁴ Korea, Taiwan, Hong Kong, Singapore, Slovenia, Bahrain and French Polynesia have graduated from the program. The government "has the authority to unilaterally designate, withdraw, suspend, and limit beneficiaries or products that receive preferential treatment under the GSP scheme" (WTO, WT/TPR/S/175, 2007).

Product eligibility and duty treatment

Japan's Tariff Schedule consists of approximately 9,200 items at the nine-digit Harmonized System level, with roughly 5,900 dutiable products. About eighty percent of the 1,641 dutiable agricultural and fishery products are excluded from GSP eligibility, meaning that about two hundred seventy products receive preferential treatment. For the 4,290 dutiable industrial and mining tariff lines, twenty percent are excluded, about 2,000 items are eligible for duty-free treatment and almost 1,200 are subject to reduced duties that are set at zero, twenty, forty, sixty or eighty percent of MFN rates. Live animals, meats, cereal, cotton, tobacco and most dairy and sugar products are excluded from GSP, as well as some industrial products such as salt, petroleum products, gas oil, articles of apparel and clothing, and some footwear and watches.

Under the 2007 reform, preferential treatment for LDCs was expanded significantly. As such they receive duty-free, quota-free (DFQF) treatment for ninety-eight percent of all tariff lines. All industrial products that are eligible for GSP receive DFQF treatment under the regime, including textile, clothing products, leather and footwear. The exceptions are one hundred eighteen "ultra sensitive" items, mainly agricultural, fish, or fish products, including rice, sugar, and wheat products.

Quotas and graduation

Approximately 1,100 tariff lines from non-LDC GSP beneficiary countries are subject to a ceiling and preferential treatment is suspended on a monthly basis when ceilings are reached. In some cases, the preferential treatment can be temporarily suspended if the imports from a specific country exceed twenty percent of the total value (or volume) of the ceiling.¹⁵ Products from a beneficiary

¹⁴ Japan removed the Republic of Cape Verde from its list of LDCs in 2008.

¹⁵ The ceiling of a given year equals the ceiling of the previous year multiplied by 1.03.

country can be excluded from GSP treatment if, for two consecutive years, they exceed one billion yen in value and account for more than fifty percent of Japan's total imports of the product. LDCs are not generally subject to ceilings, except for imports of refined copper from the Democratic Republic of Congo and Zambia.

Rules of origin and cumulation

In general, origination status is provided to products wholly obtained in the beneficiary country or to products partially or completely produced from imported components if it has undergone sufficient processing in the beneficiary country. The latter is determined by a change in the HS-4digit tariff heading. But there are also specific rules of origin for some products that may need to meet a double transformation test, or achieve a specific local value-added level (usually sixty percent).¹⁶

Full cumulation is allowed for goods produced in Indonesia, Malaysia, the Philippines, Thailand or Vietnam. Products from Japan used in the production of a good in the beneficiary country can also be counted for purposes of conveying local origin, except for some raw hides, leather articles, footwear and toys. Japan does not specify a special rule of origin for apparel.

Australia

Implementation and length

Australia first implemented a GSP program – called the Australian System of Tariff Preferences (ASTP) – in 1966. It was the first country in the world to implement a preference program for developing countries. Since its implementation, the ASTP has been renewed and enhanced with additional product coverage, including reforms in 1986 to simplify the program. In 2003 a new and more generous preference program for LDC was introduced.

Country coverage and conditionality

Australia provides trade preferences for products originating in about 187 developing countries, including 50 least-developed countries.

Product eligibility and duty treatment

For developing countries, Australia's GSP is based on the general principle of a five percentage point reduction in the tariff when the MFN tariff is five percent or higher. If the MFN tariff is lower than five percent, the preferred duty is zero. When a specific rate of duty applies, the ASTP rate is set at the general tariff rate less five percent of the value of the good.

