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**TRADE PREFERENCES FOR LDCs:  
AN EARLY ASSESSMENT  
OF BENEFITS AND POSSIBLE IMPROVEMENTS**



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## Note

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## Executive summary

Unilateral tariff preferences in favour of developing countries are usually regarded as a "second-best" arrangement that may also divide developing countries. Nevertheless, despite the general decline in most-favoured-nation (MFN) tariffs as a result of GATT/WTO negotiations, there remain substantial MFN tariffs on many developing country exports, and preferences continue to have value in increasing export opportunities for developing countries. There have also been efforts to improve the scope and operation of various schemes, notably the Generalized System of Preferences (GSP) and more recent initiatives such as the European Union's "Everything But Arms" (EBA) scheme for least-developed countries (LDCs) or the United States African Growth and Opportunity Act (AGOA). For more than a decade, it has been pointed out, in the UNCTAD Special Committee on Preferences, that available preferences are not fully utilized, but the extent of under-utilization and the reasons for it have not been well documented until now. This study provides the first quantifications of this under-utilization and indicates options for improving it.

The conventional wisdom during and immediately after the Uruguay Round was that the value of trade preferences to developing countries was decreasing because of the erosion of the preferential margins as a result of MFN tariff reductions and the lack of legal stability of GSP rates. However, a post-Uruguay Round assessment<sup>1</sup> proved that in most cases the erosion of preferential margins had been rather limited, since major tariff liberalization had taken place in sectors of interest to developed countries. Furthermore, the tariffication process brought into being by the Agreement on Agriculture created additional room for preferences where traditional and new tariff peaks still exist in the post-Uruguay Round.

Attention had also shifted to the flourishing of regional trade agreements, which trebled during the 1990s, and even further impetus has been given to reciprocal arrangements involving developed and developing countries, most recently in the context of the planned Economic Partnership Agreements (EPAs) intended to replace the unilateral preferences under the Cotonou Agreement.

However, the 1996 Singapore Ministerial Declaration started to refocus the attention of the trading community on the idea of unilateral preferences by launching the idea of special trade preferences for LDCs, including provisions for taking positive measures, for example duty-free access on an autonomous basis, aimed at improving the opportunities offered by the trading system for those countries.<sup>2</sup>

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<sup>1</sup> See UNCTAD TD/B/Com.1/20 of 21 July 1998.

<sup>2</sup> See WTO document WT/G6/2/195.

In response to the Singapore proposal, a number of initiatives were undertaken to provide more favourable market access conditions for LDCs:

- The Everything But Arms (EBA) initiative entered into effect on 5 March 2001, providing duty-free and quota-free market access to all products excluding arms, and also excluding bananas, sugar and rice, for which customs duties will be phased out over a transitional period and subject to tariff quotas.<sup>3</sup>
- In May 2000, the United States promulgated the African Growth and Opportunity Act (AGOA),<sup>4</sup> whereby the United States GSP scheme was amended in favour of designated sub-Saharan African countries to expand the range of products, including textiles and clothing.
- In September 2000, the Canadian Government enlarged the product coverage of its GSP scheme to allow 570 products originating in LDCs to enter its market duty-free. In January 2003, the scheme was greatly improved by expanding product coverage to all products, including textiles and clothing, and new rules of origin with some minor exclusion of selected agricultural products.
- Following a review of the GSP scheme of Japan, conducted in December 2000, the scheme was revised to provide duty-free treatment for an additional list of industrial products originating in LDC beneficiaries. Following a second review in April 2003, an additional list of agricultural products was added for LDCs and duty-free access was granted for all products covered by the scheme for LDCs.

Using new data sources on a time series basis, this study analyses, in some detail, past and present features of these preferential market access initiatives of the Quad countries.

The study finds that, in 2001, imports from all LDC effective beneficiaries covered by the Quad initiatives totalled 66 per cent, leaving more than a quarter of LDC exports, mostly textiles and garments, not covered by any preferential initiative. Out of this potential coverage, only a fraction actually received trade preferences at the time of customs clearance in the preference-giving countries. Thus, the utility of the Quad initiatives recorded a low of 42 per cent in 2001.

Moreover, the study points out that the real picture is even more sombre than this. Utilization and benefits of these trade preferences are concentrated in few country/product pairs. Beyond some relative success stories, the picture is dismal.

For instance, the utilization rate under the GSP scheme of the United States appears extremely high, totalling over 90 per cent, while the coverage rate is about 44 per cent.

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<sup>3</sup> The phasing-in period for bananas is 2002–2006, and for sugar and rice 2006–2009. However, a duty-free quota on sugar and rice, based initially on the best figures for LDC exports during the 1990s, will be immediately made available to LDCs. These quotas will then be increased by 15 per cent each year in order to ensure effective market access for LDCs in the European Union market during the interim period.

<sup>4</sup> The AGOA, which is part of the Trade and Development Act of 2000, was signed into law by the President of the United States, on 18 May 2000.

However, if petroleum oils from Angola are excluded from the calculation, the coverage rate drops to 4 per cent and the amount actually receiving trade preferences from all remaining LDCs is equivalent to US\$ 122 million.

Under the EBA, differently from the US GSP schemes, textiles and products are covered and are granted duty-free treatment. However, these preferences are subject to strict rules of origin impeding the utilization of most competitive inputs and suppliers.

Mainly because of these rules of origin requirements, the utilization rate of the EBA in the area of textile and clothing is as low as 56<sup>5</sup> per cent in 2002 (45 percent in 2001); this means that exports of textiles and clothing totalling roughly US\$ 1.6 billion were levied a 10 per cent MFN average instead of getting duty-free status. Although some form of derogation has been granted, countries such as Cambodia have experienced utilization rates below 10 per cent since 1997.

Overall, the volume of preferential trade under the GSP scheme of Japan was rather steady at US\$ 200 million from 1994 to 2001, while the volume of preferential trade under the scheme of Canada was at a single-digit level over the same period (US\$ 8 million in 2001). Thus, there is a strong indication that trade preferences granted under these schemes have not generated the expected results.

Calculations to match the expanded product coverage following the changes in the Canadian and Japanese schemes introduced in 2003 indicate that trade covered by these improvements is around US\$ 296 million. In the case of the Japanese GSP scheme, however, over 90 per cent of trade volume is represented by shrimps with a preferential margin of 1 per cent. Following the inclusion of garments in the GSP of Canada, preferential trade is expected to expand substantially by around US\$ 178 million, taking into account trade data of 2001. However, this additional benefit may be under-utilized like other trade preferences.

Part I of this study examines in detail the present features, coverage and utilization of the Quad major unilateral trade preferences in favour of LDCs.

Part II analyses the reasons for low utilization of trade preferences and the linkage with rules of origin by introducing a methodological approach. It finds, on the basis of available trade statistics, that the restriction on importing fabric to make finished garments has had a drastic impact on the utilization rate of Bangladesh and Cambodia. Ultimately, rules of origin and related administrative procedures are one of the main reasons for under-utilization of existing preferences. Some of the current features of rules of origin go against the very concept of trade facilitation.

The final part of the study provides an estimation of the trade effects of comprehensive coverage and full utilization of unilateral preferences. It indicates that significant trade effects could be generated by improved preferential market access if changes are made to the actual coverage and rules of origin.

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<sup>5</sup> This figure concerns non-ACP LDC beneficiaries of EBA.

Rules of origin and related administrative procedures have almost remained the same since the early 1970s, when preferential margins were significantly higher than at present. Some earlier studies conducted in developed countries quantified the cost needed to comply with administrative requirements related to origin as 3 per cent of the value of the goods concerned. Obviously, the total economic cost of applying strict rules of origin impeding the utilization of most competitive inputs is expected to be much higher in LDC beneficiaries. As a result, manufacturers and exporters may export under MFN conditions and forgo preferences.

The study concludes by recommending that, to be effective, trade preferences should be stable and cover all products with rules of origin and related administrative procedures that reflect the supply capacity and industrial development of LDCs.

There is scope for substantial improvement of the utilization rate under Quad initiatives by modifying certain product-specific rules and easing administrative requirements. The study analyses proposals and identifies options in this area. Ultimately, better utilization of trade preferences and improved market access in the area of textiles and clothing may alleviate or cushion some of the transitional difficulties that some LDC small suppliers may encounter following the liberalization of the textile and clothing trade after December 2004.

## INTRODUCTION

From a theoretical and practical point of view, the question of the value and utility of trade preferences has traditionally been the subject of debate. Since preferential trading arrangements have discriminatory properties their trade and welfare effects have always been considered “second best” or sub-optimal, especially where the potential trade diversion effects of trade preferences or dependence on them were taken into account.

Moreover, during and immediately after the Uruguay Round, the conventional argument was that the value of trade preferences to developing countries was decreasing because of the lack of legal stability of the GSP rates and the erosion of the preferential margins as a result of MFN tariff reductions.

However, a post-Uruguay Round assessment<sup>6</sup> proved that in most cases the erosion of preferential margins had been rather limited, since major tariff liberalization had taken place in sectors of interest to developed countries. Furthermore, the tariffication process brought into being by the Agreement on Agriculture created additional room for preferences where traditional and new tariff peaks still exist in the post-Uruguay Round.

As a result of these combined forces, the debate over trade preferences came to a standstill, since the flourishing of regional trade agreements had somewhat shifted the attention of the international community to this other form of preferential trade.

The 1996 Singapore Ministerial Declaration relaunched the idea of special trade preferences for LDCs by agreeing to a plan of action in favour of LDCs, including provisions for taking positive measures, for example duty-free access on an autonomous basis, aimed at improving the overall capacity to respond to the opportunities offered by the trading system.<sup>7</sup>

Since then, a number of initiatives have been undertaken to provide more favourable market access conditions for LDCs.

The Everything But Arms (EBA) initiative entered into effect on 5 March 2001, providing duty-free and quota-free market access to all products excluding arms, and also excluding bananas, sugar and rice, for which customs duties will be phased out over a transitional period and subject to tariff quotas.<sup>8</sup>

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<sup>6</sup> See UNCTAD TD/B/Com.1/20 of 21 July 1998.

<sup>7</sup> See WTO document WT/G6/2/195.

<sup>8</sup> The phasing-in period for bananas is 2002–2006, and for sugar and rice 2006–2009. However, a duty-free quota on sugar and rice, based initially on the best figures for LDC exports during the 1990s, will be immediately made available to LDCs. These quotas will then be increased by 15 per cent each year in order to ensure effective market access for LDCs in the European Union market during the interim period.

In May 2000, the United States promulgated the African Growth and Opportunity Act (AGOA),<sup>9</sup> whereby the United States GSP scheme was amended in favour of designated sub-Saharan African countries to expand the range of products, including textiles and clothing.

In September 2000, the Canadian Government enlarged the product coverage of its GSP scheme to allow 570 products originating in LDCs to enter its market duty-free. In January 2003, the scheme was greatly improved by expanding product coverage to all products, including textiles and clothing and new rules of origin, with some minor exclusion of selected agricultural products.

Following a review of the GSP scheme of Japan, conducted in December 2000, the scheme was revised to provide duty-free treatment for an additional list of industrial products originating in LDC beneficiaries. Following a second review in April 2003, an additional list of agricultural products was added for LDCs and duty-free access was granted for all products covered by the scheme for LDCs.

At this time, the “lessons learned” should be properly recorded to make an initial assessment of the value of these initiatives. Past compromises and uncertainties should therefore be reviewed in order to make preferences more effective. In particular, the *acquis* and the experience gained in the implementation of preferential tariff arrangements, such as the GSP schemes and the past Lomé Conventions, should be the starting point for further steps to improve the current market access conditions available to LDCs.

The study analyses the preferential market access initiatives offered by the Quad countries under unilateral trade preferences. A forthcoming publication will examine market access initiatives provided by developing countries to LDCs.

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<sup>9</sup> The AGOA, which is part of the Trade and Development Act of 2000, was signed into law by the President of the United States on 18 May 2000.

## PART I

### ANALYSIS OF THE CURRENT PREFERENTIAL MARKET ACCESS AVAILABLE TO LDCS UNDER UNILATERAL TRADE PREFERENCES

#### A. General overview of preferential trade flows under the Quad GSP schemes

As pointed out earlier,<sup>10</sup> traditional methodology utilized to calculate the value of trade preferences and the possible erosion of such preferences often assumed that preferences were fully utilized.

At times, market access for developing countries has been analysed on the assumption that MFN rates were, on the one hand, not considered a real market access obstacle because of existing trade preferences. On the other hand, this assumption was leading to an overestimation of the impact of the erosion of trade preferences. Contrary to this conventional wisdom, the mere granting of tariff preferences or duty-free market access to exports originating in beneficiary countries does not automatically ensure that the trade preferences are effectively utilized. Preferences are conditional upon the fulfilment of an array of requirements mainly related to rules of origin, which, in many instances, beneficiary countries may not be able to comply with.<sup>11</sup>

Unilateral tariff preferences have been gradually improved for the countries either through preferences *à la carte* or under the initiative for LDCs during current negotiations on market access. This evolution of trade preferences is increasingly polarizing the debate among different groups of developing countries. Some countries are now more inclined to focus on MFN tariff peaks and tariff escalation, and this may be appropriate for their particular situation.

Other countries continue to attach considerable importance to preferences. This is especially true of the ACP countries, which are currently debating the geographical configuration of their Economic Partnership Agreements (EPAs) with the EU. The EPA option for future EU-ACP trade relations contemplates the establishment of reciprocal free trade areas replacing existing unilateral market access under the Cotonou Agreement. As an alternative option, countries opting out of the EPAs will

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<sup>10</sup> See S. Inama. "Market access for LDCs: Issues to be addressed", *Journal of World Trade*, vol. 36, No.1, February 2002; and UNCTAD, "Improving market access for least developed countries", UNCTAD/DITC/TNCD/4, 2 May 2001.

