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The UNCTAD GSP newsletter provides Governments and exporters in developing countries with information on developments in the generalized system of preferences (GSP), rules of origin and related issues. The newsletter may be published as and when information on significant developments in various preferential schemes becomes available.

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Reform of the GSP scheme of the European Union

On 31 October 2012, the European Union (EU) adopted Regulation (EU) 978/2012 introducing major changes to the EU GSP scheme. The changes will enter into effect as from 1 January 2014. In the meantime, the existing scheme has been extended until 31 December 2013. While the current EU GSP scheme has had to be renewed every 3 years, the new EU GSP scheme will remain in place for 10 years.

The reform came after a review of the impact of the existing EU GSP scheme conducted by the EU, based on the European Commission's impact assessment study and a period of internal consultations regarding the future direction of the EU preferential scheme. The impact assessment study found that, as some of the major beneficiaries of the EU GSP scheme become globally competitive, the need for the special competitive advantages for them afforded by GSP has become less important, while other lower-income countries and LDCs continue to rely on GSP benefits in exporting competitively to EU markets. The EU came to the conclusion that high-income or upper-middle-income countries had achieved a high level of diversification and would no longer require preferential treatment to the same extent as lesser developed economies. Further, it was argued that advanced developing countries tend to benefit from the EU GSP scheme at the expense of LDCs and other low-income economies. The stated goal of the new EU GSP scheme, then, was to refocus GSP benefits on those countries most in need while reducing benefits provided to countries that have become globally competitive.

Eligibility criteria: currently, 176 countries receive GSP benefits under the EU GSP scheme. Under the new scheme as from 2014, the number of beneficiaries will be reduced to 89. Three types of countries will lose GSP benefits under the new GSP eligibility criteria. These are:

(i) Overseas countries or territories that are under the administration of the EU or other developed countries (e.g. Gibraltar will lose its eligibility because it is under the administration of the United Kingdom of Great Britain and Northern Ireland);

(ii) Countries that have free trade agreements (FTAs) with the EU or other preferential market access arrangements, such as Economic Partnership Agreements (EPAs) and the special regime for Balkan countries (e.g. Algeria will lose its benefits because it enjoys preferential market access to European markets under the Euromed agreement). LDCs are not subject to this exclusion;

(iii) Countries that may be classified as high and upper-middle-income countries for the past three years, as defined by the World Bank, based on gross national income (GNI) per capita (e.g. Saudi Arabia will lose GSP benefits because it has been classified as a high-income country for the past three years, and Cuba will lose GSP eligibility because it has been classified as a middle-income country for the past three years.)

Countries in categories (ii) (those enjoying preferential tariff rates through other programmes) and (iii) (those classified as high- or upper-middle-income countries) will lose GSP benefits but will remain eligible to reapply for GSP benefits if they either lose the benefits associated with another preferential trade programme, or lose their status as high or upper-middle-income countries, respectively.

Graduation of competitive products: changes are also introduced with respect to the product-specific graduation system under the new GSP scheme. As in the present scheme, countries will be graduated from GSP benefits for specific products if they exceed a certain threshold level in the market share of a given product category. Under the new scheme, the threshold has been raised by 2.5 percentage points, so that beginning in 2014, if the exports of a certain product from one country exceed 17.5 per cent of total EU imports from GSP beneficiary countries, that product from that particular country will be graduated, i.e. the product will no longer benefit from reduced preferential tariffs. For textiles and clothing, the current threshold level is 12.5 per cent of total imports from GSP countries, which will be raised to 14.5 per cent under the new regime. The increase in threshold needs to be appreciated in the light of the reduced number of beneficiary countries, as noted above, from 176 to 89. Currently, a country is graduated if the imports from the country exceed 15 per cent of the total EU imports from 176 GSP beneficiary countries. Under the new regime, the denominator will be reduced, excluding higher-income countries.

Remaining GSP beneficiaries will be graduated if they exceed 17.5 per cent of total imports from 89 lower-income countries.

