

# Using Trade Preferences to Support Refugees and their Hosts

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*Over 25 million people worldwide have been forced to flee their home countries, and many of these refugees have been or will be displaced for decades. Yet neither donors nor host countries have come to grips with the increasingly protracted nature of these situations, and the associated need for refugees to have access to education and healthcare and be permitted to move about and seek jobs so they can support themselves and their families. Local communities and host countries also need new kinds of assistance to adjust to these realities and create opportunities for everyone. This note explores how donor countries could use trade preferences to help host countries create jobs and facilitate the transition from humanitarian relief to economic inclusion.*

## 1. INTRODUCTION

Violence and persecution have forced nearly 26 million people to flee their homes and take refuge in countries other than their own. The vast majority of refugees are living in developing countries and nearly four in five are in countries neighboring their own.<sup>1</sup> Many of the countries hosting large numbers of refugees are poor and fragile and refugees' needs inevitably put additional strain on host governments and local communities. Yet the mechanisms by which the international community can contribute to supporting hosts and refugees are ad hoc and, despite improvements in recent years, they remain inadequate.

Moreover, neither donor nor host countries have come to grips with the fact that many of today's refugee crises will be prolonged and that responses need to reflect that.<sup>2</sup> The office of the United Nations High Commissioner for Refugees (UNHCR) estimates that the number of refugees in "protracted situations" rose from 66 percent in 2017 to 78 percent in 2018, a total of 15.9 million refugees. Nearly 6 million refugees were in situations that had lasted 20 years or more.<sup>3</sup>

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1 UNHCR, *Global Trends: Forced Displacement in 2018*, Geneva, 2019.

2 Cindy Huang et al., "Tackling the Realities of Protracted Displacement," CGD-IRC Brief, Washington, D.C. and New York: Center for Global Development and International Rescue Committee, 2018 <https://www.cgdev.org/publication/tackling-realities-protracted-displacement-case-studies-whats-working>.

3 UNHCR defines a protracted situation as "one in which 25,000 or more refugees from the same nationality have been in exile for five consecutive years or more in a given host country;" UNHCR, op. cit., p. 22.

It is also important for policymakers to realize that most refugees no longer reside in camps and rural areas. That was largely true in the early 2000s, but UNHCR estimates that 61 percent of refugees today are dispersed across urban areas. These refugees are particularly vulnerable to exploitation or arrest because they often lack work permits or legal authorization to move around freely.<sup>4</sup>

Both refugees and members of their host communities need more than short-term, emergency aid to live a decent and dignified life. Refugees need access to education and healthcare, as well as legal permission to move about and seek jobs so they can support themselves and their families. Local communities and host countries need assistance in creating opportunities for refugees and locals alike, especially low-income communities that are hosting disproportionate numbers of refugees. External financial assistance is, and will remain, essential. But both donors and host countries need to do more to facilitate the transition from humanitarian relief to longer-term development assistance and trade measures could help.

## 2. USING TRADE INCENTIVES TO EXPAND ECONOMIC OPPORTUNITIES FOR REFUGEES AND HOSTS

Trade policy could contribute to alleviating protracted refugee crises in two ways. First, donor countries could encourage greater inclusion of refugees in local economies by offering special trade preferences to developing countries that host large numbers of refugees and agree to provide them with the legal right to work, own businesses, access education and other public services and move freely within their territories.<sup>5</sup> Second, increased trade opportunities could boost growth and create jobs, thus generating economy-wide opportunities.

Allowing refugees to access formal work and education opportunities outside refugee camps helps them become economically self-reliant and live more dignified lives. But it also benefits the host economy. When refugees have the right to work, they are better able to utilize their skills and work in positions where they can be productive. This contrasts with the situation of refugees confined to refugee camps, where they often experience an erosion of their skills.

Greater productivity and employment opportunities, in turn, allow refugees to earn more money and thus spend more in the host economy, supporting both local economic activity and tax collections. Moreover, when refugees are also given the right to create and run their own formal businesses, they can invest and help develop new services and products, providing job opportunities to host community members or other refugees.<sup>6</sup>

In situations where refugees are already working informally, granting the formal right to work should have an especially positive effect on labor market outcomes (in terms of wages and employment) for the host community. When refugees are only allowed to work informally, they are forced into a relatively small segment of the labor market, thus creating more intense job competition in that market segment than would be the case if they were allowed to move freely and access formal employment in the wider economy. This competition can, in some cases, lead to downward pressure on employment rates and wages. By granting full access to labor markets, policymakers can alleviate this downward pressure in particular areas.

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4 Ibid., p. 57.

5 Michael Clemens, Cindy Huang, and Jimmy Graham, “The Economic and Fiscal Effects of Granting Refugees Formal Labor Market Access,” CGD Working Paper 496, Washington, D.C.: Center for Global Development, 2018.