Australia provides duty-free and quota-free (DFQF) access for all products originating in UN-designated LDCs, when ninety-three percent of LDC exports to Australia were duty-free. Preferences for textiles, clothing and footwear, chemicals, fruit juice and certain foods were eliminated in July 1, 1993 for all beneficiaries except LDCs and the South Pacific Island Territories.

In 2004, the tariff lines actually utilized for developing countries under the general system of preferences were approximately 6,000 at HS 10-digit level, while the LDCs exported only 600 tariff lines.¹⁷

¹⁶ Komuro, Norio, "Japan's Generalized System of Preferences. World Bank, 2008.

¹⁷ Lippoldt, Douglas, "The Australian Preferential Tariff Regime". OECD, 2006.

Quotas and graduation

In 1991 Singapore, Taiwan, Hong Kong and Republic of Korea were deemed to have reached sufficiently high income and competitiveness levels to no longer need preferences and they were graduated from the Australian program. Since 1994, the ASTP has been phased out for developing countries as part of Australia's general tariff reduction program. The system would be restricted only to LDCs and South Pacific island territories. Because the general tariff reduction program does not cover all products, the ASTP beneficiary countries not listed as LDC still enjoy all or some tariff preference for some products.

Rules of origin and cumulation

Under the ASTP, the rules of origin provide that the final process of the imported good must have been carried out in the beneficiary country and at least 50 percent of the total cost of the final product must consist of labor/material from one or more developing countries (or Australia). Full cumulation is allowed for LDCs that can use inputs from other LDCs, the Forum Island Countries (FICs) and Australia, while products from non-LDC benefit from partial cumulation of 25 percent of the final cost of the good.¹⁸

Norway¹⁹

Implementation and length

Norway created its Generalized System of Preferences in 1971 and renewed it in 1995, 1999, 2000, 2002, 2005 and, in finally January 2008 indefinitely.

Country coverage and conditionality

The countries eligible to benefit from the Norwegian GSP are developing countries recognized as being developing countries by Norwegian authorities, based on the OECD DAC-list in force. The developing countries are divided in three lists: a list of "least developed GSP-countries (LDCs)", a list for low income countries and another list representing the "ordinary GSP-countries". The so-called LDCs are the poorest countries in the world, and are given a more favorable preferential treatment than the "ordinary" developing countries. Under the GSP, duty-free and quota-free market is extended to all "low income countries" with a population of less than 75 million.

There are 73 developing countries that are potentially eligible for the Norway's GSP program, but it has only been implemented for 48. As of 2008, all 50 UN-designated LDCs were potentially eligible for more generous treatment, but only 27 actual received it. In addition, 14 low-income countries with populations below 75 million can potentially receive the same treatment as LDCs, and eight actually do (Cameroon, Ghana, Cote d'Ivoire, Kenya, Mongolia, Nicaragua, Papua New Guinea and Zimbabwe).

GSP is not automatically granted, rather potential eligible countries must apply for acceptance to the program with the competent authorities and then submit documentation to show compliance with rules of origin and other administrative requirements. Lack of familiarity with the program or with

¹⁸ *Ibid.*

¹⁹ Source: http://www.toll.no/templates_TAD/Article.aspx?id=146952&epslanguage=EN

the Norwegian market is the most likely reasons for the relatively small number of beneficiary countries. There are no political conditionalities specified in the GSP provisions but Myanmar was excluded from the system in 1997.

Product eligibility and duty treatment

Developing countries covered by the general GSP receive either duty-free treatment or reductions from the MFN tariff that range from 10 to 50 percent. Preferences apply to some agricultural/fishery and most industrial products, except for chemical products, textiles and apparel. Since 2002 LDC countries benefit from duty-free quota-free access to the Norwegian market for all agricultural and industrial products. Products originated in Botswana and Namibia are partially treated as LDC, and therefore have a special regulation system.