<sup>11</sup> As a matter of fact, this is a day-to-day business. For instance, the UNCTAD secretariat has been maintaining since the inception of the GSP a register of customs stamps and signatures of issuing authorities of GSP Form A (the GSP Form A is a specific certificate of origin form). Routinely, the UNCTAD members notify UNCTAD of changes in signatures and stamps and the secretariat circulates such notification to all UNCTAD member States. Quite often urgent calls are made to the UNCTAD secretariat from importers and clearing agents about shipments blocked at the time of customs clearance in a preference-giving country for the simple reason that the stamps and signatures are not the same as those registered. Failure to comply with the rules entails application of the MFN rate.

continue to be granted unilateral market access via the EU GSP. In terms of simple market access to the EU market, one of the basic dilemmas for many of the ACP countries is what they can get more from an EPA compared with what they already have, or what they stand to lose if they opt out of EPAs and decide for the EU–GSP option.

A problem is that few countries are fully aware of the facts/data concerning preferential schemes, and this weakens their capacity to develop their trade and industrial strategies. Thus, one of the decisive elements for exiting from this quandary is to assess the value of trade preferences,<sup>12</sup> their utilization and their trade effects, possibly at country level. Traditionally, there are a number of indicators that can be utilized to quantify the value of trade preferences. For instance, averages of MFN tariffs with averages of preferential rates are often utilized to quantify preferential market access or impact of erosion.<sup>13</sup>

In this paper, it is suggested that in addition to these traditional indicators other benchmarks could be used.

These indicators are common to all trade preferences and have been used for a number of years in the UNCTAD context. They will be utilized first to examine the value of trade preferences of the GSP schemes, and we will then review some recent figures of the African Growth and Opportunity Act (AGOA) and a first examination of the utilization rates of ACP countries under the Cotonou Partnership Agreement (CPA).

These benchmarks could be defined as follows:

Product coverage, defined as the ratio between imports that are covered by a preferential trade arrangement and total dutiable imports from the beneficiary countries. The higher the percentage, the more generous the preferences may appear depending on the structure of dutiable imports of the beneficiary countries. Coverage does not automatically mean that preferences are granted at the time of customs clearance. This ratio is shown in column F of the tables in this study.

Utilization rate, defined as the ratio between imports actually receiving preference and covered imports. This rate is mostly based on the customs declaration made by the importer at the time of importation. There are strong indications that higher or lower utilization rates are mainly the result of the stringency and/or complexity of rules of origin and ancillary requirements. In some cases, exporters may not have submitted the necessary documentation (such as a certificate of origin or through bill

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<sup>12</sup> In preparation for negotiations, a number of studies have been carried out on the value of existing trade preferences aimed at providing indications and options for ACP countries.

<sup>13</sup> Total value of imports receiving preference and revenue forgone have also been used as indicators of the value of trade preferences. The former is simply the total dollar value of goods that have benefited from a partial or total reduction of import tariffs under the terms of the relevant GSP schemes. The latter can be utilized as a rough indication of the "order of magnitude" of each scheme since it is larger, the wider the margin of preference and the higher the total value of goods receiving preference.

of lading) to get preferential treatment owing to lack of knowledge or incorrect information. This ratio is shown in column G of the tables in this study.

Utility rate, defined as the ratio of imports actually receiving preference and all dutiable imports (covered or not), refers to the percentage of total dutiable imports that receive preferences. A low level of this ratio means that a large part of dutiable imports (either covered or not) pay the MFN rate. This ratio is shown in column H of the tables in this study.

Table 1 contains total import data for Quad countries from effective<sup>14</sup> beneficiaries. In 2001, dutiable imports by Quad preference-giving countries from GSP beneficiaries amounted to US\$ 295 billion, of which US\$ 183 billion were covered under their GSP schemes.

**Table 1**  
**Quad imports and utilization of GSP schemes from all effective beneficiaries**  
*(in US thousand dollars)*

Year	Total Imports	Dutiable Imports	GSP imports		Percentages		
			Covered	Receiving	Covered	Utilization	Utility
(1)	(2)	(3)	(4)	(5)	(3)/(4)	(4)/(5)	(3)/(5)
A	B	C	D	E	F	G	H
1994	447 696.8	283 480.5	162 017.4	82 742.6	57.2	51.1	29.2
1995	538 991.4	331 292.5	195 285.0	107 661.4	58.9	55.1	32.5
1996	584 654.3	350 604.9	178 254.4	99 820.7	50.8	56.0	28.5
1997	574 748.9	346 025.4	199 547.2	100 059.3	57.7	50.1	28.9
1998	542 661.1	310 913.9	182 738.5	74 118.5	58.8	40.6	23.8
1999	547 692.8	289 531.8	166 220.6	67 607.1	57.4	40.7	23.4
2000	623 002.3	308 306.1	171 064.9	71 774.9	55.5	42.0	23.3
2001	588 439.9	295 452.5	183 895.9	71 477.9	62.2	38.9	24.2

*Source:* UNCTAD calculations based on member States' notifications.

However, only 71.5 billion out of the potential total of 183 billion actually received trade preferences, with a utilization rate equal to 38.9.

In 1994, the average utilization rate was higher at 51.1 per cent and has shown a constant decline since then. (The dramatic decline of almost 10 per cent in the utilization rate between 1997 and 1998 may be imputed to the implementation of graduation policy since a number of beneficiaries have lost beneficiary status following the implementation of the graduation policy of the EU-GSP scheme.)

<sup>14</sup> The term "effective" means that only trade figures of beneficiaries that are actively utilizing the GSP schemes are taken into account, i.e. for instance ACP imports into the EU market countries benefiting from more generous provisions under the Cotonou Convention arrangements are not counted.

In any event, these data show that in 2001, the MFN rate of duty rather than the preferential rate was levied on US\$ 110 billion of trade potentially covered by trade preferences. Thus, there is tremendous scope for improving the utilization of currently available trade preferences.

As shown in table 2, total imports of LDCs into Quad countries, receiving GSP treatment, have been much smaller, amounting to almost 5 billion in 2001.

**Table 2**  
**Quad imports and utilization of the GSP schemes from**  
**all LDC effective beneficiaries**  
*(in US thousand dollars)*

Year	Total imports	Dutiable imports	GSP imports		Percentages		
			Covered	Receiving	Coverage	Utilization	Utility
(1)	(2)	(3)	(4)	(5)	(3)/(4)	(4)/(5)	(3)/(5)
A	B	C	D	E	F	G	H
1994	5 347.0	3 917.3	2 071.0	999.0	52.9	48.2	25.5
1995	6 087.8	4 706.1	2 564.3	1 361.2	54.5	53.1	28.9
1996	9 956.3	7 451.1	2 985.0	1 517.9	40.1	50.9	20.4
1997	10 634.1	8 163.4	5 923.1	1 788.2	72.6	30.2	21.9
1998	9 795.7	7 915.1	5 461.1	2 704.5	69.0	49.5	34.2
1999	10 486.5	8 950.4	5 789.5	3 487.5	64.7	60.2	39.0
2000	13 359.2	11 715.5	7 529.4	4 990.2	64.3	66.3	42.6
2001	12 838.2	11 523.9	7 305.3	4 919.9	63.4	67.3	42.7

*Source:* UNCTAD calculations based on member States' notifications.

Conversely, utilization rates have been higher – from as low as 30 per cent in 1997 to a high of 63 per cent in 2001.

This increase in the average utilization rate is mainly due to the increased utilization rate of the US GSP scheme – around 96 per cent. Since an additional list of products was made available to LDCs in 1997, the US scheme has consistently recorded a high utilization rate. However, the overwhelming presence of minerals and, in particular, oils among the covered products has to be taken into account. In fact, had these products not been considered in the calculation of the GSP coverage, the coverage ratio of the US GSP scheme over the remaining dutiable exports would have dropped from the current 44 per cent to a low of 4 per cent.

At the same time, one has to consider that the utilization rate for LDCs was as low as 47 per cent in 2001 and 57 per cent<sup>15</sup> in 2002 for the EU. Under the EU–GSP scheme, the amount of trade which received GSP treatment in 2001 was equivalent to US\$ 1.8 billion, increasing by almost US\$ 347 million over the previous year.

Japan recorded a rather consistent trend of higher utilization compared with the European Union. However, utilization rate was 57 per cent in 2001. The volume of trade under the Japanese GSP scheme was rather limited at around 200 million from 1994 to 2001.

Table 3 shows that there is a persistent trend of low utilization rate in the GSP schemes even for non-LDC beneficiaries.

**Table 3**  
**Quad imports and utilization of GSP schemes from**  
**non-LDC effective beneficiaries**  
*(in US thousand dollars)*

Year	Total imports	Dutiable imports	GSP imports		Percentages		
			Covered	Receiving	Coverage	Utilization	Utility
(1)	(2)	(3)		(5)	(3)/(4)	(4)/(5)	(3)/(5)
A	B	C	D	E	F	G	H
1994	442 349.8	279 563.2	159 946.4	81 743.6	57.2	51.1	29.2
1995	532 903.6	326 586.4	192 720.7	106 300.2	59.0	55.2	32.5
1996	574 698.0	343 153.8	175 269.4	98 302.8	51.1	56.1	28.6
1997	564 114.8	337 862.0	193 624.1	98 271.1	57.3	50.8	29.1
1998	532 865.4	302 998.8	177 174.3	71 414.0	58.5	40.3	23.6
1999	537 206.3	280 581.4	160 351.3	64 119.6	57.1	40.0	22.9
2000	609 643.1	296 590.6	163 228.9	66 784.7	55.0	40.9	22.5
2001	575 601.7	283 928.6	176 233.8	66 558.0	62.1	37.8	23.4

*Source:* UNCTAD calculations based on member States' notifications.

Not only is utilization for non-LDC one half the potential since 1994, but also it has been steadily declining.

<sup>15</sup> In order to be comparable with 2001 data, this figure relates to the utilization of non-ACP LDC beneficiaries. If all LDC beneficiaries are taken into consideration, overall utilization of EBA fails to 38 percent. See pages 44 to 48 for a more detailed analysis.

## **B. An analysis of preferential trade flows under unilateral trade preferences granted by Quad countries**

### **1. The GSP scheme of the United States of America**

The US GSP programme provides for duty-free entry to all products covered by the scheme from designated beneficiaries. The scheme has been in operation since 1976, initially for two 10-year periods, and then it has always been renewed every one or two years. A renewal, which did not introduce amendments to the scheme, was approved in December 1999 and it reauthorized the scheme through September 2001, with retroactive effect from June 1999. The latest renewal occurred when the Trade Act of 2002, signed in August 2002, officially reauthorized the scheme through December 2006, after it had expired in September 2001.

A significant improvement in the US scheme was recorded in 1997, when 1,783 new products originating in LDCs were granted duty-free treatment. The list of products eligible for GSP treatment includes selected dutiable manufactures and semi-manufactures and also selected agricultural, fishery and primary industrial products not otherwise duty-free. The US Government, through the GSP Subcommittee, conducts annual reviews of the list of eligible articles and beneficiaries. Certain articles, such as textiles, watches, footwear, handbags, luggage, flat goods and work gloves, are excluded from the list of eligible products. Furthermore, any article determined to be import-sensitive cannot be made eligible. Such ineligible products include steel, glass and electronic equipment.

The granting of duty-free access to eligible products is subject to “competitive need limits”. The US scheme provides for ceilings for each product and country. A country will automatically lose its GSP eligibility with respect to a product if competitive need limits are exceeded.<sup>16</sup> However, competitive needs can be waived in several circumstances. In particular, all competitive limitations are automatically waived for the GSP beneficiaries, which are designated as LDCs.

The US scheme also provides for a graduation mechanism. The GSP law sets out per capita GNP limits, and advances in beneficiaries’ level of economic development and trade competitiveness are regularly reviewed. In considering graduation actions, the GSP Subcommittee reviews: (a) the country’s general level of development; (b) its competitiveness in the particular product; (c) the country’s practices relating to trade, investment and workers’ rights; and (d) the overall economic interests of the United States.

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<sup>16</sup> The “upper” competitive limits are exceeded if, during any calendar year, US imports of that product from that country: (a) account for 50 per cent or more of the value of total US imports of that product; or (b) exceed a certain dollar value, which is annually adjusted in proportion to the change in the nominal GNP of the United States. In addition, products which are found to be “sufficiently competitive” when imported from a specific beneficiary country are subject to the “lower” competitive limit. In this case, eligibility is terminated if imports exceed 25 per cent or a dollar value set at approximately 40 per cent of the “upper” competitive need level.

As for the rules of origin, the United States grants cumulation status to the Andean Group, the ASEAN countries (excluding Singapore and Brunei Darussalam), member countries of CARICOM, the Southern Africa Development Community (SADC) and the West African Economic and Monetary Union (WAEMU).

Finally, it is worth mentioning that market access conditions in the United States for exports from the Lao People's Democratic Republic are particularly stringent. That country does not benefit from normal trade relations status and, therefore, it is also excluded from the preferences available under the GSP scheme. An autonomous tariff above the MFN rate applies to exports from the Lao People's Democratic Republic to the United States.

***(a) The African Growth and Opportunity Act***

The African Growth and Opportunity Act (AGOA)<sup>17</sup> is the most recent United States initiative authorizing a new trade and investment policy towards Africa. It represents a meaningful opportunity for eligible sub-Saharan African countries, which could result in a substantial improvement of conditions for preferential access to United States markets.

AGOA heralded a new era in US preferences since it provided duty-free access for textile and clothing products to all sub-Saharan Africa. Textiles and clothing products have been statutorily excluded from GSP preferences since the inception of the US GSP programme. Only the Caribbean Basin Initiative (CBI) and the Andean trade preferences provide for preferences for textiles and clothing subject to rules of origin requirements.