6 For a general discussion of how refugees can create economic opportunities for local populations, see also: Jean François Maystadt and Philip Verwimp, “Winners and Losers Among a Refugee-Hosting Population,” *Economic Development and Cultural Change* 62(4), pp. 769-809, 2014; and John Edward Taylor et al., “Economic Impact of Refugees,” *Proceedings of the National Academy of Sciences* 113 (27), pp. 7449-7453, 2016.

Trade preferences can amplify the benefits of granting work rights for refugees by creating new investment and job opportunities. Donors can also use the carrot of preferential market access as an incentive for host country governments to open their formal labor markets and public services to refugees. The Jordan Compact was the first agreement to explicitly embody this approach and, while imperfect, it was a groundbreaking approach that provides valuable lessons for using trade policy measures in this context. As part of the Compact, the European Union (EU) offered trade benefits to help increase employment opportunities for Syrian refugees and Jordanians.<sup>7</sup> Specifically, the EU eased the rules of origin under its bilateral free trade agreement with Jordan to facilitate exports by firms located in 18 designated industrial development zones that hired Syrian refugees. These trade concessions were also linked to a commitment by the authorities to facilitate Syrian refugee access to Jordan's educational system.

The trade incentives of the EU-Jordan Compact were successful in getting Jordan to provide more work permits to Syrian refugees. However, two factors constrained the Compact's effectiveness in generating growth and expanding formal job opportunities for refugees. First, the relaxation of the trade agreement's rules of origin was not enough of an incentive for most companies to make new investments. Second, restrictions on the application of these trade benefits, including the requirement that firms employ a minimum share of refugees and be located in one of the designated zones, further weakened the incentive to invest. Some of these restrictions have since been eased by the EU, and key lessons have been learned. First, trade concessions must generate substantial benefits in order to significantly alter companies' actions and encourage economic growth for the benefit of refugees and host communities.<sup>8</sup> Second, conditioning benefits on directly employing refugees is difficult to monitor and adds complexity and costs that can undermine the effort. While trade concessions can be used to incentivize expanding work rights, in many contexts they will be much more effective if the conditions are based on easy-to-track targets like permits issued or rights granted in the economy as a whole.

Trade incentives that take into account these lessons could prove useful in other bilateral refugee compacts concluded under the UN's new Comprehensive Refugee Response Framework (CRRF). The Ethiopia Jobs Compact, launched in 2018 as one of the first CRRF pilots, illustrates both the opportunities and challenges. Under this compact, Ethiopia pledged to provide work opportunities for refugees as part of its development of industrialization zones.<sup>9</sup> Improvements in trade preferences might have helped support implementation of the compact. But Ethiopia, like many other poor countries with a large refugee presence, already enjoys extensive preferential access for most of its exports. There is room for improvement in this and many other cases, but trade incentives do have their limits.

At the ministerial meeting of December 2017, Turkey, which hosts about 3.5 million Syrian refugees, joined Qatar in urging the World Trade Organization (WTO) to help with the refugee crisis. They proposed that WTO members adopt a declaration of intent affirming that "the Syrian humanitarian crisis is an exceptional situation" and that members should "explore ways that trade and the WTO can help

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7 Heliodoro Temprano Arroyo, "Promoting Labour Market Integration of Refugees with Trade Preferences: Beyond the EU-Jordan Compact," EUI Working Papers, RSCAS 2018/42, Robert Schuman Centre for Advanced Studies – Migration Policy Centre, San Domenico di Fiesole: European University Institute, 2018.

8 Temprano Arroyo, *op. cit.* See also Cindy Huang, Sarah Charles, Lauren Post, and Kate Gough, "Tackling the Realities of Protracted Displacement Case Studies on What's Working and Where We Can Do Better," CGD Policy Brief, Washington, D.C.: Center for Global Development, 2018.

9 Huang et al., *op. cit.*

in alleviating the adverse impact of this crisis.”<sup>10</sup> WTO members declined to endorse the Turkish-Qatari proposal, but there is continued interest in how trade incentives might contribute to sharing the burdens in addressing increasingly protracted global refugee crises.

A multilateral initiative at the WTO to encourage trade assistance for refugee hosts would be helpful because it would signal global support for the idea. But something along the lines of what Turkey and Qatar proposed is not the only approach that would be consistent with WTO rules. This policy brief explores three WTO-compatible approaches for using trade as a tool to assist refugees and their hosts. In addition to assessing the pros and cons of each option, it identifies the countries where the presence of refugee is relatively more important and discusses the scope for using preferential market access as a tool to support refugees and host communities.

### 3. WTO-CONSISTENT APPROACHES FOR PROVIDING TRADE PREFERENCES

Although the WTO has come under strain in recent years, it remains the key international institution protecting developing countries from trade discrimination and bullying by larger, more powerful countries. It is thus important to ensure that proposals that use trade measures be consistent with WTO rules.<sup>11</sup> A core principle of the multilateral trading system is that each member should treat the imports of all other members equally, referred to as “most favored nation” (MFN) treatment. There are three exceptions to the MFN principle, however, that WTO members could use to improve preferential treatment for countries that provide economic opportunities for their refugee populations.