Quotas and graduation

In general, Norway's GSP program does not impose quantitative restrictions on imports, especially for LDC. For developing countries eligible for the "ordinary" GSP, there are tariff rate quotas (determined at the WTO) for specific products such as meat, dairy and some vegetables. The program uses the OECD DAC-list of "low income countries" and duty- and quota-free market access to the Norwegian market is available to all LDCs, plus "low income countries" with populations below 75 million.²⁰

Rules of origin and cumulation

In March 1998, the Norwegian rules of origin were harmonized with the rules applied by the EU and Switzerland. When that change entered into force in 2001, cumulation rules changed so that inputs from the EU and Switzerland, as well as Norway, could be used and still meet the rule for local origin.

The general rule of origin requires that the product must be wholly obtained in the beneficiary country or "sufficiently worked or processed" there. There is a list of specific working or processing required to be carried out on non-originating materials for almost each product. Non-originating products have to fulfill those requirements and, at the same time, meet value limits that may not exceed, in general, 40 percent of the final product value (subject to the cumulation rule noted above). In addition, there is a tolerance rule for small quantities of non-originating materials allowing that up to 5 percent of the final value of a product be made from imported inputs that do not qualify for preference under the rules of origin (rule does not applied for textiles).

New Zealand

Implementation and length

New Zealand introduced its generalized system of preferences (GSP) in January 1972. Special benefits for least-developed countries were introduced in 1985. The scheme has been reviewed and changed several times, most recently in 2001, with expanded access for LDCs.

²⁰ This has the effect of excluding India, Pakistan, Vietnam and Nigeria.

Country coverage and conditionality

Under the GSP, New Zealand extends preferential treatment to less developed countries (or developing countries) with per capita incomes less than 70 percent of that in New Zealand, and to least-developed countries (LDCs). As of August 2008, 91 less developed countries and 50 least developed countries are beneficiaries of New Zealand's GSP scheme. In 2005, eleven of the less developed countries were removed from the beneficiary group (Cayman Islands, Korea, Barbados, Bahrain, and Macau, as well as Czech Republic, Hungary, Poland, Slovak Republic, Malta, and Slovenia that joined the European Commission).

Product eligibility and duty treatment

Products that meet the rules of origin and are not included in a "negative list," are eligible for GSP treatment for eligible countries. About 15 percent or 462 tariff lines (at 8-digit level) of New Zealand's dutiable products are covered by the GSP, while for LDCs all products (or 3,051 dutiable tariff lines) are eligible.²¹ The negative list includes apparel, footwear, and certain motor-vehicle parts and accessories. Preferences for developing countries are being gradually removed or eroded since 2006 by MFN tariff reductions. Products from those countries receive up to 80 percent reduction from the MFN rate while least-developed countries receive duty-free access for their exports. After completing implementation of its Uruguay Round commitments in 2000, 89 percent of New Zealand's tariff lines have a duty of 5 percent or less.

Quotas and graduation

Once developing countries achieve a per capita income that is 70 percent of New Zealand's per capita income, they automatically lose GSP eligibility. Graduation for specific products, based on a measure of import competitiveness, was abolished as practice in 1998.

Rules of origin and cumulation

Products must be wholly obtained in the beneficiary country or manufactured in the beneficiary country using imported inputs, as long as final process is performed in that country and at least 50 percent of the final value of the product accounted for by products either of beneficiary countries, or New Zealand. For apparel imported under SPARTECA the value added rule is 45 percent of the final value. Cumulation is permitted within categories of countries, but not between the two categories (e.g. between less developed and least developed countries).

Switzerland

Implementation and length

Switzerland and Liechtenstein²² launched their GSP program, with expanded benefits for LDCs, in 1978. The program was renewed for ten years in 1997, and in April 2007 new regulations have

²¹ WTO Trade Policy Review WT/TPR/S/216 of 10 and 12 June, 2009.