GSP+ regime: the EU GSP+ scheme provides "vulnerable" countries with mostly duty-free imports for all goods covered by the GSP. The programme also aims to promote sustainable development and good governance by requiring beneficiaries to meet certain conditions related to these goals in order to receive deeper preferences under the scheme.

The new changes introduced to the GSP+ programme have the stated objective of making it more accessible for vulnerable developing countries, and strengthening the Commission's enforcement of GSP+ conditionalities. The current GSP+ scheme covers 15 beneficiaries (Bolivia (Plurinational State of), Colombia, Costa Rica, Ecuador, El Salvador, Georgia, Guatemala, Honduras, Mongolia, Nicaragua, Panama, Peru, Republic of Moldova, Sri Lanka and Venezuela (Bolivarian Republic of)).

Currently, in order to qualify for GSP+, a country must meet two main requirements. First, the vulnerability criterion stipulates that a country must be considered vulnerable due to a lack of diversification and insufficient integration within the international trading system. At present, a country meets this criterion if its GSP imports into the EU represent less than 1 per cent of the total value of imports into the EU under GSP. Second, a country seeking GSP+ status must ratify and implement a list of international conventions pertaining to labour standards, human rights and environmental sustainability. At present, once a country meets these qualifications, it can apply for GSP+ benefits only once every 1.5 years.

Under the new scheme, the GSP+ vulnerability criteria in respect of the import share has been relaxed from 1 per cent to 2 per cent, and countries will continue to be eligible for GSP+ benefits if total imports into the EU represent less than 2 per cent of all GSP country imports. Since the number of GSP beneficiary countries will also be drastically reduced, to what extent this "relaxation" will affect existing and potential beneficiaries is to be ascertained. In an effort to make GSP+ more accessible, the EU has removed the 1.5 year time limit, and will allow countries to apply for GSP+ status at any time.

The new EU GSP scheme imposes new, more robust controls for monitoring violations of GSP and GSP+ obligations. First, evaluations for GSP+ compliance will occur more frequently, every two years instead of every three years. Second, the new scheme provides stronger procedures for temporary suspension in the case of non-compliance with the GSP programme requirements. For example, the Commission is empowered to remove a beneficiary country from the scheme temporarily if it has a reasonable doubt as to the country's respect for international obligations. The country may be removed for up to six months, three months after which the Commission must make a decision regarding permanent removal. Reasons for removal may include: violation of principles of international conventions, export of goods made by prison labour, serious shortcomings in customs controls on the export or transit of drugs, or serious and systemic unfair trading practices. The EU has noted specifically that any "unfair trading practices" related to the supply of raw materials will result in temporary withdrawal. Unfair trading practices must be those that are prohibited or actionable under WTO Agreements and any determination that an unfair trading practice has occurred must be made by a competent WTO body.

Everything But Arms (EBA): under the present GSP scheme the EBA arrangement allows 49 of the least developed countries to enjoy duty-free and quota-free access to the EU market, except for arms and armaments. The purpose of the programme is to strengthen the effectiveness of trade concessions for LDCs. The reform efforts will not affect EBA, which is a permanent arrangement.

Recent developments in the GSP scheme of the United States

The United States established its GSP programme as part of the Trade Act of 1974 in an effort to promote economic growth in developing countries through preferential trade schemes. Today, through the US GSP programme, 127 beneficiary countries and territories may export up to 5,000 types of products to the United States duty-free. Of the beneficiary countries, 44 are

LDCs. In 2011, $18.5 billion in imports entered the United States duty free through the GSP programme. In 2011, the top five GSP beneficiary countries, by number of imports, were (1) India ($3.7 billion), (2) Thailand ($3.7 billion), (3) Brazil ($2.1 billion), (4) Indonesia ($2.0 billion), and (5) South Africa ($1.3 billion.)