First, *Article XXIV of the General Agreement on Tariffs and Trade* (and Article V of the General Agreement on Trade in Services) permits members to depart from the MFN rule when they negotiate bilateral or regional trade agreements that remove barriers to trade among the participants. There are conditions on the use of this exception, however, that are designed to minimize negative effects for third parties. In particular, such agreements should cover “substantially all trade” among the countries concluding them. The EU was able to improve access for Jordanian exports under the compact to support Syrian refugees without running foul of the MFN principle because it had a bilateral free trade agreement (FTA) with Jordan.

A second possibility is *Article IX of the Marrakesh Agreement*, which allows for waivers of obligations under exceptional circumstances, such as humanitarian crises. A refugee crisis or the existence of a large population of refugees could be considered such an exceptional circumstance. This is precisely what Turkey (with the support of Qatar) had in mind when it presented its initiative at the WTO Ministerial of December 2017. It is also the procedure the United States used to obtain a temporary waiver of the MFN rule for its program of unilateral preferences for sub-Saharan Africa, known as the African Growth and Opportunity Act (AGOA).

Third, the *Enabling Clause*, adopted in 1979 to promote economic development, allows developed country members of the WTO to provide preferential treatment to imports from developing country members under the Generalized System of Preferences (GSP). Developing countries can also make preferential trade arrangements among themselves under this clause. Recognizing their particular vulnerabilities, the Enabling Clause and other WTO provisions allow even more favorable treatment for countries designated by the United Nations as least developed countries (LDCs). Most developed

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<sup>10</sup> World Trade Organization, “Cooperation for Providing Employment for Displaced Syrians: Communication from Qatar and Turkey,” WT/MIN(17)/10/Rev.1, Geneva, December 10, 2017.

<sup>11</sup> See Temprano Arroyo, *op. cit.*, and Lawrence L. Herman, “Harnessing Trade Law to Support Refugees and Host Countries,” World Refugee Council Discussion Paper No. 3, Waterloo, Ontario: Centre for International Governance Innovation, 2018.

countries now have GSP programs that lower or eliminate duties on a range of imports from developing countries.<sup>12</sup>

Beginning in the early 2000s, many developed countries went further, providing duty-free and quota-free market access to most or all LDC imports. WTO members embraced this goal at the ministerial meeting in Hong Kong in 2005 where developed countries, and developing countries “in a position to do so,” pledged to provide full market access for LDCs on at least 97 percent of tariff lines. Developed countries—except for the United States—created programs under this initiative, as did China, India and a few other emerging market countries. Not all countries have reached the target for product coverage, however, and there are restrictive rules of origin in most programs.

While GSP programs are WTO-compatible by virtue of the Enabling Clause, they must still comply with certain conditions regarding nondiscriminatory treatment across developing countries. In 2002, India challenged an initial version of the EU’s “GSP+” program (described in Section 5) because the enhanced preferences were only available to some developing countries. An initial WTO dispute settlement panel agreed with India on key points, but the Appellate Body clarified that such a program could be acceptable, as long as “identical tariff treatment” is available to all GSP beneficiaries with the same “development, financial [or] trade need” to which the differential treatment is intended to respond.<sup>13</sup> This suggests that as long as a preference program for countries hosting refugees uses objective criteria to identify eligible beneficiaries, it should in principle meet the Appellate Body’s criteria.

#### 4. WHERE ARE THE REFUGEES?

Table 1 shows a list of 53 low- and middle-income countries—as defined by the World Bank—that host large numbers of refugees based on either the total number of refugees or the share they represent in the host country’s population. On the left, the table lists countries hosting at least 100,000 refugees at the end of 2018. On the right, the table shows other countries that meet the eligibility thresholds for the special financing facilities recently created by the World Bank, namely the refugee window at the International Development Association (IDA) and the Global Concessional Financing Facility (GCF) for middle-income countries hosting refugees. A country may be able to qualify for one of these facilities if it hosts at least 25,000 UNHCR-registered refugees or if refugees represent at least 0.1 percent of the host country’s population.<sup>14</sup> Together, the countries in the table account for nearly 85 percent of all UNHCR-documented refugees worldwide.

Turkey is hosting nearly 3.5 million Syrian refugees, while Lebanon is bearing, by far, the greatest proportional burden. The nearly 1.0 million refugees from the horrific crisis in Syria constitute over 16 percent of Lebanon’s population and the share is even higher if we add the 450,000 Palestinian refugees living in Lebanon that are registered with the UN Relief and Works Agency. Conflicts in South Asia and sub-Saharan Africa have also caused large numbers of people to flee, including more than a million Afghans into Pakistan, a similar number of South Sudanese into Uganda, and nearly a million Rohingya into Bangladesh.