Under Title I-B of the Act, beneficiary countries in sub-Saharan Africa that will be designated by the President as eligible for the AGOA benefits will be granted what could be called a “super GSP”.

While the current “normal” GSP programme of the United States contains several limitations in terms of product coverage, AGOA amends the GSP programme by providing duty-free treatment for a wider range of products. Even the 1997 enhanced coverage for LDCs mentioned above does not match the product coverage of AGOA. The latter includes, upon fulfilment of specific origin and visa requirements, certain textile and apparel articles that were heretofore considered import-sensitive and thus statutorily excluded from the programme.

The Trade Act of 2002 contains amendments to apparel and textile provisions under AGOA. It modifies certain provisions under AGOA by including knit-to-shape, increasing the cap on apparel imports, granting LDC status to Botswana and Namibia, and revising the technical definition of merino wool. Furthermore, it clarifies the origin of yarns under the Special Rule for designated LDCs and makes eligible for

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<sup>17</sup> AGOA, which is part of the Trade and Development Act of 2000, was signed into law by the President of the United States on 18 May 2000. The AGOA implementation regulation was published on 2 October 2000.

preferences “hybrid” apparel articles (i.e. cutting that occurs both in the United States and in AGOA countries does not render fabric ineligible).

The “AGOA-enhanced” GSP benefits will be in place for a period of eight years, until 30 September 2008, providing additional security for investors and traders in qualifying African countries. This element of security is further strengthened by the decision by the Office of the United States Trade Representative (USTR) responsible for GSP matters not to carry out the usual annual reviews of product coverage for AGOA products.

Since the Act provides for a series of preconditions and requires positive actions on the part of the 48 potential beneficiary sub-Saharan African countries,<sup>18</sup> the actual utilization of the trade benefits will depend on the capacity at institutional level to satisfy those preconditions and undertake the requested actions. The larger sub-Saharan African countries may thus be better equipped to qualify as AGOA beneficiaries than other least developed countries in the region.

AGOA authorizes the President of the United States to provide duty-free treatment for selected products from designated sub-Saharan African countries if, after receiving advice from the United States International Trade Commission, he determines that the products are not “import-sensitive” in the context of imports from those countries.

AGOA adds 1,835 products to the regular GSP products (approximately 4,650). All AGOA-designated countries are granted duty-free treatment on all products currently eligible under the GSP programme, including those on which, so far, only

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<sup>18</sup> First of all, any AGOA beneficiary country must be eligible under the normal GSP programme. As additional eligibility requirements, under AGOA, as an eligible beneficiary the President is authorized to designate a sub-Saharan African country if the country has made or is making progress in all of the following respects:

- (a) The country must have established, or be in the process of establishing:
  - (i) A market-based economy that protects private property rights, incorporates an open rules-based trading system, and minimizes government interference in the economy;
  - (ii) The rule of law, political pluralism and the right to due process, a fair trial and equal protection under the law;
  - (iii) The elimination of barriers to United States trade and investment, including by:
  - (iv) The provision of national treatment;
  - (v) The protection of intellectual property rights; and
  - (vi) The resolution of bilateral trade and investment disputes;
  - (vii) Economic policies to reduce poverty, increase the availability of health care and educational opportunities;
  - (viii) A system to combat corruption and bribery;
  - (ix) Protection of internationally recognized worker rights.
- (b) The country must not engage in activities that undermine United States national security or foreign policy interests;
- (c) The country must not engage in gross violations of internationally recognized human rights;
- (d) The country must have implemented its commitments to eliminate the worst form of child labour (ILO Convention No. 182).

If an eligible country does not continue to make progress in complying with the above requirements of AGOA country eligibility, the President shall terminate the designation of the country.

The President has designated 36 countries out of 48 to be eligible for AGOA benefits (see appendix 1).

least developed beneficiary countries have been enjoying GSP treatment. AGOA-designated products, which were previously statutorily excluded by the GSP programme even for the 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. This implies that the special GSP LDCs' preferences have been somewhat diluted since other designated non-LDC sub-Saharan African countries can now benefit from similar preferential product coverage.

Furthermore, AGOA eliminates the GSP competitive-need limitations.<sup>19</sup>

AGOA provides preferential tariff treatment for imports of certain textile and apparel products from designated sub-Saharan African countries, provided that these countries (a) have adopted an effective visa system and related procedures to prevent illegal transshipment and the use of counterfeit documents; and (b) have implemented and follow, or are making substantial progress towards implementing and following, certain customs procedures that assist the Customs Service in verifying the origin of the products. As of August 2002, 18 sub-Saharan African countries were eligible to receive AGOA textile and apparel benefits: Botswana, Cameroon, Cape Verde, Ethiopia, Ghana, Kenya, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Senegal, South Africa, Swaziland, Uganda, the United Republic of Tanzania and Zambia. These countries were designated by the USTR after demonstrating that they had an effective visa system in place to verify that apparel and textile goods are in fact produced in a beneficiary sub-Saharan African country in accordance with the required rules of origin. The United States Government has provided countries with guidance on the elements of an effective visa system. USTR will publish a *Federal Register* notice when it designates a country(ies) as eligible for AGOA apparel/textile benefits.<sup>20</sup>

#### ***(b) Coverage and utilization of the GSP scheme of the United States***

As shown in table 4, the United States' market received exports from LDCs worth some US\$ 7.2 billion in 2001,<sup>21</sup> up from the US\$ 5.7 billion dollars recorded in 1999. In 2001, most exported LDCs' products were textile and clothing products (US\$ 3.5 billion), mineral products (US\$ 2.9 billion), footwear (US\$ 190 million), products of animal origin, vegetables and, lastly, prepared food (US\$ 335 million). These products account for 97 per cent of the total imports from LDCs.

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<sup>19</sup> Competitive-need limitations are intended to prevent the extension of preferential treatment to countries that are already competitive in the production of an item.

<sup>20</sup> The information concerning country eligibility is available at [www.ustr.gov](http://www.ustr.gov).

<sup>21</sup> For this analysis tariffs and trade data used are from 2001. LDCs imports do not include CBI beneficiaries.

**Table 4**  
**Imports from effective LDC beneficiaries under the GSP scheme of**  
**the United States (2001)**  
*(imports in US\$ million)*

HS section Description	Value of imports from LDCs (excl. CBI benefit)	Imports dutiable	Imports covered by the scheme	Imports receiving preferential treatment	Product coverage rate (%)	Utiliz. rate (%)	Utility rate (%)
(1)	(2)	(3)	(4)	(5)	(4)/(3)	(5)/(4)	(5)/(3)
A	B	C	D	E	F	G	H
Live animals & prod.	112.1	0.3	0.3	0.2	97.7	68.9	67.3
Vegetable products	162.7	4.1	4.1	2.8	100.0	68.1	68.1
Fats and oils	0.7	0.0	0.0	0.0	100.0	100.0	100.0
Prepared food, etc.	60.3	54.2	54.2	38.5	100.0	71.0	71.0
Mineral products	2 927.2	2 808.2	2 808.2	2 713.8	100.0	96.6	96.6
Chemical and prod.	38.0	25.6	25.6	25.5	100.0	99.8	99.8
Plastics and rubber	4.0	2.7	2.7	0.8	100.0	27.6	27.6
Hides and skins	22.5	21.4	1.1	0.9	4.9	82.8	4.1
Wood and articles	6.6	3.2	3.2	2.4	99.7	76.1	75.9
Pulp, paper, etc	1.7	1.2	1.2	0.8	100.0	66.7	66.7
Textile & articles	3 574.8	3 566.7	19.5	13.9	0.5	71.0	0.4
Footwear and headgear	190.1	189.5	1.4	0.5	0.8	36.2	0.3
Articles of stone	3.7	3.7	3.7	3.5	100.0	95.0	95.0
Precious stones, etc	58.0	15.4	15.4	14.6	100.0	95.1	95.1
Base metals and prod.	28.5	4.8	4.8	4.6	99.8	95.7	95.5
Machinery	3.4	1.2	1.2	0.4	100.0	38.2	38.2
Transport equipment	0.2	0.1	0.1	0.0	100.0	3.7	3.7
Precision instrument	1.5	1.0	1.0	0.7	100.0	70.1	70.1
Arms and ammunition	0.0	0.0	0.0	0.0	.	.	.
Misc. manufactured	17.4	12.8	12.3	12.1	95.9	98.2	94.2
Works of art, etc.	8.0	0.0	0.0	0.0	.	.	.
Special uses	0.0	0.0	0.0	0.0	.	.	.
<b>TOTALS</b>	<b>7 221.3</b>	<b>6 716.3</b>	<b>2 960.1</b>	<b>2 836.1</b>	<b>44.1</b>	<b>95.8</b>	<b>42.2</b>

Table 5 contains a time series from 1994 to 2001 of the main indicators of GSP coverage and utilization. Although improving since the period 1994–1996, when product coverage was as low as 69.7 million, equivalent to 1.8 per cent coverage ratio in 1996, low product coverage has been a persistent feature of the scheme especially when it is compared with product coverage of other preference-giving countries. In 2001, product coverage was equivalent to 44 per cent, which shows that at present there is considerable scope for improving the scheme by expanding product coverage mainly in the textile and clothing area.

**Table 5**  
**Imports from effective LDC beneficiaries under the GSP scheme of**  
**the United States (1994–2001)**  
*(in millions of US dollars)*

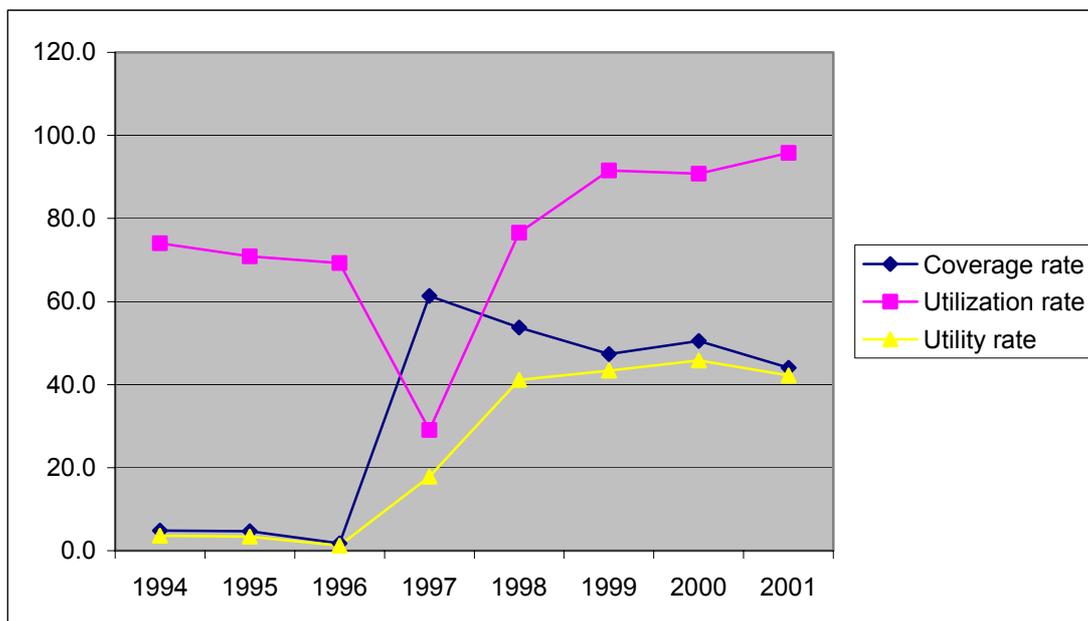
Year	Total imports	Dutiable imports	GSP imports		Percentages		
			Covered	Receiving	Coverage	Utilization	Utility
(1)	(2)	(3)	(4)		(4)/(3)	(5)/(4)	(5)/(3)
A	B	C	D	E	F	G	H
1994	1 755.3	1 398.4	68.1	50.4	4.9	74.0	3.6
1995	1 787.5	1 474.3	69.7	49.4	4.7	70.9	3.4
1996	4 896.1	3 896.5	69.7	48.3	1.8	69.3	1.2
1997	5 609.1	4 432.5	2 719.4	790.6	61.4	29.1	17.8
1998	4 974.9	4 247.1	2 282.4	1 747.0	53.7	76.5	41.1
1999	5 780.7	5 109.2	2 419.7	2 215.7	47.4	91.6	43.4
2000	7 695.5	7 086.6	3 577.2	3 247.5	50.5	90.8	45.8
2001	7 221.3	6 716.3	2 960.1	2 836.1	44.1	95.8	42.2

*Source:* UNCTAD calculations based on member States' notifications.

As mentioned earlier, in 1997 a significant improvement in the US scheme was made by adding 1,783 new products. The trade effects of this improvement are clearly shown in table 5, product coverage having risen from 1.8 per cent to 61.4 per cent in 1997. This point is particularly relevant when a first analysis of the "covered" trade is made. In fact, an important qualification has to be made when analysing LDC's exports under the GSP of the United States owing to the overwhelming presence of minerals and, in particular, oils among the covered products. In fact, they account for almost 95 per cent of the covered products. If petroleum oils were excluded from the coverage, the coverage rate would drop from the current 44.1 per cent to a low of 4 per cent.<sup>22</sup> Conversely, textiles and clothing products, although important for LDCs, are excluded from GSP preferences for those countries. Articles of HS Chapters 61 and 62 (articles of apparel and clothing, knitted, not knitted or crocheted /not crocheted) alone account for 94 per cent of the products still subject to MFN duties. This figure rises to 99 per cent once footwear and other textile products are also included. Other products of interest to LDCs and partially excluded by the GSP scheme are hides and skins and wood and wood articles, although their combined trade value is just 0.3 per cent of total LDCs' exports.