²² According to the 1923 Swiss-Liechtenstein Customs Union Treaty Switzerland acts on behalf of Liechtenstein in customs union issues, such as trade policy measures affecting imports, and agricultural policy (WTO WT/TPR/S/208 of 2008).

further expanded the tariff benefits for LDCs, as well as regulatory harmonization with the European Community's scheme regarding the LDC treatment under EBA.

Country coverage and conditionality

In principle, developing countries are eligible unless they are an OECD member, are classified by the OECD as a most-advanced developing country, or have a free trade agreement with Switzerland.

Product Eligibility and exclusions

Under the Swiss program, all products from LDCs enjoy duty-free and quota-free (DFQF) market access since 1 April 2007, with the exception of broken rice for animal consumption, and sugar for which tariffs will be removed in September 2009. Most industrial products from developing countries have duty-free access to Switzerland and Liechtenstein, with the exception of textiles and clothing for which a 50 percent reduction from MFN rates is granted. Developing countries also benefit from tariff reductions of up to 100 percent for agricultural products "of interest," such as vegetables and cut flowers are also offered. Developing countries that are eligible for international debt relief initiatives receive the same treatment granted to least-development countries.

Quotas and Graduation

The Swiss program has no provision for quantitative limits on preferential imports. Periodic reviews consider whether the preferential treatment for certain products should be suspended given the export performance of beneficiary countries.

Rules of Origin and cumulation

The Swiss GSP rules of origin are similar to the EU and Norway. Origin status is granted to products wholly obtained in the beneficiary country and to products manufactured from imported materials that are sufficiently worked or processed according to a specific list for each product. The value of imported materials may not exceed, in general, 50 percent of the final value of the product. In addition, the tolerance rule for small quantities of non-originating materials allows that up to 5 percent of the final value of a product be made from imported inputs that do not qualify for preference under the rules of origin (rule does not applied for textiles).

The Swiss cumulation rule allows imported materials from Switzerland, EU and Norway to be considered as originating in the beneficiary country, as well as regional cumulation for exports from a member country of ASEAN (except for Singapore and Brunei Darussalam that are excluded from the Swiss preferential treatment).

Developing Countries' Programs

The first preferential program adopted by developing countries was the agreement on the Global System of Trade Preferences (GSTP) among Developing Countries. The principles for the GSTP were formulated in 1977 for a group of 77 countries, under the auspices of UNCTAD. A framework

for the agreement was finally outlined in 1988 and put into force in 1989 by the developing countries participating in the negotiations.²³

Under the agreement, members commit to holding successive rounds of negotiations every three years to discuss and implement measures to enhance the South-South co-operation and improve market access among members. The last round of negotiations was not concluded as of spring 2009, despite a commitment at a ministerial meeting in Qatar in April 2008 to do so by the end of that year.

The GSTP mandates that countries provide preferences to all participants on a MFN basis, but also allows for differential treatment for least-developed countries. Product coverage and depth of tariff benefit are determined by the provider country. The general rule of origin is that the value of imported materials from undetermined origin should not exceed 50 percent of the value of the final product. Like other MERCOSUR members, Brazil grants preferences to participating countries on some products. The preferences range from 10 to 50 percent and include agricultural products, fuels, chemical products, hides and skins, ferrous and steel products, among others. In India, the GSTP entered into force on 19 April 1989 when the country committed to provide tariff concessions of 10-50 percent for 53 tariff lines at the HS six-digit level. Currently, India offers preferences for a limited number of products and a 50 percent tariff concessions applies to three tariff lines for Bangladesh, Benin, Guinea, Haiti, Mozambique, Sudan, and Tanzania. Rules of origin allow not less than 50 percent of the f.o.b. value of the finished good and 60 percent for regional cumulation.

In 2002, Turkey implemented a GSP program based on the European Communities' system. Turkey's current preferential treatment was renewed in January 2009 and will be available until December 2011. The program is being gradually evolving for full alignment with EU's programs (GSP, GSP+ and EBA) in terms of country and product coverage. The elimination of duties for LDCs on the basis of the EC's Everything But Arms (EBA) is applied only for those products covered by the customs union, which does not include agricultural products but includes processed agricultural goods.