Table 1 also includes, however, several large and populous middle-income countries—notably China, India, and Russia—for which the refugee populations, though large in absolute value, are an insig-

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12 WTO members self-identify as developed or developing and there is no set definition that tracks income levels or other criteria. In contrast, the United Nations has very specific criteria for defining LDCs.

13 See Robert Howse, “Appellate Body Saves the GSP, at Least for Now,” *Bridges Monthly Digest* (vol. 9, no. 4), 2004.

14 For more detail on these facilities, see Chapter 6 of Heliodoro Temprano Arroyo, “Using EU Aid to Address the Root Causes of Migration and Refugee Flows,” San Domenico di Fiesole: European University Institute, 2019.

nificant share of their population. For the purpose of identifying countries with the greatest refugee burdens that might be eligible for additional trade incentives, it makes sense to focus on countries where integrating refugees is likely to represent a significant economic and social challenge. On the left-hand side of Table 1, there are 20 countries that have refugee populations larger than 100,000 that also account for 0.5 percent or more of the local population. There are another five relatively small countries on the right-hand side of the table that have refugee populations accounting for 0.5 percent or more of their populations (Armenia, Burundi, Congo, Djibouti, and Mauritania). These 25 countries are primarily in sub-Saharan Africa and the Middle East, with Pakistan and Bangladesh being the main exceptions. They represent a reasonable sample for exploring the scope to improve trade preferences for refugee hosts.

## 5. CAN PREFERENTIAL TREATMENT BE BOOSTED FOR THE HOSTING COUNTRIES?

Many developing countries receive trade preferences of one sort or another, so what is the scope for improving market access for the developing countries that are most affected by refugee flows? Table 2 shows the 25 countries just mentioned as potential candidates for improved preferences arrayed by income level and the total and relative size of the refugee population they are hosting. As an indication of the preferential market access they currently enjoy, the table shows the trade preferences for which they are eligible in the EU and the United States, two key export markets.

What is most striking about the countries with relatively large refugee populations is how many of them are LDCs that already receive extensive trade preferences from industrialized countries other than the United States. The 14 LDCs in the table already enjoy duty-free, quota-free access for 98 percent or more of their potential exports under the EU's Everything But Arms (EBA) variant of the GSP, as well as similar programs provided by Australia, Canada, Japan, and New Zealand. Some of the larger emerging market countries—including China and India—have also implemented special preference programs for LDCs under the WTO's 2005 Hong Kong ministerial declaration.

Since the EU's and Canada's programs for LDCs have market-friendly rules of origin for most products as well as comprehensive product coverage, the potential to improve access in those markets is limited. There is more room to expand preferential market access for LDCs in other advanced economies and emerging markets that exclude some important exports, such as textiles, agricultural products or fishery products. Rules of origin that prevent LDCs from fully utilizing preferences are also a widespread problem.

In addition to the EBA and the regular GSP programs, the EU has a GSP+ variant and FTAs with a number of developing countries. Indeed, among the refugee hosts in Table 2, the Republic of Congo is the only one that is eligible for nothing more than the EU's regular GSP program, which excludes many key products, reduces but does not eliminate duties on others, and imposes burdensome rules of origin. Armenia and Pakistan currently receive GSP+ treatment, which offers duty-free access for most products but with a few more exclusions and the stricter GSP rules of origin. To be eligible, countries must be small and undiversified exporters, must protect human and worker rights as well as the environment, and follow certain good governance practices.<sup>15</sup>

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<sup>15</sup> To qualify for the EU's GSP+ program, countries must ratify and implement 27 international conventions on human and labor rights, environmental protection and good governance. Countries eligible for the GSP+ receive duty-free access for 98 percent of tariff lines. Norway also has its own version of GSP-plus, which is available to LDCs and other low income countries when they graduate to lower middle-income status and lose access to the more generous, duty-free, quota-free variant of its GSP.

The EU also has free trade agreements or customs unions with three of the upper middle-income countries that are large refugee hosts and no longer eligible for its GSP program—Jordan, Lebanon and Turkey—as well as with Ecuador. It also has Economic Partnership Agreements with Cameroon (implemented) and Kenya (interim) that provide generally barrier free access to its market.<sup>16</sup> But in some cases, these bilateral free trade agreements exclude certain sensitive products or contain restrictive rules of origin. This is why, for example, the EU tried to improve preferential access for Jordanian products through the special rules of origin agreement included in the 2016 EU-Jordan Compact.