<sup>22</sup> 2001 trade data.

**Figure 1**  
**United States: Average of coverage, utilization and utility rates (1994–2001)**



As shown in figure 1, between 1997 and 1998 there have been fluctuations in product coverage. For instance, in 1998 the GSP scheme product coverage was 8 per cent lower than the rate recorded in 1997, when it was 61.4 per cent (including mineral oil) despite the fact that in 1997 several new tariffs lines were introduced in the GSP specifically to improve market access for LDCs' goods. Again, this result appears to be determined by the inherent structure of the schemes, since in 1998, LDCs' exports of minerals (totally covered) decreased, while there was a considerable increase in exports of clothing products (excluded).

The importance of minerals and the trade-off among these and textiles and clothing products in modelling the GSP performance appears also evident at a country level. Exports of petroleum oils from Angola, the main LDC exporter to the United States, account for 36 per cent of the total LDC trade in this market. Furthermore, Angola's exports of petroleum products alone account for almost 90 per cent the total amount of covered trade as well as 92 per cent of the received preferences. Conversely, Bangladesh, the second largest LDC exporter (33 per cent total LDC exports), accounts for 1 per cent only of both the products eligible for, and those receiving, GSP preferential treatment<sup>23</sup>. Cambodia, which is the third larger exporter to the US market, also accounts for as little as 0.1 per cent of GSP received trade preferences.

Notwithstanding this important aspect of the GSP scheme, the performance in terms of utilization rate for the remaining LDC exports (excluding minerals products) has been rather positive. In 2001, the utilization rate for manufacturing products was

<sup>23</sup> Trade data for these countries refer to 2001.

high (87 per cent on average), although the coverage rate for this category is low (because of the textiles and clothing exclusions, coverage rate is as low as 2 per cent) and around 70 per cent for agricultural products. However, once again, a closer analysis shows a clear concentration of benefits in the oil sector. In fact, without minerals and with the exclusion of textiles from the scheme, the absolute value of the covered products shrinks from US\$ 2.9 billion to just US\$ 152 million, while the value of trade-receiving preferences (utilization rate) falls from US\$ 2.8 billion to US\$ 122 million only. In this case, a better assessment of the real value of preferences for LDCs in the US market is provided by the utility rate, which measures the percentage of trade-receiving preferences as a proportion of the total trade still subject to duties (either GSP-covered or not). The low rate therein – 42 per cent – means that most LDCs exports continue to face MFN rates which in most instances remain high, since they are concentrated in the textiles and clothing sector.

On average, in the US market, the weighted tariff of textiles and clothing is 15.50 per cent,<sup>24</sup> while for certain footwear articles, which are considered very sensitive products, the figure is around 37 per cent. The beneficiary country that is mostly affected by GSP products exclusion is Bangladesh, since it supplies almost 90 per cent of the 20 main products not covered by the scheme,<sup>25</sup> as well as Cambodia and Nepal. Other countries that are partially affected are Yemen (articles of stone), Madagascar (some textiles and wood products) and Nepal on products such as hides and skins.

It is quite evident that, given the current export structure, any future improvements of the GSP scheme will have to extend, partially or totally, preferential treatment to textiles and clothing products to be really meaningful. Indeed, there would be little scope for improving market access on the other remaining products as they only account for some 2 per cent of total LDC exports.

Finally, it is worth noting that for the Lao People's Democratic Republic, the US market access is regulated separately<sup>26</sup> since the country has not been granted NTR (Normal Trade Relations). As clearly shown in table 6, the Lao People's Democratic Republic faces considerably high duties on its exports. Ninety per cent of its exports (mainly clothing products) face duties in the order of 45 and 50 per cent (against an MFN/NTR rate of around 20 per cent), while the value of products entering the US market duty-free is 3 per cent only.

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<sup>24</sup> Ad valorem tariffs only, in 2001.

<sup>25</sup> These 20 products account for 70 per cent of the uncovered LDCs exports.

<sup>26</sup> See the first part of the study for details.

**Table 6**  
**Selected products exported from the Lao PDR to the US market**

HS Code	Description	Trade (%)	Special Tariff (%)	MFN Tariffs (%)
61051000	Men's or boys' shirts, knitted or crocheted, of cotton	39.7	45	20
62052020	Men's or boys' shirts, not knitted or crocheted, of cotton, nesoi	25.7	0.45	0.20
61102020	Sweaters, pullovers and similar articles, knitted or crocheted, of cotton, nesoi	15.3	50	18
62044230	Women's or girls' dresses, not knitted or crocheted, of cotton, nesoi	3.5	90	10
41072930	Reptile leather, excluding leather of heading 4108 or 4109, other than vegetable pretanned, not fancy	3.0	0.25	0
09011100	Coffee, not roasted, not decaffeinated	1.8	0	0
61034210	Men's or boys' trousers, breeches and shorts, knitted or crocheted, of cotton	1.1	45	16
61103030	Sweaters, pullovers and similar articles, knitted or crocheted, of manmade fibers, nesoi	1.0	90	33
12119080	Plants and parts of plants nesi, of a kind used in perfumery, in pharmacy or for insecticidal, fungicidal or similar purposes	0.5	0	0

*Source:* UNCTAD secretariat calculations.

**(c) Coverage and utilization of AGOA**

An early analysis of the impact of AGOA<sup>27</sup> shows that crude oil and petroleum products, which were already covered by the extension of product coverage for LDC countries in 1997, and textiles and clothing have been the programme's most significant contributors in trade terms. The AGOA concessions are conditional on rules of origin, and an overall cap with growth rate is placed on imports of textile and clothing. Additionally, the beneficiary countries must adopt measures in their domestic legislation against unlawful trade shipment.

Table 7 shows the first results in terms of magnitude of trade and utilization rates.

<sup>27</sup> See "AGOA: A Preliminary Assessment" (UNCTAD/ITCD/TSB/2003/1).

**Table 7**  
**US imports and utilization of AGOA preferences from**  
**all AGOA effective beneficiaries, by HS section (2001)**  
*(in US thousand dollars)*

HS Section description	Imports value				AGOA pref. scheme		
	From world	From AGOA TOTAL	From AGOA MFN free	From AGOA dutiable	Covered	Receiving	Utiliz. rate (%)
HS V: Mineral products	100 694 994	11 916 589	1 345 239	10 571 350	10 566 551	7 042 746	66.7
HS XI: Textiles & textile articles	67 041 217	1 048 999	1 780	1 047 219	1 047 219	374 694	35.8
HS XV: Base metals & products	33 646 566	601 341	128 246	473 095	158 511	101 681	64.1
HS XVII: Transport equipment	144 136 139	402 297	53 027	349 270	278 942	249 373	89.4
HS IV: Prepared foodstuffs, beverages, etc.	14 163 333	489 181	317 038	172 143	95 587	33 292	34.8
HS VI: Chemical products	31 144 288	564 006	418 527	145 479	13 164	3 883	29.5
HS II: Vegetable products	7 771 153	273 284	212 250	61 034	44 221	35 458	80.2
HS XVI: Machinery & electrical equipment	226 240 562	319 282	275 020	44 262	1 698	45	2.7
HS XIV: Precious stones, etc	25 538 865	2 120 717	2 079 822	40 895	5	0	0.0

*Source:* UNCTAD calculations based on ITC trade data.

As foreseen earlier,<sup>28</sup> the implication of a tight rule of origin and the limited list of countries admitted to benefit from the special textile preferences regime appears evident from the low utilization rate recorded in this area. The utilization rate was as low as 35.8 per cent in 2001, matching on average the rates recorded under the GSP scheme of the European Union.

The preponderant presence and relatively high utilization rate (66 per cent) recorded in oil and petroleum products appear to support the views that AGOA trade preferences are concentrated in only a few sectors.

<sup>28</sup> See S. Inama: "Improving market access for LDCs: Issues to be addressed", *Journal of World Trade*, vol. 36, no. 1, February 2002.

**Table 8**  
**Utilization of the HS chapters 61, 62 (garments) and**  
**63 (other made-up textile articles) from**  
**AGOA lesser developed effective beneficiaries with textile certification and**  
**special rules of origin (2001)**

*Partners:*

*Botswana, Ethiopia, Lesotho, Kenya, Lesotho, Madagascar, Malawi, Namibia,  
Swaziland, Uganda and Zambia*

HS		Imports value (\$000)				AGOA pref. scheme		
Chapter	Description	From world	From AGOA TOTAL	From AGOA MFN free	From AGOA dutiable	Covered	Receiving	Utiliz. Rate (%)
61	Art of apparel & clothing access, knitted or crocheted.	24 912 730	285 265	0	285 265	285265	136 157	47.7
62	Art of apparel & clothing access, not knitted/crocheted	26 227 123	264 504	0	264 504	264 504	164 304	62.1
63	Other made up textile articles; sets; worn clothing etc	1 207 777	181	0	181	181	0	0.0
TOTALS		52 347 630	549 950	0	549 950	549 950	300 461	54.6

*Source:* UNCTAD calculations based on ITC trade data.

**Table 9**  
**Utilization of the HS chapters 61, 62 (garments) and**  
**63 (other made-up textile articles) from**  
**AGOA UN LDC effective beneficiaries with textile certification and**  
**special rules of origin (2001)**

*Partners:*

*Ethiopia, Lesotho, Madagascar, Malawi, Uganda and Zambia*

HS		Imports value (\$ 000)				AGOA pref. scheme		
Chapter	Description	From world	From AGOA TOTAL	From AGOA MFN free	From AGOA dutiable	Covered	Receiving	Utiliz. rate (%)
61	Art of apparel & clothing access, knitted or crocheted	24 584 320	239 545	0	239 545	239 545	129 544	54.1
62	Art of apparel & clothing access, not knitted/crocheted	24 301 363	187 673	0	187 673	187 673	107 579	57.3
63	Other made up textile articles; sets; worn clothing etc.	834 654	165	0	165	165	0	0.0
TOTALS		49 720 337	427 383	0	427 383	427 383	237 123	55.5

*Source:* UNCTAD calculations based on ITC trade data.

Tables 8 and 9 report the utilization rate for textiles and clothing of HS chapters 61 and 62. These two chapters represent the main bulk of trade for all AGOA LDCs.<sup>29</sup> In fact, trade when petroleum products are excluded and trade under these two chapters account by as much as 93.9 per cent for all AGOA LDCs and by 96.7 for AGOA UN LDCs. The utilization rates were, for 2001, as low as 54.6 and 55.5 per cent for AGOA LDCs and AGOA UN LDCs respectively. As shown in table 10, in 2002 the utilization rate rose dramatically to 97.1 per cent in the case of UN LDCs and 93.6 per cent in the case of AGOA LDCs (see table 11).

**Table 10**  
**Utilization of the HS chapters 61, 62 (garments) and**  
**63 (other made-up textile articles) from**  
**AGOA lesser developed effective beneficiaries with textile certification and**  
**special rules of origin (2002)**

*Partners:*

*Botswana, Cameroon, Cape Verde, Ethiopia, Ghana, Kenya, Lesotho, Madagascar, Malawi, Mozambique, Namibia, Senegal, Swaziland, Tanzania, Uganda and Zambia*

HS		Imports value (\$000)				AGOA pref. scheme		
Section	Description	From world	From AGOA TOTAL	From AGOA MFN free	From AGOA dutiable	Covered	Receiving	Utiliz. Rate (%)
61	Art of apparel & clothing access., knitted or crocheted	26 902 083	397 691	0	397 691	388 856	358 851	92.3
62	Art of apparel & clothing access., not knitted/crocheted	27 713 308	302 640	0	302 640	302 640	291 673	96.4
63	Other made-up textile articles; sets; worn clothing, etc.	2 634 875	279	0	279	244	0	0.0

*Source:* UNCTAD calculations based on ITC trade data.

This data, showing a net increase on both volume of exports and utilization rates, seems to indicate that, after a "learning by doing period", the relative high preferential margin and the special rules of origin allowing for imports of non-US,

<sup>29</sup> For the purposes of the Special Rule for Apparel under AGOA, lesser developed sub-Saharan African countries are defined as those with a per capita gross national product of less than \$1,500 a year in 1998, as measured by the World Bank. On the basis of the data contained in the World Bank's 1999/2000 *World Development Report*, all sub-Saharan countries except Botswana, Equatorial Guinea, Gabon, Mauritius, Namibia, Seychelles and South Africa fall below this per capita threshold and have thus been declared eligible to use third-country fabric (non-United States and not African) in their duty-free apparel exports to the United States through 30 September 2004. AGOA amendments specially grant Botswana and Namibia lesser developed AGOA status for the Special Rule.

Non-African fabrics are generating trade flows and investment in the AGOA beneficiary countries.

**Table 11**  
**Utilization of the HS chapters 61, 62 (garments) and**  
**63 (other made-up textiles articles) from**  
**AGOA UN LDC effective beneficiaries with textile certification and**  
**special rules of origin (2002)**

*Partners:*

*Cape Verde, Ethiopia, Lesotho, Madagascar, Malawi, Mozambique, Senegal,  
Tanzania, Uganda and Zambia*

HS		Imports value (\$000)				AGOA pref. scheme		
Section	Description	From world	From AGOA TOTAL	From AGOA MFN free	From AGOA dutiable	Covered	Receiving	Utiliz. Rate (%)
61	Art of apparel & clothing access., knitted or crocheted	25 535 151	288 612	0	288 612	279 778	272 776	97.5
62	Art of apparel & clothing access., not knitted/crocheted	25 499 716	166 231	0	166 231	166 231	161 499	97.2
63	Other made-up textile articles; sets; worn clothing, etc.	2 126 948	78	0	78	74	0	0.0

*Source:* UNCTAD calculations based on ITC trade data.