As has happened in the past, between 1 January 2011 and 21 October 2011, the US GSP programme was temporarily suspended and then retroactively reinstated due to Congressional inaction before the programme's authorization expired at the end of 2010. The United States Congress met on 15 December 2010 to amend the Omnibus Trade Act (H.R. 6517), but did not extend the US GSP programme at that time and authorization for the programme expired on 31 December 2010. The GSP programme was not renewed again until over 10 months later, on 21 October, 2011. The renewed programme is currently set to expire on 30 July 2013.

During the 10.5 month suspension of the US GSP, United States importers had to pay most favoured nation (MFN) duties on any GSP goods from GSP beneficiary countries. As a result, Congress also passed legislation authorizing the refund of any fees or duties paid as a result of the GSP expiration. All duties paid on GSP-eligible merchandise that was entered or withdrawn from a warehouse for consumption during the period from 1 January 2011 – 4 November 2011 may be refunded.

The expiration of the GSP programme occurred among debates, similar to those seen in the EU, about the continued value of GSP eligibility for certain countries that have reached advanced stages of development. Some suggested that GSP programme eligibility should be restricted for those countries that no longer need the competitive advantages afforded by preferential tariff treatment and the programme should be refocused on LDCs. These questions will likely be raised again in the context of the expected debate over the programme's renewal and possible substantial reforms before the expiration of the current scheme on 30 July 2013.

In the meantime, annual review of GSP benefits has led to some changes to the GSP beneficiary status of some countries. In March 2012, South Sudan was added as a GSP beneficiary country and LDC and Argentina lost its status as a GSP beneficiary because of its failure to pay two longstanding investment dispute arbitral awards due to United States companies. On 20 December 2012, St. Kitts and Nevis was removed from GSP eligibility because it became a high-income country under the World Bank definition. The termination is set to become effective on 1 January 2014.

In eliminating tariffs on eligible products covered under the scheme, the US GSP programme encourages beneficiaries to eliminate or reduce barriers to trade, grant workers internationally recognized workers' rights, and protect intellectual property rights by attaching these conditions as eligibility criteria for beneficiary countries for the GSP programme. The Office of the United States Trade Representative (USTR) conducts country-specific reviews on beneficiary countries under the GSP programme to ensure compliance with these requirements and conditions. If countries are found to be in serious violation of the eligibility criteria, they risk losing the trade benefits associated with GSP programme eligibility.

In 2011, the USTR closed a country practice review regarding workers' rights in Sri Lanka, in light of the significant progress made in the country to provide workers with internationally recognized labour rights. Bangladesh, on the other hand, may face withdrawal, suspension or limitation of its GSP benefits on the grounds of workers' rights issues. In 2011, Fiji and Iraq were brought under review to analyse the issue of workers' rights in those countries. Fiji and Iraq join Georgia, the Niger, the Philippines and Uzbekistan, which remain under review from previous years. Indonesia and Ukraine were brought under review for intellectual property rights, joining Lebanon, the Russian Federation and Uzbekistan.

The African Growth and Opportunity Act (AGOA) was signed into law in May 2000 to advance United States trade and investment in sub-Saharan Africa, and to expand the number of products eligible for duty-free importation to the United States for eligible sub-Saharan countries in addition to those granted by the GSP programme. Notably, unlike GSP beneficiaries, AGOA-eligible countries may export many textiles, footwear and some agricultural products and processed foods duty free. As a result of the trade preferences granted by the GSP programme and AGOA combined, most goods produced in AGOA-eligible countries may enter the US duty free.

In a significant development, the third-country fabric provision of AGOA, which was set to expire on 30 September 2012, was renewed by the United States Congress until 2015 on 2 August 2012 (the AGOA Third Country Fabric Bill) to be in line with the entire AGOA programme which is to expire in 2015. The provision enables certain AGOA-eligible countries to export apparel to the United States by using fabric produced in, and imported from, a third country within a quantitative limit. This provision is estimated to have supported significant employment opportunities for sub-Saharan African exporters.