The United States did not follow other WTO members in adopting nearly full access for all LDCs and, like most other preference providers, its standard GSP program excludes many labor-intensive manufactures and agricultural products that are potentially important exports for developing countries. As a result, many LDCs receive duty-free treatment on only around 80 percent of US tariff lines, well short of the 99 percent of tariff lines under the EU's EBA program.<sup>17</sup> The only major refugee host with which the United States has a bilateral trade agreement is Jordan. As a result of this patchy coverage, many Asian and Middle Eastern countries on the front lines of the worst refugee crises, including Bangladesh and Turkey (see below), receive little or no preferential access in the US market in practice.<sup>18</sup>

Many sub-Saharan African countries do receive better access to the US market under the AGOA preference program, which covers around 98 percent of tariff lines and has a simple rule of origin for clothing that allows eligible countries to use imported fabric. But only certain African countries, including seven of the 12 African LDCs in Table 2, are eligible to take advantage of the special apparel rule. AGOA also excludes some manufacturing products, as well as potentially important agricultural products. The program also leaves out countries for foreign policy reasons, such as Sudan, and has an extensive list of conditions related to democracy, worker rights, and other issues that can lead to the suspension of eligibility for some or all of a country's exports.

Some large refugee hosts lack preferential access in major markets. Iran has no preferential access to either the EU or United States, and Bangladesh, Iraq and Turkey lack it in one or the other. These are all important exceptions as these four countries include the world's largest refugee host country (Turkey) and two countries hosting more than 900,000 refugees. Iran's lack of preferential access to the EU and US markets primarily reflects foreign policy considerations, with the United States having long imposed extensive economic sanctions against this country.<sup>19</sup> In the case of Iraq, the EU does not grant GSP treatment as its GSP system does not cover upper middle-income countries. The United States also recently decided that Turkey was sufficiently developed to no longer need trade preferences (an unspoken reason may have been worsening political relations between the two countries).

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16 This is part of a policy aiming at concluding EPAs, either at regional or at country level, with most countries in sub-Saharan Africa. These agreements provide access similar to the EBA program, but they involve reciprocal liberalization and other provisions that make them quite different from the unilateral preferences under the EBA. The EU concluded negotiations on a regional EPA with the East African Community (EAC) in 2016, but only Kenya and Rwanda have signed it and the agreement cannot enter into effect until the other EAC countries do so. Meanwhile, the EU has agreed to grant Kenya interim access for virtually all exports under an "autonomous preferences" scheme. Rwanda—along with EAC members Burundi, Tanzania and Uganda—remain eligible for the EBA.

17 Kimberly Ann Elliott, primary author, "Open Markets for the Poorest Countries: Trade Preferences That Work." Report of the CGD Working Group on Global Trade Preference Reform, Washington, DC: Center for Global Development, 2010.

18 Kimberly Ann Elliott, "Developing a More Inclusive US Trade Policy at Home and Abroad", CGD Policy Paper 146, Washington, DC: Center for Global Development, 2019.

19 Even though the EU has opposed renewed economic sanctions imposed by the United States, Iran is unlikely to receive preferential access from the EU given the current political situation.

Bangladesh, which was eighth on the list of largest refugee hosts in 2018, is something of a special case. The United States suspended Bangladesh's access to the GSP program following the Rana Plaza disaster in 2013, which raised serious issues about labor conditions in garment factories. The EU also has concerns about worker rights in Bangladesh and is currently reviewing its EBA status. Finally, Bangladesh is scheduled to graduate from LDC status in 2024. If that happens, following the transition periods offered by some preference-providing countries, Bangladesh will lose the generous preferential programs reserved for LDCs. Moreover, Bangladesh would not be eligible for either the EU's or Norway's GSP+ programs after graduation because it is too large.<sup>20</sup>

In sum, many of the key refugee hosting countries are LDCs that already benefit from substantial preferential access in the markets of advanced economies. But there is still room for improving such access, particularly outside Europe and Canada, by removing exclusions (of both countries and sensitive products), simplifying rules of origin, and ensuring smooth transitions as countries develop economically and graduate from the most generous programs. There is even more scope to improve access for middle-income country hosts that receive a patchwork of often limited trade preferences.

## 6. POLICY OPTIONS FOR EXPANDING TRADE PREFERENCES TO SUPPORT REFUGEES AND HOSTS

As outlined earlier, there are three WTO-compatible avenues for improving trade preferences for refugee-hosting countries: bilateral or regional trade agreements under Article XXIV; a WTO ministerial decision under Article IX to waive the MFN rule; and changes to unilateral preference programs set up under the Enabling Clause. Because the aim of this proposal is to both support host countries and encourage efforts to facilitate livelihood opportunities, mobility and access to basic public services for the refugees, there should be conditions on access to improved preferences, whichever legal mechanism is chosen. We recommend the following adaptation (in italics) of the conditions attached to the World Bank's two new financing vehicles for refugee hosts, which require that recipients:

- have an adequate framework for the protection and integration of refugees; and
- have an action plan or strategy with concrete steps, including policy reforms that provide freedom of movement, the right to work, and access to health and education services.<sup>21</sup>

In some cases, such as Ethiopia and Jordan, the World Bank framework for engagement has catalyzed important policy changes to increase refugees' access to education and employment. In other cases, however, the general nature of the criteria has enabled lending without changes that promote long-term solutions.<sup>22</sup> Given the potential significance of well-designed trade concessions, it would be important to adopt criteria that ensure that these benefits come with meaningful progress in refugee labor market access and self-reliance as well as access to basic public services.