## 2. The GSP scheme of Japan

The Japanese scheme of generalized preferences was recently reviewed and extended for a new decade, until 31 March 2014. During fiscal year 2001/2002,<sup>30</sup> the special treatment granted to LDC beneficiaries was improved by adding a number of tariff items for duty-quota-free treatment for their exclusive benefit. In addition, all 49 LDCs will be able to benefit from these preferences. In particular, Zambia, the Democratic Republic of the Congo,<sup>31</sup> Kiribati and Tuvalu have been added to the list of beneficiaries. Comoros and Djibouti are also eligible for duty-quota-free treatment under the Japanese scheme if they request it. Senegal has been added to the list of LDC beneficiaries, the United Nations General Assembly having designated it an LDC in April 2001.

<sup>30</sup> For detailed information on the current scheme, see the *Handbook on the Scheme of Japan 2002/2003* (UNCTAD/ITCD/TSB/Misc.42/Rev.2), also available on the Internet.

<sup>31</sup> With regard to refined copper imported from the Democratic Republic of the Congo and Zambia, the normal GSP tariff rate, a 40 per cent tariff cut, is applied and the ceiling (38,788,751 kg for fiscal year 2002/2003) will not be removed until the end of fiscal year 2005.

LDCs enjoy the following special treatment for all products covered by the scheme:

- Duty-free entry;
- Exemption from ceiling restrictions; and
- An additional list of products for which preferences are granted only to LDC beneficiaries.

Japan further improved its GSP scheme in 2003. The number of LDCs' agricultural and fishery products under duty-free and quota-free treatment were increased to around 500 items from around 300 existing items: the additional 200 items include prawns and frozen fish fillets. As for LDCs' industrial products, almost all items have already been given duty-free and quota-free treatment. According to the Japanese Government, this expansion is bringing the percentage of products under this treatment in the total import value from LDCs, including industrial products, from around 80 per cent to over 90 per cent.

In addition, the number of products under the GSP, which benefit not only LDCs but also other developing countries, are to be increased; around 120 new items, almost all of which are agricultural products, such as dried prunes, coconut (copra) oil, avocados and papayas, are to be added. Furthermore, the tariff rates of around 60 existing items under the GSP are to be reduced.

A total of 198 agricultural and fishery products (see annexes I and II) have been added to the current 298 items that are eligible for the duty-free and quota-free treatment of LDCs' products.

#### **Distribution of the list of 198 additional products eligible for duty-free and quota-free treatment for LDCs**

Total additional items to duty-free and quota-free treatment for LDC products	198
Vegetable products: (e.g. dried fruits: apricots, prunes, frozen fruits: berries, truffles and chicory, etc.)	88
Prepared foods: (e.g. canned olives, prepared nuts, etc.)	54
Fats and oils: (e.g. coconut oil, palm kernel oil, etc.)	9
Animal products: (e.g. meats: ducks and turkeys, etc.)	22
Fishery products: (e.g. prawns, lobsters, frozen fish fillets, etc.)	35

*Source:* UNCTAD estimates based on notification from the Government of Japan.

Some improvements have been made for beneficiaries other than LDCs. In particular, 118 new agricultural products have been added to the current 221 agricultural items that are eligible for the GSP. Furthermore, the tariff rates of 36 agricultural products under the GSP are to be reduced. Also, the tariff rates of 28 industrial products under the GSP are to be reduced and three ceilings for industrial product groups are to be eliminated.

**Distribution of the list of 118 additional products eligible for all beneficiaries under the GSP scheme of Japan (LDCs are granted duty-free and quota-free treatment for the additional covered product)**

Total additional agricultural items to the GSP:	118
Vegetable products: (e.g. tropical fruits: avocados, papaws, truffles and chicory, etc.)	56
Prepared foods: (e.g. canned olives, prepared nuts, etc.)	37
Fats and oils: (e.g. coconut oil, palm kernel oil, etc.)	6
Animal products: (e.g. meats: ducks and turkeys, etc.)	19

*Source:* UNCTAD estimates based on notifications from the Government of Japan.

**(a) Coverage and utilization of the GSP scheme of Japan**

The Japanese market received around US\$1 billion of imports from least developed countries in 2001, equal to 0.3 per cent of its total imports in that year. The main LDC exports include petroleum oils from Sudan (one third of LDCs' total exports) and mineral products such as copper and other basic metals from Zambia (5.5 per cent of LDCs' total exports). Total exports of shrimps and prawns accounted for 7.9 per cent divided among three main suppliers: Myanmar (50 per cent of market share), Bangladesh (27.9 per cent of market share) and Madagascar (21.3 per cent of market share). Octopus alone accounted for 4.1 per cent of the LDCs' exports, with Mauritania as main supplier. Remaining exports are footwear from Bangladesh (2.9 per cent), tobacco from Malawi (3.9 per cent), and coffee from Ethiopia and the United Republic of Tanzania (5.7 per cent). Together, these products represent 68 per cent of LDCs' total exports in this market. Some 18.7 per cent of imports from LDCs for products such as tea, coffee, copper ores, tobacco, wood and wood articles and vanilla are benefiting from zero MFN tariffs, thus entering the Japanese market free of duty.

Turning now to the utilization rate, table 12 shows that the value of LDCs imports actually receiving preferences, as a share of the covered imports, was 57 per cent in 2001. When product coverage provided is taken into account, the total value of LDC's trade-receiving preferences represents roughly half of dutiable imports.

The utility rate was as low as 30 per cent in 2001. Hopefully, the overall performance of the Japanese GSP scheme will improve following the increase of product coverage that has taken place in 2003.

At a more detailed level, one explanation of the low coverage figure recorded in 2001 is the increase in imports of oils that are not covered by the scheme. In fact, oil imports were equivalent to 12 per cent in 1998 and increased to 26 per cent in 2000 to become 36 per cent in 2001. Such an increase of a non-covered product has altered the trade performance of the scheme.

Utilization rates vary considerably across product categories. High rates have been recorded for hides and skins (99 per cent), footwear (98 per cent) and wood articles (79 per cent).

In the case of hides and skins and footwear the amount of trade is small, accounting for 25 million and 98 million respectively. However, high MFN rates (an average of 28 per cent in the case of hides and skins and 32 per cent in the case of footwear) may provide an incentive to effectively utilize the trade preferences.

**Table 12**  
**Imports from effective LDC beneficiaries under the GSP scheme of Japan (2001)**  
*(imports in US\$ million)*

HS Section description	Value of imports from LDCs	Imports dutiable	Imports covered by the scheme	Imports – receiving preferential treatment	Product coverage rate (%)	Utiliz. rate (%)	Utility rate (%)
Live animals & prod.	157.4	154.2	154.2	40.2	100.0	26.0	26.0
Vegetable products	104.3	6.3	6.3	3.0	100.0	48.0	48.0
Fats and oils	0.8	0.8	0.8	0.8	100.0	99.8	99.8
Prepared food, etc.	45.3	5.5	5.5	5.2	100.0	95.4	95.4
Mineral products	387.4	359.7	3.0	0.0	0.8	0.0	0.0
Chemical & prod.	0.7	0.1	0.1	0.1	100.0	57.3	57.3
Plastics & rubber	0.2	0.2	0.2	0.2	100.0	88.8	88.8
Hides and skins	23.6	20.3	20.3	19.3	100.0	95.3	95.3
Wood and articles	21.1	3.2	3.2	2.3	100.0	72.6	72.6
Pulp, paper , etc.	1.2	0.1	0.1	0.1	100.0	76.6	76.6
Textile & articles	54.5	47.5	47.5	25.2	100.0	53.1	53.1
Footwear, headgear	99.7	99.7	99.7	97.1	100.0	97.4	97.4
Articles of stone	0.1	0.1	0.1	0.0	100.0	6.6	6.6
Precious stones, etc.	2.9	0.5	0.5	0.4	100.0	88.1	88.1
Base metals & prod.	81.3	55.7	55.7	33.5	100.0	60.2	60.2
Machinery	12.7	0.9	0.9	0.9	100.0	100.0	100.0
Transport equipment	0.2	0.0	0.0	0.0	.	.	.
Precision instrument	5.9	0.0	0.0	0.0	.	.	.
Arms and ammunition	0.0	0.0	0.0	0.0	.	.	.
Misc. manufactured	2.0	0.2	0.2	0.1	100.0	34.1	34.1
Works of art, etc.	0.1	0.0	0.0	0.0	.	.	.
Special uses	0.0	0.0	0.0	0.0	.	.	.
<b>TOTALS</b>	<b>1'001.3</b>	<b>754.9</b>	<b>398.1</b>	<b>228.4</b>	<b>52.7</b>	<b>57.4</b>	<b>30.3</b>

*Source:* UNCTAD estimates based on notification from the Government of Japan.

The major products, at tariff line level, which benefited from the GSP scheme of Japan in 2001 are octopus from Mauritania (4.1 per cent), cathodes copper from Zambia (5.5 per cent), footwear from Cambodia (5.3 per cent), followed by Bangladesh (3.7 per cent), and leather products from Bangladesh (1.6 per cent).

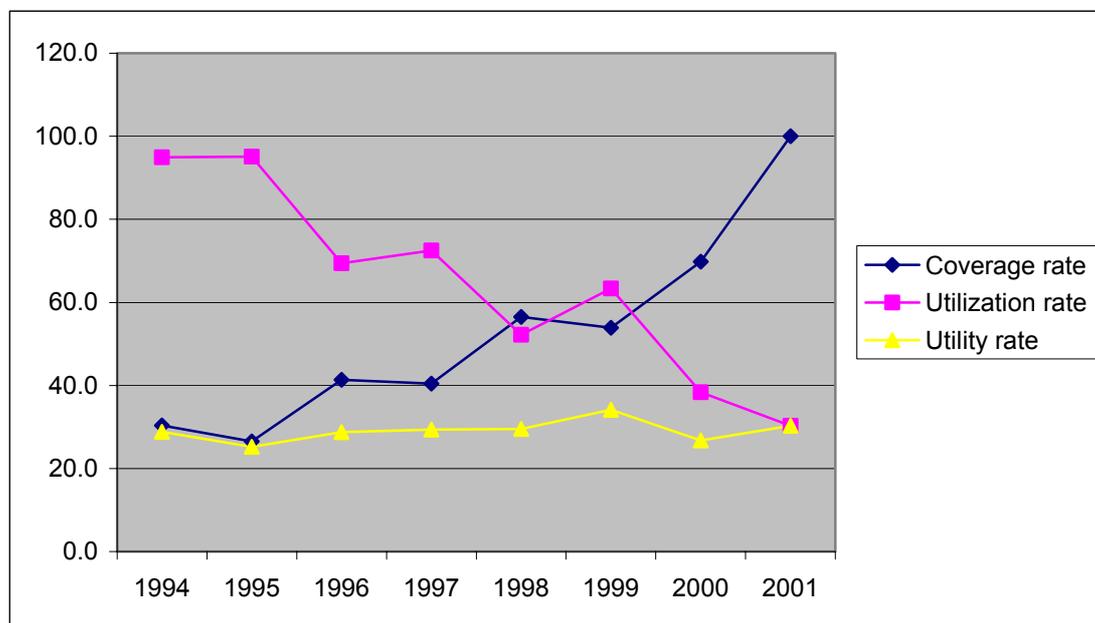
**Table 13**  
**Imports from effective LDC beneficiaries under the GSP scheme of Japan\***  
**(1994-2001)**  
*(in million of US dollars)*

Year	Total imports	Dutiable imports	GSP imports		Percentages		
			Covered	Received	Coverage	Utilization	Utility
(1)	(2)	(3)	(4)	(5)	(5)/(4)	(6)/(5)	(6)/(4)
A	B	C	D	E	F	G	H
1994	1 120.5	695.5	211.2	200.5	30.4	94.9	28.8
1995	1 309.8	912.7	241.9	230.1	26.5	95.1	25.2
1996	1 504.3	939.8	388.9	269.9	41.4	69.4	28.7
1997	1 204.9	757.3	306.3	222.1	40.4	72.5	29.3
1998	1 045.4	643.8	260.9	189.9	40.5	72.8	29.5
1999	989.0	679.6	286.4	231.9	42.1	81.0	34.1
2000	1 236.5	881.3	308.7	236.0	35.0	76.4	26.8
2001	1 001.3	754.9	398.1	228.4	52.7	57.4	30.3

Source: Notifications and UNCTAD secretariat calculations. For years 1999, 2000 and 2001, UNCTAD estimates based on notification from Japan.

\* Fiscal years.