On 25 October 2011, the United States restored AGOA-eligibility to Côte d'Ivoire, Guinea and the Niger. Since 1 January 2010, these countries had lost the preferential trade benefits provided by AGOA for political reasons. AGOA status was reinstated as a result of elections in those countries that were judged free and fair. On 20 December 2012, the United States granted AGOA-eligible status to South Sudan. Guinea-Bissau and Mali were declared non-eligible to receive AGOA benefits in 2013 for political and governance reasons.

Recent developments in the GSP scheme of Japan

Japan has granted preferential tariff treatment under its GSP scheme to developing countries since 1971. In total, 137 developing countries and 14 territories are beneficiaries of the current Japanese scheme. LDCs are eligible for additional preferential treatment. There are 337 agricultural and fishery products and 3,141 industrial products which may be imported under Japan's GSP scheme. The previous GSP scheme was set to expire on 31 March 2011 and was renewed on 1 April 2011 for 10 years until 31 March 2021. Alongside the renewal of the GSP scheme, some changes were introduced, with the goal of increasing transparency and simplicity while providing balanced market access opportunities for beneficiary countries. These changes included the following:

(1) Japan abolished import quantitative ceilings applicable to some industrial products and set up ex-post preferential tariff rates for many items with tariffs ranging from zero (duty free), to 20 per cent, 40 per cent, 60 per cent or 80 per cent.

(2) Japan revised its product-specific graduation system, a scheme whereby products can cease receiving GSP preferential rates based on competitiveness. Now, when the importation of a product from a GSP beneficiary passes 50 per cent of the total value of imports of that product from the world into Japan over the previous three years and also represents a market of over one and a half billion yen (approximately €12.6 million or $16.8 million), that product will not be eligible for Japan's GSP benefits for the next three years. Notably, of the 98 products affected, 96 come from China (of the remainder, one product comes from Thailand and another from Brazil).

(3) Japan excluded certain items from its GSP scheme, including trunks, suitcases, many leather goods, fur skin apparel, some silk ties, footwear and parts thereof, jewellery and parts thereof, imitation jewellery, ferro-manganese, ferro-silico-manganese and other ferro-alloys, among others.

(4) Japan relaxed its preferential rules of origin on textile and clothing products. The main parts of the revision include changes to the way that the "donor country" rule will be applied, relaxation of the rules of origin for "knit apparel" products, and the introduction of a "de minimis" component for textiles and textile articles. Under the new scheme, the rules of origin for knitwear items (HS chapter 61) have been defined as “manufactured from textile yarn”, thereby reducing the required processing stages from three to two. That is, products now need only to be (1) knitted and dyed and (2) sewn in one country in order to be considered "from" that country.

(5) Japan graduated Oman, Trinidad and Tobago, and Barbados from the countries eligible for GSP benefits, since those countries had been classified as high-income countries by the World Bank for the previous three years. Maldives are excluded from the list of LDCs that receive special benefits under Japan's GSP scheme as of 1 July 2011, in response to United Nations action removing the country from the list of LDCs.

Proposed developments in the GSP scheme of Canada

Canada has provided preferential tariff rates for developing countries under its General Preferential Tariff (GPT) scheme since 1974. The current GPT regime is set to expire on 30 June 2014. In connection with renewal of the programme, substantial reform has been proposed to the GPT regime and is subject to public consultation. The proposed changes to the Canadian GPT regime may be summarized as follows:

(1) Substantial reductions in the number of eligible countries: The most important proposed change to the GPT regime involves a substantial reduction in the number of eligible beneficiary countries, similar to the changes introduced in the EU GSP scheme. Canada has proposed withdrawing GPT eligibility from any country that has been classified for the past two consecutive years as a high-income or upper-middle-income country, according to the World Bank classification, or any country that has a share of world exports that is equal to or greater than 1 per cent for two consecutive years, according to the WTO trade statistics. This change would eliminate 72 beneficiary countries and reduce the total number of beneficiary countries from 175 to 103. Notably, Brazil, the Russian Federation, India and China would all cease to be GPT beneficiaries. Imports from countries that have separate preferential trade arrangements, such as countries that have signed FTAs with Canada, would continue to receive preferential tariff rates under those agreements.