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<sup>20</sup> For example, Bangladesh does not meet the so-called vulnerability criterion of the EU's GSP+, which excludes countries with exports to the EU that exceed 6.5 percent of total EU imports under the GSP. Bangladesh's access to Norway's version of the GSP plus would also not be possible as the latter is limited to countries with populations of less than 75 million.

<sup>21</sup> The World Bank conditions are explained here, <https://ida.worldbank.org/replenishments/ida-18replenishments/ida18-regional-sub-window-for-refugees-host-communities>. See also Temprano Arroyo (2019; op. cit).

<sup>22</sup> See Laurent Post, Cindy Huang and Sarah Charles, "World Bank Financing to Support Refugees and their Hosts: Recommendations for IDA 19," CGD-IRC Note, Washington, DC and New York: Center for Global Development and International Rescue Committee, 2019.



To make the proposal focused and politically feasible, development partners will likely want to limit the improved preferences to countries with the largest refugee presence. Thus, the initiative might target the 25 countries identified in Table 2, where refugees are at least 0.5 percent of the host country's population. Limiting the number of countries eligible for these refugee-related trade preferences would also help avoid an erosion of the value of the preferences granted, thus enhancing the economic incentive they provide and their effectiveness.

### **6.1 The Article XXIV option for countries with FTAs**

For a refugee-hosting country that has free trade agreements with one or more major markets, it may be quicker and easier for donor countries to go with the GATT Article XXIV option and negotiate improvements to those agreements. While this was the approach the EU followed in the compact with Jordan, bilateral and regional trade agreements are patchy in their coverage and relatively few of the major refugee hosting countries have them. Donors could certainly use this approach in situations where it is relevant, such as the EU's response to the Syrian crisis and the compact with Jordan, but it has limited application overall.

### **6.2 Waiving the MFN clause through a WTO decision under Article IX**

An alternative way to grant special trade preferences to selected refugee hosts would be, as proposed by Turkey and Qatar at the WTO, to waive the MFN clause through an ad hoc WTO decision under Article IX. An advantage of the Article IX option is that it could be designed to include both more preference-providing countries (potentially the entire WTO membership) and more recipients than the other options, though we are not recommending that advanced economies receive these preferences. This approach would allow, in particular, emerging markets to expand preferences to developing countries beyond the LDC group, which could amplify the benefits.

A significant shortcoming of the Article IX approach, however, is that a waiver would have to be adopted by a consensus decision of WTO members and only on a temporary basis.<sup>23</sup> Article IX requires that the decision implementing waivers state the date when it will terminate—which would be difficult in this case—and that the membership review and decide whether to extend or modify waivers annually. The rejection of the Turkey-Qatari proposal suggests that gathering the necessary consensus among WTO members to approve a waiver for this initiative would be politically difficult. The need to renew it periodically would also create uncertainty that could deter job-creating investments.

### **6.3 Reforming the GSP and similar programs created under the Enabling Clause**

A third, and likely politically easier, approach would entail a reform of the GSP and similar preferential programs, such as the duty-free, quota-free market access initiative for LDCs, to improve market access for large host countries that promote the inclusion of refugees. The initiative should offer those countries full or nearly full preferential access like that currently granted to LDCs under the EU's EBA or Canada's program for LDCs. One advantage of this approach when compared to the Turkey-Qatar proposal is that it would not require consensus among WTO countries. It would be more effective, as well as more consistent with a fair sharing of the effort among donor countries, if this initiative were undertaken collectively by all WTO members offering GSP type programmes. But it could also be adopted on an ad hoc basis by only some of them.

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<sup>23</sup> This article provides that a waiver may be approved by a four-fifths vote of members if consensus is not possible. Most members are strongly committed to the consensus principle, however, and shun formal voting.

A possible objection to this approach is that it would discriminate against GSP beneficiaries that are not large refugee hosts, and therefore be inconsistent with the Enabling Clause. As long as the criteria for determining eligibility were clear and objective, however, such a program would seem to be consistent with the principles for preference programs that the WTO Dispute Settlement Body set out in response to India's complaint regarding the original EU GSP+ program. As noted, the Appellate Body ruled in that case that the EU could apply a more generous version of the GSP to countries meeting certain vulnerability and governance requirements as long as all countries meeting the program's criteria were treated equally.

The introduction of refugee considerations in the GSP might also be seen as going against the rationale and objectives of the GSP since the 1979 Enabling Clause only waived the MFN in the case of preferences aimed at promoting the economic development of low- and middle-income countries. One could argue, however, that the presence of a large number of refugees tends to exacerbate the economic fragility of host countries and that, by helping to increase these countries' resilience and helping them benefit from the economic contribution of refugees, preferences granted under the GSP on refugee grounds can contribute to their stability and economic development.