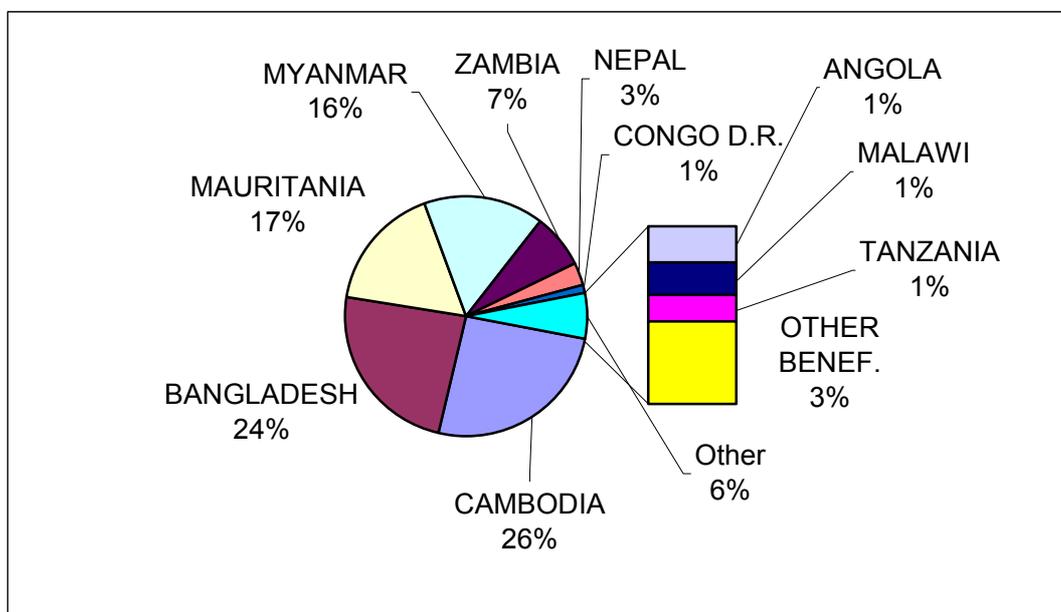
**Figure 2**  
**Japan: Averages of coverage, utilization and utility rates, 1994–2001**



Under the GSP, Japan provides LDC exports duty-free treatment for the list of covered products as well as exemption from the ceilings restriction on the importation of certain industrial products. This means that for LDCs the GSP preferential rate is not subject to quantitative limitations.<sup>32</sup>

When considering the time series from 1994 to 2001 shown in table 13, it can easily be seen that the amount of trade-receiving GSP preferences has been constantly slightly more than 200 million as well as the total imports from LDCs, which have been slightly over one billion.

**Figure 3**  
**Main LDC beneficiaries of the GSP scheme of Japan (2001)**  
**ranked according to amount of GSP received trade**



In 2001, the LDCs that benefit the most from the Japanese scheme are Cambodia and Bangladesh, whose exports account for 50 per cent of the total amount of received trade preferences. Other main LDC beneficiaries include Mauritania, Myanmar and Zambia. The value of LDCs' exports receiving preferences was around US\$ 228 million in 2001.

<sup>32</sup> In April 2000 the scheme introduced a country graduation mechanism, which follows and completes the product graduation that had already been introduced in 1998. However, the conditions required for graduations do not seem to pose any actual risk for LDCs.

**Table 14**  
**Trade covered by the improvement of the GSP scheme of Japan (Annex V)**  
**only for LDCs, ranked by HS Chapter**

HS Chapter		Values of imports from partner countries (in \$ 000)		
Code	Description	1999	2000	2001
03	Fish & crustacean, mollusc & other aquatic invertebrate	151 344	139 554	113 318
05	Products of animal origin, nes or included	23	10	6
08	Edible fruit and nuts; peel of citrus fruit or melons		.	15
09	Coffee, tea, maté and spices	8	8	11
10	Cereals.		6	23
13	Lac; gums, resins & other vegetable saps & extracts	11	26	19

*Source:* UNCTAD secretariat calculations.

Table 14 shows the amount of LDCs' trade expected to be granted GSP treatment following the addition of 198 products. Trade patterns of the years 1998–2001 indicated that, in relative terms, the impact in terms of potentially received benefits would be rather large, accounting for 113 million, taking into account 2001 trade data. If one takes into account the fact that the overall GSP received in 2001 was equivalent to roughly 238 million, this addition practically increases the overall amount of received trade preferences by one half.

Exports of prawns from Myanmar (40 per cent of market share in 2001), Bangladesh (22.4 market share in 2001) and Mozambique (19.5 per cent) are expected to receive the lion's share (roughly 80 per cent) of these additional preferences, although the preferential margin is rather limited given that the MFN rate is 1 per cent.

Fillets of fish from the United Republic of Tanzania are also expected to benefit from the additional preferences as well as jellyfish from Myanmar.

**Table 15**  
**Trade covered by the improvement of the GSP scheme of Japan, duty-free treatment only for LDCs, ranked by HS Chapter**

HS Chapter		Values of imports from partner countries (in \$ 000)		
Code	Description	1999	2000	2001
03	Fish & crustacean, mollusc & other aquatic invertebr.	292	255	274
08	Edible fruit and nuts; peel of citrus fruit or melons	104	847	2 338
09	Coffee, tea, maté and spices	825	709	601
12	Oil seed, oleagi fruits; misc. grain, seed, fruit etc.	1 797	211	393
15	Animal/veg. fats & oils & their cleavage products; etc.	2 102	1 589	799
16	Prep of meat, fish or crustaceans, molluscs etc.	2 492	3 165	3 281

*Source:* UNCTAD secretariat calculations.

Table 15 shows trade flows from LDCs for the period 1999–2001, for the products that have been granted duty-free access for LDC beneficiaries. In the case of developing countries, these products are also covered by the GSP scheme of Japan for non-LDC beneficiaries, but are just granted a tariff reduction. According to 2001 trade flows, macadamia nuts from Malawi (US\$ 2.3 million), preserved crabs from Angola (US\$ 2.8 million) and beeswax from Ethiopia (US\$ 0.79 million) are the products expected to benefit the most from these additional preferences.

### 3. The GSP scheme of Canada

Canadian legislation implementing a system of tariff preferences in favour of developing countries was brought into effect on 1 July 1974. After an initial period of 10 years, the Canadian scheme was renewed in 1984 with a number of improvements, including expanded coverage. Similarly, the scheme was renewed again in 1994 until 2004.

In September 2000, the Canadian Government extended the product coverage of its GSP scheme in favour of LDCs' exports by including an additional list of 570 products that were previously excluded by the GSP scheme. However, the new initiative did not provide additional preferences for textiles and clothing products. Thus, very limited changes were to be expected to the level of preferences already available to LDCs. Once the additional list of products was matched with trade, it covered a tiny fraction of LDCs' exports, totalling only US\$ 167,000 in 1997, as just 15 out of the 570 included products recorded some trade from LDCs in that year. Limited improvements in Canadian market access appeared to accrue to wine, and to a lesser extent fish (lobsters) and mushrooms. However, these improvements, although welcome, were too small to produce significant changes to the current

structure of the GSP for LDCs' exports. This was not surprising if it is borne in mind that without textile and clothing products, the amount of LDCs' trade excluded by preferences shrinks to less than 5 per cent.

As from 1 January 2003, the Government of Canada has extended duty-free and quota-free access to imports from 48 LDCs with the exception of some agricultural products such as dairy products, poultry and eggs. All eligible imports from these eligible countries are subject to duty-free and quota-free treatment.

The most important addition under this initiative has been the granting of duty-free and quota-free status to textiles and clothing articles. The initiative also changed the rules of origin, introducing an innovative cumulation system allowing inputs from all beneficiary countries.<sup>33</sup>

**(a) Coverage and utilization of the GSP scheme of Canada**

LDCs' exports in the Canadian market accounted for US\$ 243 million in 2001, up from the US\$ 180 million recorded in 2000. Textile products alone represent 38 per cent of LDCs' total exports, while minerals, and more particularly fuels, account for another 47 per cent. When vegetables and live animals and products are also accounted for, these products make 90 per cent of LDCs' exports in this market in 2001.

**Table 16**  
**Imports from effective LDC beneficiaries under the GSP scheme of Canada\***  
**(1994–2001)**  
*(in millions of US dollars)*

Year	Total Imports	Dutiable imports	GSP imports		Percentages		
			Covered	Receiving	Coverage	Utilization	Utility
(1)	(2)	(3)	(4)	(5)	(4)/(3)	(5)/(4)	(5)/(3)
A	B	C	D	E	F	G	H
1995	175.9	41.3	6.4	4.1	15.5	64.1	9.9
1996	336.9	34.5	6.3	2.9	18.3	46.0	8.4
1997	205.3	47.3	8.6	4.7	18.2	54.7	9.9
1998	256.0	92.1	9.8	5.8	10.6	59.2	6.3
1999	154.6	60.7	8.2	4.9	13.5	59.8	8.1
2000	180.1	75.9	9.9	7.2	13.0	72.7	9.5
2001	243.2	94.6	11.4	8.0	12.1	70.2	8.5

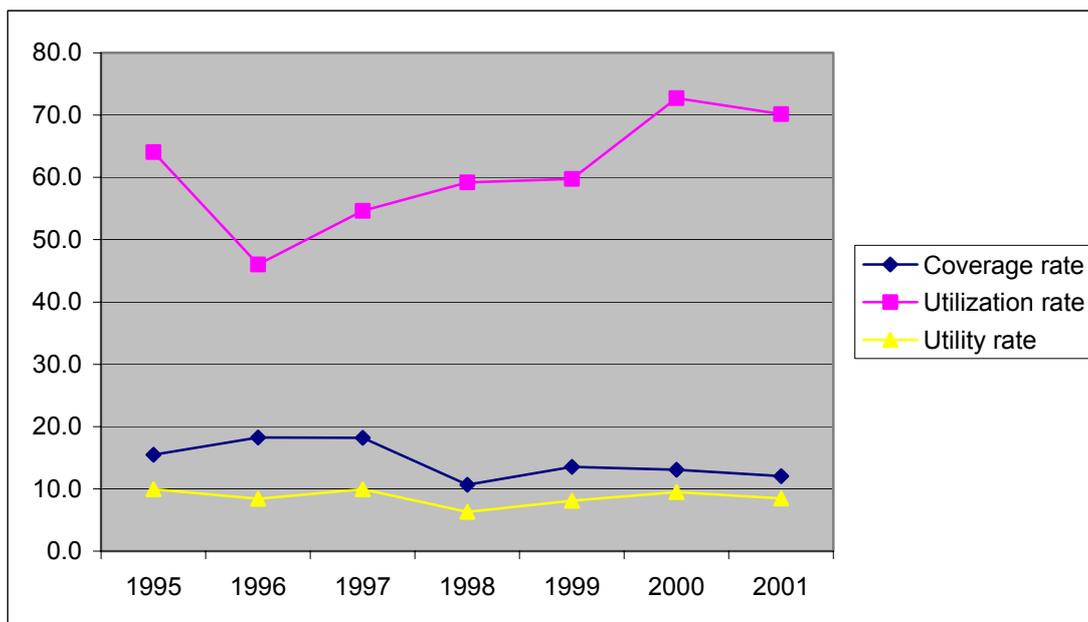
Source: UNCTAD secretariat calculations based on member States' notifications.

\* Figures for 1994 not available.

<sup>33</sup> Details of the Canadian rules of origin are provided in table 32 of this study.

Once oils from Equatorial Guinea (39 per cent of total LDCs' exports) and aluminium ores from Guinea (7.1 per cent of total LDCs' exports) are counted out, the other major exporter is Bangladesh for textiles and clothing (around 20 per cent).

**Figure 4**  
**Canada: Averages of coverage, utilization and utility rates (1995–2001)**



LDCs' exports of oil, aluminium ores, coffee and raw cotton into the Canadian market are duty-free, accounting for around 48 per cent of total exports. The remaining trade mainly concerns textile and clothing products. Since these products were not covered until the new changes were introduced in the current year, figures of product coverage as low as 12 per cent of product coverage rate are not surprising (see table 17).

**Table 17**  
**Imports from effective LDC beneficiaries under the GSP scheme of Canada**  
**(2001)**  
*(imports in US\$ million)*

HS Section description	Value of imports from LDCs (excl. CBI benef.)	Imports dutiable	Imports covered by the scheme	Imports receiving preferential treatment	Product covered rate (%)	Utiliz. rate (%)	Utility rate (%)
(1)	(2)	(3)	(4)	(5)	(4)/(3)	(5)/(4)	(5)/(3)
A	B	C	D	E	F	G	H
Live animals & prod.	5.1	1.1	0.9	0.9	83.5	99.4	83.0
Vegetable products	9.8	0.1	0.1	0.0	82.4	4.9	4.1
Fats and oils	0.0	0.0	0.0	0.0	1.3	18.9	0.2
Prepared food, etc.	2.4	1.3	1.3	1.0	96.8	79.5	76.9
Mineral products	113.9	0.0	0.0	0.0	100.0	0.0	0.0
Chemical & prod.	2.6	0.1	0.0	0.0	70.1	18.6	13.1
Plastics & rubber	1.4	0.3	0.3	0.1	100.0	42.8	42.8
Hides and skins	0.9	0.8	0.8	0.6	100.0	73.7	73.7
Wood and articles	0.3	0.2	0.2	0.1	100.0	80.3	80.3
Pulp, paper, etc.	0.2	0.1	0.1	0.0	100.0	81.3	81.3
Textile & articles	91.4	85.8	3.3	2.5	3.8	75.1	2.9
Footwear, headgear	3.9	2.6	2.4	1.5	89.9	63.0	56.6
Articles of stone	0.7	0.6	0.6	0.5	100.0	87.7	87.7
Precious stones, etc.	0.9	0.6	0.6	0.5	100.0	86.5	86.5
Base metals & prod.	0.7	0.2	0.2	0.1	99.2	31.5	31.3
Machinery	6.5	0.3	0.3	0.0	100.0	1.4	1.4
Transport equipment	0.2	0.0	0.0	0.0	100.0	0.0	0.0
Precision instrument	0.2	0.0	0.0	0.0	100.0	73.2	73.2
Arms and ammunition	0.0	0.0	0.0	0.0	100.0	100.0	100.0
Misc. manufacturing	1.7	0.7	0.4	0.1	60.6	21.7	13.2
Works of art, etc.	0.3	0.0	0.0	0.0	100.0	96.6	96.6
Special uses	0.3	0.0	0.0	0.0			
<b>TOTALS</b>	<b>243.2</b>	<b>94.6</b>	<b>11.4</b>	<b>8.0</b>	<b>12.0</b>	<b>70.1</b>	<b>8.4</b>

*Source:* UNCTAD secretariat calculations based on member States' notifications.

Apart from the textile and clothing sector, which was excluded by the scheme (2.9 per cent coverage only), the majority of all other LDC exports are either MFN-free or appear to be covered by the scheme. In fact, out of total imports from LDCs in 2001 of 243 million, less than half were dutiable at 94 million.