(2) Possible changes to product coverage: Next, the Government of Canada has suggested that changes to product coverage may be considered, and has solicited public comment on the matter. Currently, the GPT regime provides duty-free or reduced tariff rates for more than 80 per cent of Canadian tariff items.

(3) Potential formal incorporation of a safeguard mechanism: the Canadian Government has also suggested that it might formally incorporate into law the GPT safeguard mechanism, which allows Canada to withdraw GPT benefits upon a finding by the Canadian International Trade Tribunal that domestic producers are suffering serious injury, or threat thereof, from competition with GPT import rates.

(4) Potential changes to expiry date and frequency of reviews: at present, the GPT regime is reviewed every 10 years. The Government is seeking public comment as to whether or not country coverage determinations, based on the above criteria, should be reviewed annually and whether the GPT regime should be extended indefinitely.

➢ Recent developments in market access initiatives in favor of LDCs by India, China, Republic of Korea and Brazil

At the WTO Hong Kong Ministerial Conference held in December 2005, all developed countries and “developing countries declaring themselves in a position to do so” committed to providing duty-free and quota-free market access to their markets for LDCs, covering at least 97 per cent of their national tariff lines. Flexibilities are recognized for developing countries in implementing these commitments. Significant progress has been made in selected developing countries in this regard.

India: India was the first developing country to implement a preferential market access scheme for LDCs. India's Preferential Tariff Treatment for LDCs entered into force on 13 August 2008 and was notified on 5 September 2011 under the WTO Transparency Mechanism for PTAs. Under the scheme, 94 per cent of India's total tariff lines receive duty-free or preferential access and 92.5 per cent of global exports of all LDCs are covered by the scheme. The scheme is available for all LDC members. Beneficiaries must submit letters of intent and designate the origin certifying authorities to India’s Department of Commerce to benefit from the scheme. As of August 2012, letters of intent had been received from 28 LDCs (Afghanistan, Bangladesh, Benin, Burkina Faso, Burundi, Cambodia, Central African Republic, Comoros, Eritrea, Ethiopia, Gambia, Lao People's Democratic Republic, Lesotho, Madagascar, Malawi, Maldives, Mali, Mozambique, Myanmar, Rwanda, Samoa, Senegal, Somalia, Sudan, Timor Leste, Uganda, United Republic of Tanzania and

Zambia).

China: China's DFQF scheme for LDCs first came into effect on 1 July 2010, and was renewed on 1 January 2011. The DFQF scheme does not have an expiration date. It covers 4,788 tariff lines or 60 per cent of all tariff lines. China has committed to increasing coverage to 97 per cent of all tariff lines in the future. At present, 98.7 per cent of all imports from LDCs are covered. LDCs with diplomatic relations with China are eligible to be beneficiaries and 40 countries were listed as beneficiaries as of 24 October 2011. These were: Afghanistan, Angola, Bangladesh, Benin, Burundi, Cambodia, Central African Republic, Chad, Comoros, Democratic Republic of the Congo, Djibouti, Equatorial Guinea, Eritrea, Ethiopia, Guinea, Guinea-Bissau, Lao People's Democratic Republic, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritania, Mozambique, Myanmar, Nepal, Niger, Rwanda, Samoa, Senegal, Sierra Leone, Somalia, Sudan, Timor Leste, Togo, Uganda, United Republic of Tanzania, Vanuatu, Yemen and Zambia. Concurrently, China offers preferential treatment on 90 per cent of tariff lines under the China-ASEAN Free Trade Agreement for Cambodia, the Lao People's Democratic Republic and Myanmar. The Lao People's Democratic Republic and Bangladesh receive additional benefits under the Asia Pacific Trade Agreement.