The ongoing review of the EU's current GSP Regulation, which expires at the end of 2023 and is expected to be replaced by a revised regulation applying for another 10 years, provides an opportunity for the EU to bring refugee policy considerations into the system. Indeed, in 2016, in its Communication establishing a New Partnership Framework with Third Countries on Migration, the European Commission proposed to explore introducing migration considerations in the future GSP+ system.<sup>24</sup> A straightforward approach to do so would be to add the UN Refugee Convention and Protocol to the list of 27 international conventions that must be ratified and implemented under the existing GSP+ program.<sup>25</sup> But that might limit the number of countries that would benefit, while the implementation of the Refugee Convention and Protocol would not necessarily entail a genuine effort to encourage refugee's access to formal labour and public services. Moreover, the current vulnerability criteria of the GSP+ would prevent, as noted, one of the largest refugee hosts (Bangladesh) from participating.

A more useful strategy would be for the EU to offer EBA levels of preference to all low- and middle-income countries that meet the criteria in terms of refugee populations, as well as the conditions outlined above for integrating refugees economically. This would mean that the eligible refugee hosts would receive duty-free, quota-free market access, with the simpler EBA rules of origin, regardless of the GSP variant for which they would be eligible on per capita income grounds.

For the approach in this section to be effective, however, other key GSP donor countries would also need to participate. This concerns in particular the United States, which should consider this initiative as part of wider reform of its GSP system aimed at moving its coverage and rules closer to those of donors such as the EU, Canada, and Norway. But it also concerns other GSP providers, as well as emerging market countries with similar programs that have important product exclusions or restrictive rules of origin.

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24 European Commission, "Establishing a new Partnership Framework with third countries on Migration under the European Agenda on Migration," Communication from the Commission to the European Parliament, the European Council, the Council and the European Investment Bank, COM(2016) 385 final, Strasbourg, 07.06.2016 (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52016DC0385>).

25 The possibility to update the list of international conventions the GSP+ is conditional upon was recommended by the 2018 Mid-Term Evaluation of the EU's GSP. See Mid-Term Evaluation of the GSP Regulation, European Commission, Brussels, 8 October 2018, accessible at: [http://trade.ec.europa.eu/doclib/docs/2018/august/tradoc\\_157270.pdf](http://trade.ec.europa.eu/doclib/docs/2018/august/tradoc_157270.pdf)

## 7. CONCLUDING REMARKS

The upcoming WTO ministerial meeting of June 2020 provides an opportunity for countries to discuss, and ideally come to a ministerial decision on, possible ways to waive the MFN principle in order to support countries that provide a global public good by hosting large populations of refugees. Even a less binding declaration endorsing the idea would be a powerful signal on the need for broader burden sharing in support of refugees and their host countries. In exchange, refugee host governments would need to facilitate livelihoods opportunities for refugees so they can support themselves and their families – as required by the World Bank for its special facilities for refugees and as done by Jordan and countries, such as Ethiopia, participating in the UN's new CRRF.

It cannot be emphasized enough that for these special trade preferences to make a real positive impact on both refugees' economic self-reliance and the hosting economies they must not only provide attractive preferential margins but must also be accompanied by clear commitments on the part of the beneficiary countries regarding refugee's right to work, move within their territories and access essential public services such as education and health care.

Because so many of the countries hosting large numbers of refugees are LDCs that already benefit from virtually free access to the European and Canadian markets, the opportunities to improve preferential treatment for them in those markets is rather limited. But the opportunities are greater for a number of key middle-income countries that are among the world's most important refugee hosts, or for some countries like Bangladesh that will soon lose their LDC status. Moreover, even for the low-income countries, other advanced countries, and the United States in particular, have significant room to improve their programs. The United States declined at the time of the Hong Kong ministerial of 2005 to implement duty-free, quota-free market access for LDCs, saying that it would only do so as part of the broader Doha Round trade negotiation. While those trade negotiations subsequently collapsed, the argument would not apply to this new initiative with its different rationale. Although it is unlikely to happen under the current American president, a future president could garner substantial goodwill globally by embracing this proposal.