More recently, other developing countries have also implemented or announced trade preference schemes for least-developed countries in response to the 2005 Hong Kong ministerial meeting, which called on developed countries to provide DFQF treatment for at least 97 percent of their products to LDCs. Developing countries "declaring themselves in the position to do so" were also encouraged to implement preference programs for LDCs. Since March 2008 China has been providing duty-free treatment for 440 tariff lines from 39 least-developed countries through the Special Preferential Tariff Treatment (SPTT). Chinese authorities say that 98 percent of LDC's exports enter the country under zero tariff rates. Most textiles and garments, however, are not included in the program. The rules of origin require that at least 40 percent of the final value is added in the beneficiary country or a change of tariff heading.²⁴

Beginning in May 2008, India extended preferential access for all 50 LDCs under the Duty Free Tariff Preference (DFTP). The goal of the program is to cover 94 percent of India's tariff lines, which would cover about 92 percent of total LDC exports to India. Rules of origin provide that at least 30 percent of the final value is added domestically, as well as a change of tariff heading. Cumulation is allowed with India. The DFTP provides duty-free access for 85 percent of India's tariff lines and will be phased in over the next 5 years. Eligible products include crude petroleum, readymade garments, natural gas, non-industrial diamonds, aluminium non-alloyed, cotton, shrimps and prawns, tropical

²³ Algeria, Angola, Argentina, Bangladesh, Benin, Bolivia, Brazil, Cameroon, Chile, Colombia, Cuba, Democratic People's Republic of Korea, Ecuador, Egypt, Ghana, Guinea, Guyana, Haiti, India, Indonesia, Iran, Iraq, Libya, Malaysia, Mexico, Morocco, Mozambique, Nicaragua, Nigeria, Pakistan, Peru, Philippines, Qatar, Republic of Korea, Romania, Singapore, Sri Lanka, Sudan, Thailand, Trinidad and Tobago, Tunisia, Tanzania, Uruguay, Venezuela, Vietnam, Yugoslavia, Zaire and Zimbabwe.

²⁴ Engel, Jakob, "Assessing the Chinese and Indian LDC Preference Schemes - Initial Observations", DIFD, March 2009.

wood, aluminium ores, iron ores, tankers and other similar vessels, petroleum oils, copper ores etc. LDC countries must formally express interest in receiving the benefit.²⁵ Other 450 products (or 9% of tariff lines) benefit from tariff concession of up to 20% of the applied rate. Sensitive products excluded from the scheme include some meat, dairy products, vegetables, fruits, cereals, tobacco, rubber, iron and steel, and others.²⁶

South Korea provides trade preferences for 43 developing countries under the Global System of Trade Preferences (GSTP) for 12 items (10-digit level) that enjoy tariff reductions ranging from 10 to 73 percent of the MFN rate. In 2000 South Korea implemented duty-free access for about 87 items imported from 50 LDCs. In 2008 the program was expanded to 3,790 items (HS 6-digit), or 75 percent of Korea's tariff lines.²⁷ However, according to the Korean government, since January 2009 duty-free access has been provided for 4,043 items (HS 6-digit), which represents almost 80 percent of the country's tariff schedule. Korea's preferential rules of origin require products to be wholly obtained in the beneficiary country or that at least 50% of the final value of the product is produced with domestic inputs (for vessels catching fish it is required at least 60% of domestic inputs).

Brazil has also expressed intentions to provide duty-free quota-free treatment for LDC products and is in consultation with the private sector in order to define the terms of the program.

²⁵ *Ibid.*

²⁶ <http://www.cbec.gov.in/customs/cs-act/notifications/notfns-2k8/cs96-2k8.htm>

²⁷ WTO Trade Policy Review WT/TPR/S/204/Rev.1, 8 and 10 October 2008.