As far as the utilization rate is concerned, that is, the value of LDCs' trade actually receiving preferences this was 70.1 per cent in 2001. The figure has improved from the previous years: it was around 59 per cent in 1998 and 1999. However, when translated into absolute value, the value of export-receiving preferences is limited to US\$ 8 million (2001), equal to 11 per cent of all the LDCs' dutiable exports. Hats from Bangladesh (1.3 million of GSP received trade), carpets from Nepal (928 million

of GSP received trade) and lobster from Haiti (898 million) are the three top products that received GSP benefits in 2001.

Table 18 provides an indicative estimate of the magnitude of trade that is expected to benefit from the expansion of product coverage. Trade flows recorded in the period 1999–2001 have been matched with the increased product coverage.

As explained, the most significant sectors that are going to benefit from the increased product coverage are finished textiles and clothing articles of Chapters 61 and 62 (US\$ 165 million). Other textile articles amount to US\$ 13 million while footwear amounts to US\$ 227,000. Remaining exports of LDCs, besides textiles and clothing, are either negligible or nil when matched with trade flows.

An important qualification to be emphasized is that coverage does not ensure that preferential treatment will be automatically granted. Trade preferences on textiles and clothing will remain subject to compliance with rules of origin. In future years, it will be important to assess the utilization rates of these newly granted trade preferences and the impact of the innovative cumulative system heralded by Canada.

**Table 18**  
**LDCs' trade covered by the improvement of the GSP scheme of Canada**

Code	Description	MFN average rate in 2001	1999	2000	2001
61	Art. of apparel & clothing access. Knitted or crocheted	20.0	55 492	74 171	81 290
62	Art. of apparel & clothing access. Not knitted/crocheted	19.1	58 271	87 077	84 932
63	Other made up textile articles; sets; worn clothing, etc.	19.4	7 459	5 502	13 442
64	Footwear, gaiters and the like; parts of such articles	19.2	480	472	227

*Source:* UNCTAD secretariat calculations.

#### **4. The GSP scheme of the European Union for LDCs and the trade preferences under the Cotonou Partnership Agreement**

The preferential market access conditions of the European Community (EC) for LDCs' exports are regulated by two main trade arrangements:

- (a) The EC GSP scheme, which as of 5 March 2001 (the date of the entry into force of the "Everything But Arms" – EBA – amendment) provides, for an unlimited period of time, duty-quota-free treatment for all products originating in LDC beneficiaries, except for arms and ammunition, and with special provisions applicable to three sensitive products, namely rice,

sugar and fresh bananas (where customs duties will be phased out over specific transitional periods), and;

- (b) The new ACP–EC Cotonou Partnership Agreement<sup>34</sup> (the CPA, successor to the Lomé IV Convention), which basically provides for an eight-year roll-over of the previous preferences granted under Lomé IV with minor improvements, until 2008.<sup>35</sup>

## **5. The trade preferences for LDCs under the former Lomé Convention and the current Cotonou Partnership Agreement**

It has to be noted that, before the implementation of the EBA initiative, ACP LDCs had traditionally enjoyed more generous market access conditions and legal certainty under the Lomé/CPA regime. As a matter of fact, the only effective LDC users of the EC pre-EBA GSP scheme were those LDCs that are not members of the ACP group, namely Afghanistan, Bangladesh, Bhutan, the Lao People's Democratic Republic, Cambodia, Nepal, Yemen, Maldives and Myanmar (the latter has been temporarily excluded from GSP benefits).

One of the main differences between the tariff preferences provided to LDCs by the EC under its pre-EBA GSP scheme and the Lomé/CPA trade regime lay in the different legal nature of the two preferential arrangements. While the GSP was conceived as a unilateral, non-reciprocal, unbound grant by industrialized countries aimed at contributing to the economic development of the developing States, the Lomé/CPA preferences are an integral part of a broader international treaty which is legally binding upon the two parties (the EC, on the one hand, and the ACP States, on the other hand) and by which the EC has committed itself on a contractual basis to ensuring until 2008 non-reciprocal preferential market access conditions for ACP products. With a view to giving greater stability to the EBA-GSP preferences for LDCs, the EC has undertaken to maintain the special preferential treatment in favour of LDC products for an unlimited period of time, exempting such treatment from the periodical reviews of the basic GSP scheme or the negotiations for the Post-Cotonou Agreement.

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<sup>34</sup> The Partnership Agreement between the EU and 78 African, Caribbean and Pacific States was signed at Cotonou, Benin, on 23 June 2000. Pending the ratification process, the Agreement was put into provisional application on 2 August 2000, according to the modalities laid down in Decision No 1/2000 of the ACP-EC Council of Ministers of 27 July 2000 (2000/483/EC, Official Journal L 195 of 1.8.2000, p. 46).

<sup>35</sup> Under the Cotonou Partnership Agreement, the EU had anticipated the EBA initiative by entering into a commitment whereby it would “*start a process which, by the end of multilateral trade negotiations and at the latest 2005, will allow duty-free access for essentially all products from all LDCs, building on the level of the existing trade provisions of the Fourth ACP-EC Convention and which will simplify and review the rules of origin, including cumulation provisions, that apply to their exports*” (article 37, paragraph 9, of the Cotonou Partnership Agreement).

Before the introduction of the EBA, which improved the market access conditions of LDCs, the extremely high trade-weighted coverage (99.9 per cent) granted under the former Lomé Convention and the current CPA<sup>36</sup> appeared to provide little scope for improving market access for LDC products. However, a closer analysis of the preferential treatment provided under the Lomé/Cotonou Agreement and former GSP trade revealed that the comprehensive product coverage and preferential rates granted to LDCs were not necessarily equivalent to duty-free access.<sup>37</sup>

Even if the 1998 extension in GSP coverage improved the benefits for non-ACP LDCs,<sup>38</sup> market access conditions for ACP LDCs were still more favourable than the ones for non-ACP LDCs under the GSP, especially in the agriculture sector. In fact, all the sensitive agricultural concessions that are granted under Lomé/Cotonou special protocols and quotas only applied to ACP countries and were not extended to the non-ACP LDCs by the 1998 amendment to the EU-GSP scheme for LDCs. The detailed list of these agricultural products that were not provided duty-free access but selected reduction of duties was actually contained in an annex of joint declaration attached to the former Lomé Convention. The CPA is no exception to this rule, and the Declaration XXII titled – "Joint Declaration concerning agricultural products referred to in Article 1(2)(A) of Annex V" – attached to the text of the CPA contains the details of the concession. These agriculture specific concessions concerned practically all products covered by the common agricultural policy.

**Box 1**

**EU trade preferences for products subject to agricultural components and entry prices:  
The core difference between the former agricultural preferences under the Lomé/Cotonou arrangements  
and those provided under EBA**

The structure of the duties applicable to imports into the European Union is extremely complex. Many agricultural products face a combination of *ad valorem* and specific duties. The specific duty varies according to the presence in percentages of certain ingredients/inputs. For example, many tariffs applicable to products of the food industry (sugar confectionery, cereal preparations, chocolates, etc.) vary according to the content of sugar and milk fat contained in them. The agricultural component (EA) as well as, where appropriate, the additional duty on sugar (AD S/z) or the additional duty on flour (AD F/M), is to be determined on the basis of the content of:

Milk fat;  
Milk protein;  
Sucrose/invert sugar/isoglucose;  
Starch/glucose on the product concerned.

.../

<sup>36</sup> Trade-weighted coverage is given by matching a covered product with LDC trade (this is one of the main indicators utilized to assess the relevance of the preferential schemes for LDCs). Brenton, P. "Integrating the least developed countries into the world trading system: The current impact of EU preferences under Everything But Arms", World Bank, February 2003.

<sup>37</sup> See "Improving market access for LDC", UNCTAD/DITC/TNCD/4. A detailed analysis of the preferences granted under the Lomé/Cotonou agreements will be provided in a forthcoming UNCTAD publication.

<sup>38</sup> See Council Regulation (EC) 602/98, OJ L 80, 18.03.1998. This Regulation was adopted by the EC Council on the basis of a Commission communication of 16 April 1997, with a view to implementing the conclusions of the First WTO Ministerial Meeting, held in Singapore in 1996.

.../

According to the quantities used in the manufacturing of the finished products, an additional specific duty is calculated on the basis of a table contained in the TARIC.<sup>39</sup> For example, when, for a specific product, a reference in the TARIC is made to agricultural components (EA), a specific duty will be levied, in addition to the *ad valorem* duty. The amount of the specific duty has to be calculated with the help of a table contained in the TARIC. Supposing that the product in question contains a percentage of milk proteins, in percentage by weight, equal or higher than 6 per cent but less than 18 per cent, and a percentage of sucrose in that sugar or isoglucose, equal or higher than 30 per cent but less than 50 per cent, the corresponding agricultural component will be 78.61 euro per 100 kilogrammes net.

Entry prices (and relative tariffs) are applicable to imports of vegetable and fruit products as shown in table 19.

In fact, under the Uruguay Round Agreement on Agriculture, the EU reference price system for imports of fruits and vegetables was replaced with an entry price system. The system still discriminates against low-priced imports, but entry prices, fixed tariffs and tariff equivalents have to be reduced by 20 per cent over the six-year implementation period of the Uruguay Round. Products valued below the entry price are charged a tariff equivalent in addition to the fixed tariff. The tariff equivalent is graduated for products valued between 92 and 100 per cent of the entry price. The fixed tariff and the full tariff equivalent are levied on imports valued at less than 92 per cent of the entry price, making imports of lower-priced produce difficult to compete with EU products.

**Table 19**  
**Products regulated by an entry-price system in the EU**

<b>HS Tariff Line</b>	<b>Description of the products</b>
0702 00 00	Tomatoes (fresh or frozen)
0707 00 00	Cucumbers (fresh or frozen)
0709 00 00	Other legumes (fresh or frozen)
0709 10 00	Artichokes
0709 90 70	Courgettes
0805 00 00	Citrons (oranges, lemon, mandarins etc. ,fresh or frozen)
0806 00 00	Grapes (fresh or dried)
0808 00 00	Apples, pears and quinces (fresh)
0808 20 00	Pears and quinces
0809 00 00	Apricots, cherries, peaches, prunes (fresh)
0809 20 00	Cherries
0809 30 00	Peaches
0809 40 00	Prunes
2009 00 00	Fruit Juices (also made of vegetables) without added alcohol, with or without added sugar or sweeteners
2204 00 00	Wines from fresh grapes and wines enriched with alcohol

Entry prices change with seasons and an example can better explain the overall system. In the case of tomatoes, a vegetable product, entry prices and tariffs charged vary according to intervals of time throughout the year. For the year 2003 the time intervals have been set as follows:

- (a) month of January;
- (b) 1 February–end of March;
- (c) 1 to 20 April;
- (d) 21 April–end of May;
- (e) 1 June–end of July;
- (f) 1 August–end of September and from 1 October–end of December.

.../

<sup>39</sup> See Integrated Tariff of the European Communities (TARIC), Volume IV, 2003/C 103 A/01, Annex 1.

.../

Former Lomé arrangements and present Cotonou preferences are not providing duty-free access for the majority of these products. Preferences are limited to duty reductions sometimes within the framework of quotas. Specific duties are simply reduced and entry prices still apply. EBA provides for a complete elimination of all duties, both specific, *ad valorem* and the abolition of entry prices.

## 6. Utilization of ACP preferences

Table 20 provides a first scenario of the utilization rate of ACP countries. At a first sight, it appears that ACP-LDC countries do better as far as the utilization rate is concerned than their counterparts in the Asian context under the GSP. In fact, as can easily be noted in table 21, the utilization rate has been above 70 per cent on average for the whole period from 1998 to 2002.

At a more detailed level one may note that a handful of ACP countries have been able to benefit from the bulk of trade preferences. The most important volume of exported dutiable products are grouped in section 1, live animals; section 2, vegetable products; section 4, prepared food stuffs; and section 11, textile and clothing articles.

In the period under review (1998–2001), the utilization rate for products in section 1, has been steadily high – well over 80 per cent – for the major exporters such as Senegal, Mauritania, Madagascar, the United Republic of Tanzania, Mozambique, Angola and Uganda. Since the majority of these exports are fishery products, such a high utilization rate may indicate a direct involvement of EU fisheries and vessels given the stringent rules of origin and the insufficient capacity of the fishing fleet of these ACP–LDCs.

As far as vegetable products are concerned, the utilization rate has also been high among top exporters such as Ethiopia (except for 2002, when it dropped to 26 per cent), but significant variations have been recorded for Uganda in a 20 per cent average for the period under review and other main exporters such as the United Republic of Tanzania and Zambia.

High utilization of textile and clothing has been consistently around 90 per cent in the period 1998–2001 for Madagascar. Other countries have experienced substantive fluctuations. Zambia, for instance, recorded 66 per cent in 1998, 96 per cent in 1999, 98 per cent in 2000, 50 per cent in 2001 and 61 per cent in 2002. On the other hand, Lesotho recorded single digit figures of no more than 2.4 of utilization rate during the whole period under review.

The utilization rate of section 4, prepared foodstuff, has consistently been high at around 80 per cent for top exporters such as Malawi, the United Republic of Tanzania, Senegal, Madagascar and Uganda, and consistently low at less than 30 per cent for minor exporters of these products such as Sudan, Zambia and Mozambique.

This mixed performance calls for further analysis of the reasons for such discrepancies and dispersion of utilization rates among ACP countries.