**TABLE 1. Low- and middle-income countries with the largest refugee populations (end-2018)<sup>26</sup>**

Countries hosting > 100,000 refugees			Other countries hosting > 25,000 refugees or > 0.1 percent of population <sup>2</sup>		
Country	Number of refugees <sup>2</sup>	Refugees as a share of host population	Country	Number of refugees <sup>3</sup>	Refugees as a share of host population
Turkey	3,681,685	4.63	Algeria	94,350	0.23
Pakistan	1,404,019	0.73	South Africa	89,285	0.16
Uganda	1,165,653	2.81	Mauritania	83,191	1.93
Sudan	1,078,287	2.72	Russia	77,397	0.05
Iran	979,435	1.22	Afghanistan	72,231	0.21
Lebanon	949,666	15.81	Burundi	71,507	0.68
Bangladesh	906,645	0.56	Venezuela	67,289	0.21
Ethiopia	903,226	0.88	Zambia	49,879	0.30
Jordan	715,312	7.56	Angola	39,865	0.14
Congo, DR	529,061	5.01	Congo	37,494	0.73
Chad	451,210	3.12	Nigeria	34,738	0.02
Kenya	421,248	0.87	Serbia	30,885	0.44
Cameroon	380,329	1.62	Mali	26,539	0.15
China	321,756	0.02	Burkina Faso	25,122	0.13
South Sudan	291,842	2.39	Syria	18,817	0.10
Iraq	283,022	0.76	Djibouti	18,295	1.94
Tanzania	278,322	0.50	Armenia	17,970	0.61
Yemen	264,369	0.96	Somalia	16,741	0.12
Egypt	246,749	0.26	Togo	12,336	0.16
India	195,891	0.01	Papua New Guinea	10,026	0.12
Niger	175,418	0.85	Liberia	9,122	0.20
Rwanda	145,360	1.22	Libya	8,794	0.14
Malaysia	121,302	0.39	Central African Rep.	6,655	0.14
Thailand	102,245	0.15	Bosnia & Herzegovina	5,229	0.15
Ecuador	101,564	0.62	Guinea-Bissau	4,850	0.27
			Gambia, The	4,034	0.20
			Namibia	2,400	0.10
			Montenegro	729	0.12

<sup>26</sup> Sources: UNHCR and World Bank.

(1) For the shares in host population, the population data refer to 2016.

(2) Excludes 5.3 million of Palestinian refugees under UNRWA's mandate.

(3) These are the thresholds used for the World Bank's two financing facilities for countries hosting refugees that may need additional assistance.

**TABLE 2. Major refugee hosts by income level and degree of preferential access in major markets**

Refugee burden	LDCs			LMICs			UMICs		
	Country	Preferential access in EU	Preferential access in US	Country	Preferential access in EU	Preferential access in US	Country	Preferential access in EU	Preferential access in US
> 100,000 refugees and > 0.5 percent of population	Bangladesh	EBA	<sup>a</sup>	Cameroon	EPA	AGOA + <sup>b</sup>	Ecuador	FTA	GSP
	Chad	EBA	AGOA + <sup>b</sup>	Kenya	<sup>c</sup>	AGOA + <sup>b</sup>	Iran		<sup>a</sup>
	Congo, DR	EBA	GSP	Pakistan	GSP +	GSP	Iraq		GSP
	Ethiopia	EBA	AGOA + <sup>b</sup>				Jordan	FTA	FTA
	Niger	EBA	AGOA + <sup>b</sup>				Lebanon	FTA	GSP
	Rwanda	EBA <sup>c</sup>	AGOA				Turkey	Customs union	<sup>d</sup>
	S. Sudan	EBA	GSP						
	Sudan	EBA	<sup>a</sup>						
	Tanzania	EBA <sup>c</sup>	AGOA + <sup>b</sup>						
	Uganda	EBA <sup>c</sup>	AGOA + <sup>b</sup>						
	Yemen	EBA	GSP						
< 100,000, ≥ 0.5 percent of population	Burundi	EBA <sup>c</sup>	GSP	Congo	GSP	AGOA	Armenia	GSP +	GSP
	Djibouti	EBA	AGOA						
	Mauritania	EBA	GSP						

AGOA = African Growth and Opportunity Act; EPA = Economic Partnership Agreement; FTA = Free Trade Agreement; GSP = Generalized System of Preferences; LDC = least developed country; LMIC = lower middle-income country; UMIC = upper middle-income country; a = ineligible or suspended from benefits for political reasons; b = the AGOA program provides a special—looser—rule of origin for designated AGOA-eligible program; c = the EU concluded in 2016 a regional EPA with the Eastern African Community but it has not yet entered into effect. Kenya is receiving interim access to the EU market for all of its exports under an Autonomous Preferences scheme; d = the United States recently determined that Turkey was developed enough to no longer needed preferences and revoked its GSP eligibility.

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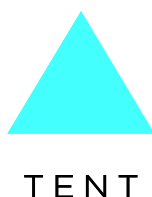
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27 “Designing a medium-term response for the Rohingya refugee crisis: Ideas for Bangladesh, the international community, and the private sector,” Center for Global Development, is a synthesis of research on private sector investment, employment-oriented skills development, forest landscape restoration, and the complementary policy changes and funding needed to operationalize these ideas to benefit refugees and their host communities alike. It is available along with other related papers at <https://www.cgdev.org/page/solutions-for-bangladesh-hosts-refugees>.



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