Republic of Korea: the Republic of Korea lifted tariffs on 80 items (HS 6-digit) originating in LDCs starting on 1 January 2000. Subsequently, in January 2008, it unilaterally expanded preferential duty-free access on selected imports of 3,790 (HS 6-digit (2007)) tariff items from 50 LDCs.

Brazil: at the seventh WTO Ministerial Conference in 2009, Brazil announced its intention to provide DFQF access for LDCs for products covering 80 per cent of its tariff lines by mid-2010 and that access would be gradually increased to 100 per cent. This is yet to be materialized. It is reported that the National Confederation for Industry (CNI) in Brazil has expressed concern that at a moment when world demand is low, national industries depend more upon the local market and weak enforcement of rules of origin might allow for countries other than LDCs to import DFQF to Brazil through trade arbitrage. The general contours of a DFQF programme are said to be "cautiously discussed" by public and private stakeholders in view of the trading profile of Brazil in relation to the LDCs, the productive structure of the LDCs and the competitiveness of national industry.

Recent developments in South-South trade cooperation - the Global System of Trade Preferences among Developing Countries (GSTP)

South-South trade has emerged as a dynamic component of world trade and presents tremendous opportunities for developing countries. South-South exports reached $4.2 trillion in 2011 and accounted for 55 per cent of total developing country merchandise exports and 24 per cent of world exports. Asian countries are by far the major players in South-South trade, with some 80 per cent of South-South exports conducted among Asian countries.

The Agreement on the Global System of Trade Preferences among Developing Countries (GSTP) seeks to promote trade among developing countries, or South-South trade, through an exchange of tariff concessions among developing-country parties to the Agreement. Three rounds of GSTP negotiations have been held to date: 1986–1988, 1991–1998 and 2004–2010. The most recent round of GSTP negotiations, known as the São Paulo Round, was concluded on 15 December 2010. The resulting tariff concessions increased product coverage to 47,000 tariff lines, compared to some 650 products covered by the previous two rounds. Twenty-two of the 43 GSTP members participated in the São Paulo Round, and 11 countries agreed on tariff concessions and signed a protocol concluding the Round.

The changes associated with the São Paulo Round will enter into force upon the ratification of four countries. As of 2013, India, Malaysia and Cuba have completed ratification procedures. Most recently, Cuba ratified the São Paulo Round protocol and submitted its instrument of ratification in January 2013. When one more country ratifies the agreement, it will enter into force.

On the occasion of UNCTAD XIII, held in April 2012 in Doha, the parties to the GSTP Agreement met at the ministerial and senior official level on 23 April 2012 and adopted a joint communiqué (GSTP/CP/SSQ/1) reaffirming the value of South-South trade cooperation in general and that of

GSTP in particular.

GSTP ministers and senior officials reaffirmed their strong commitment and engagement to the GSTP as a common platform for South-South trade cooperation and partnership. They noted that through this partnership, they seek to create the conditions necessary for our economies to harness the benefits from dynamic South-South preferential trade for inclusive and sustainable development, which would also contribute to the growth of world trade, thereby benefiting the overall global economy. Stressing that the successful conclusion of the São Paulo Round in 2010 marked a major milestone in the history of South-South trade cooperation, GSTP participants renewed their determination to redouble efforts in order to operationalize the effects of the São Paulo Round into effective application as soon as possible by expediting national ratification procedures.

In view of the fact that 22 participants took part in the São Paulo Round negotiations, they also reaffirmed their commitment to work towards expanding participation in the São Paulo protocol to create new trade dynamism and export diversification opportunities. In this regard, it was considered important to identify how participation could be encouraged and extended to other participants that are yet to take part in the Round, to bring about a meaningful South–South trading cooperation among the participants. The countries also recognized the need for LDCs to receive concrete benefits under the agreement, including by recognizing that they are not required to make concessions on a reciprocal basis.

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