**Table 20**  
**Imports of least developed ACP countries into the European Union under the Lomé/Cotonou Partnership Agreement (1998–2002)**

Year	Total imports	Dutiable imports	ACP imports		Percentages		
			Covered	Receiving	Coverage	Utilization	Utility
(1)	(2)	(3)	(4)	(5)	(4)/(3)	(5)/(4)	(5)/(3)
A	B	C	D	E	F	G	H
1998	5 619 463	2 154 020	2 153 103	1 467 413	99.9	68.1	68.1
1999	5 676 094	1 943 815	1 932 493	1 578 683	99.4	81.6	81.2
2000	7 572 540	1 719 521	1 710 243	1 226 470	99.4	71.7	71.3
2001	8 060 711	2 063 470	2 059 787	1 570 422	99.8	76.2	76.1
2002	8 440 687	2 237 059	2 162 641	1 768 022	96.6	81.7	79.0

*Source:* UNCTAD secretariat calculations.

When considering these trade data for 2001 and 2002, some caution has to be used taking into account that in May 2001 the EBA came into force and, therefore, some exporters could have used it instead of the ACP trade preferences. Moreover, the modalities of collecting the trade data on utilization rates for preferences granted under the ACP regime are different from those under the GSP and some discrepancies may be recorded.

**Table 21**  
**EU imports and utilization of ACP-LDCs' preferences, by HS section (2001)**  
*(in US thousand dollars)*

HS description	Total imports from beneficiaries	Imports dutiable	Imports ACP-covered	Imports ACP-received	Product coverage rate (%)	Utiliz. rate (%)	Utility rate (%)
(1)	(2)	(3)	(4)	(5)	(4)/(3)	(4)/(5)	(3)/(5)
A	B	C	D	E	F	G	H
Live animals & prod.	697' 910	604 768	604 768	517 952	100.0	85.6	85.6
Vegetable products	631 226	177 924	174 474	103 052	98.1	59.1	57.9
Fats and oils	82 588	80 447	80 447	70 936	100.0	88.2	88.2
Prepared food, etc.	360 103	305 131	304 897	234 384	99.9	76.9	76.8
Mineral products	2 501 845	31 073	31 073	6 347	100.0	20.4	20.4
Chemical & prod.	84 121	68 956	68 956	38 779	100.0	56.2	56.2
Plastics & rubber	25 077	2 121	2 121	1 119	100.0	52.7	52.7
Hides and skins	124 464	77 502	77 502	16 711	100.0	21.6	21.6
Wood and articles	181 492	16 510	16 510	15 409	100.0	93.3	93.3
Pulp, paper, etc.	3 792	1 366	1 366	750	100.0	54.9	54.9
Textile & articles	482 669	291 807	291 807	251 642	100.0	86.2	86.2
Footwear, headgear	13 709	13 655	13 655	12 523	100.0	91.7	91.7
Articles of stone	3 890	3 695	3 695	3 053	100.0	82.6	82.6
Precious stones, etc.	1 781 932	1 863	1 863	1 320	100.0	70.8	70.8
Base metals & prod.	447 153	347 134	347 134	283 548	100.0	81.7	81.7
Machinery	38 940	18 793	18 793	5 404	100.0	28.8	28.8
Transport equipment	574 778	6 081	6 081	700	100.0	11.5	11.5
Precision instrument	16 164	9 831	9 831	3 443	100.0	35.0	35.0
Arms and ammunition	15	15	15	1	100.0	5.9	5.9
Misc. manufacturing	7 108	4 801	4 801	3 344	100.0	69.7	69.7
Works of art, etc.	1 741	0	0	0	.	.	.
Special uses	0	0	0	0	.	.	.
<b>TOTALS</b>	<b>8 060 717</b>	<b>2 063 473</b>	<b>2 059 789</b>	<b>1 570 417</b>	<b>99.8</b>	<b>76.2</b>	<b>76.1</b>

*Source:* UNCTAD calculations based on member States' notifications.

In 2001, the relatively higher utilization rates recorded in some sectors such as textiles (86 per cent) shown in the above table have to be interpreted with some qualifications once the date is contrasted with other factors.

First, overall utilization is 76 per cent, indicating that almost a quarter of trade preferences is currently not utilized.

However, the most remarkable figure is the fact that the dutiable imports account for just a fourth (US\$ 2 billion) out of an overall figure of US\$ 8 billion. Thus, most of imports from ACP LDCs in the EU market are already MFN-free. Under the current structure and export diversification of ACP-LDCs' conditions, preferences have a somewhat limited role to play. This trend has remained rather constant for the period under review, 1998–2001.

As pointed out earlier, a closer look at the data reveals that high utilization rates are concentrated in a few ACP countries while others are lagging behind. Once again, Madagascar is mainly responsible for the relatively high utilization rates in textiles and clothing, with a 92 per cent utilization rate and the highest value of exports (US\$ 245 million). At the other end of the spectrum is Zambia with a 50 per cent utilization rate or Togo with 10 per cent and minimal trade values.

For hides and skin, Ethiopia and Eritrea record a meagre 28 per cent and 39 per cent respectively compared with 75 per cent for Mali.

These preliminary findings should be the subject of further studies and empirical analysis to identify the reasons for the extreme difference in utilization rates among the different ACP-LDCs.

#### **(a) *The "Everything But Arms" (EBA) initiative***

Although it has been the subject of criticism in various quarters, the introduction of the EBA amendment to the EC GSP scheme has brought about a substantial improvement in the GSP treatment granted to LDC beneficiaries on agriculture.

As examined in the preceding section, the wide product coverage granted by the European Union under the Cotonou Agreement and the pre-EBA GSP for LDCs was not equivalent to full product coverage and duty-free access. More specifically, there was considerable scope for eliminating all specific duties in the agricultural sector by abolishing or reducing the entry-price system and removing the remaining tariff quotas applicable under the Cotonou Agreement,<sup>40</sup> and providing duty-free treatment rather than simple reduction of duty.

The recently adopted EBA amendment to the European Union GSP scheme considerably improves the preferential market access granted to LDCs beyond the preferences provided by the Cotonou Partnership Agreement (CPA) and the former European Union GSP for LDCs. Under the EBA amendment, all products are admitted duty- and quota-free for an unlimited period of time, except bananas, sugar and rice, in respect of which customs duties will be phased out over a transitional period. All agricultural products that were previously granted only a margin of preference or were subject to quantitative limitations on preferential treatment under the former Lomé/Cotonou arrangements are now given duty-quota-free treatment. Most importantly, the EBA abolished the specific duties and entry prices that were previously applicable to certain categories of agricultural and processed foodstuffs under both the CPA and the GSP. This additional market access provided by EBA may not have been fully appreciated given its technical character. On the other hand, it has to be mentioned that few of the actual LDC exports may be benefiting from this

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<sup>40</sup> For the specific details of the concessions, see Declaration XXII "Joint Declaration concerning Agricultural products" referred to in Article 1 (2)(A) of Annex V of the Cotonou Partnership Agreement.

improved market access given the limited or non-existent supply capacity in the areas where the margin of preferences provided by the EBA is greater than the one provided under the former Lomé Convention and CPA.<sup>41</sup>

Another important feature of the EBA is the stability given to these preferences. In fact, even though the EBA is an integral part of the European Union GSP scheme, its duration is not subject to the periodic GSP reviews or to time limits. By the same token, the initiative is subject to all the disciplines and various limitations of the GSP scheme, such as the unilateral and unbound character of the GSP, the provisions on temporary withdrawal of the preferences (Article 22 of Regulation 2320/98, specially reinforced by the EBA amendment itself), strengthened safeguard provisions and rules of origin.

In particular, a significant limitation of the current initiative may be found in the absence of improvement in the field of rules of origin since previous GSP rules are still applicable. Moreover, given the cumulation regime applicable under the GSP, some ACP/LDCs may be placed in an unfavourable situation with respect to the cumulation regime granted to LDCs under the CPA (see below for the different cumulation systems).

#### **(b) *Product coverage and tariff treatment of the EBA initiative under the GSP scheme of the European Union***

The current GSP scheme of the European Union extends duty-quota-free access to all products originating in LDCs, except arms and ammunition falling within HS Chapter 93.<sup>42</sup> The EBA coverage now includes all agricultural products by adding such sensitive products as beef and other meat, dairy products, fruit and vegetables, processed fruit and vegetables, maize and other cereals, starch, oils, processed sugar products, cocoa products, pasta and alcoholic beverages. For most of such products, the pre-EBA GSP used to provide a percentage reduction of MFN rates, which would apply only to the *ad valorem* duties, thus leaving the *specific* duties entirely applicable.

Under the EBA, only the three most sensitive agricultural products are not subject to immediate liberalization:

- **Fresh bananas (CN code 0803 0019).** The EBA provides for full liberalization between 1 January 2002 and 1 January 2006 by reducing the full Community tariff by 20 per cent every year.

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<sup>41</sup> See also on this point Paul Brenton, "Integrating the least developed countries into the world trading system: The current impact of EU preferences under Everything But Arms".

<sup>42</sup> It should be noted that products of Chapter 93 are excluded from the EU GSP product coverage for all beneficiaries. See article 1, paragraph 2, of Regulation 2820/98.

- **Rice (HS 1006).** Customs duties on rice will be phased in between 1 September 2006 and 1 September 2009 by gradually reducing the full Community tariff to zero. During the interim period, in order to provide effective market access, LDC rice will be allowed to enter the EC market duty-free within the limits of a tariff quota. The initial quantities of this quota are based on best levels of LDC exports to the EC in the past years, plus 15 per cent. The quota will increase by 15 per cent every year, from 2,517 tons (husked-rice equivalent) in 2001/2002 to 6,696 tons in 2008/2009 (the marketing year starts in September and finishes in August of the following year).
- **Sugar (HS 1701).** Full liberalization will be phased in between 1 July 2006 and 1 July 2009 by gradually reducing the full Community tariff to zero. In the meantime, as for rice, LDC cane sugar, for refining, classified in subheading 17011110, can enter duty-free within the limits of a tariff quota, which will increase from 74,185 tons (white-sugar equivalent) in 2001/2002 to 197,355 tons in 2008/2009 (July to June marketing year). Imports of sugar under the ACP–EC Sugar Protocol will be excluded from the above calculations so as to uphold the viability of the Protocol.

**Table 22**  
**Tariff quotas for rice and raw sugar from LDCs**

	2001–2002	2002–2003	2003–2004	2004–2005	2005–2006	2006–2007	2007–2008	2008–2009
<b>Products</b>	<b>"EU import 000 tons"</b>							
Rice <sup>1</sup>	2 517	2 895	3 329	3 829	4 403	5 063	5 823	6 696
Sugar <sup>2</sup>	74 185	85 313	98 110	112 827	129 751	149 213	171 595	197 335

<sup>1</sup> Marketing years: September 2001 to September 2009.

<sup>2</sup> Marketing years: July 2001 to July 2009.

***(c) Coverage and utilization under the GSP scheme of the European Union: Before and after the EBA initiative***

***(i) An examination of trade flows and utilization rate under the pre-EBA GSP scheme of the European Union***

The following analysis focuses on the current product coverage and actual utilization that LDCs' exports enjoyed under the pre-EBA GSP scheme of the European Union. Given the fact that in the pre-EBA period, the Cotonou Agreement used to offer more favourable market access for LDCs, the GSP analysis is limited to the effective users of this scheme only, namely those LDCs not part of the ACP group – Afghanistan, Bangladesh, Bhutan, the Lao People's Democratic Republic,

Cambodia, Nepal, Bhutan, Yemen and Maldives<sup>43</sup> until 2001. Clearly the EBA initiative is likely to change the future preferential path of LDCs' exports to the EU, attracting part of the trade flows once receiving the treatment under ACP/EU Lomé/Cotonou trade arrangement.

As shown in table 23, and in figure 5, the GSP scheme of the EU for LDCs has consistently provided a high coverage range well beyond 90 per cent for the period under review. Notwithstanding this wide preferential coverage, an analysis of the utilization rate based on the real benefits accruing to (non-ACP) LDCs' exports provides a different scenario. In fact, the value of imports from non-ACP LDCs<sup>44</sup> actually receiving tariff preferences was around US\$ 1.8 billion in 2001, representing roughly 50 per cent only of LDCs' dutiable exports. Therefore, despite a potential preferential coverage close to 100 per cent, half of LDCs' exports (i.e. US\$ 2 billion) had MFN duties levied on them rather than receiving the preferential treatment.

Low utilization of the EU GSP scheme by non-ACP LDCs' exports appears to have been a constant feature in recent years. The utilization rate was 41 per cent in 1994 and improved to 48 per cent in 1996. However, a significant drop was recorded in 1997, when the rate fell to 26 per cent only, largely on account of the low GSP utilization rate recorded for important products such as textiles and clothing (21 per cent only). The main reason for this dramatic fall in the utilization rate in 1997 is explained in Part II, section A of this study. Similar low utilization rates were then recorded also in 1998 and 1999 period (26.2 per cent and 33 per cent respectively). In 2000 and 2001, there was an improvement since utilization is now 41 per cent and 46 per cent. However, half of the available trade preferences are not utilized. As is clear, preferences under this scheme are far from being fully exploited.

This low utilization means that MFN duty of around 10 per cent<sup>45</sup> is levied on half of the textiles and clothing exports from LDCs, around 11 per cent for half of their fish exports<sup>46</sup>, and above 20 per cent for 90 per cent of their prepared food (HS Chapter 20).

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<sup>43</sup> Myanmar, although one of the LDCs non-ACP countries, is currently excluded from the EU GSP scheme.

<sup>44</sup> Non-ACP LDCs are Afghanistan, Bangladesh, Bhutan, the Lao People's Democratic Republic, Cambodia, Nepal, Yemen, Maldives and Myanmar (the latter has been temporarily excluded from GSP benefits). These countries were until the entry into force of the EBA the effective beneficiaries of the EU GSP scheme.

<sup>45</sup> Tariffs retrieved from TRAINS data base.

<sup>46</sup> Average tariffs for food preparations made of fish and crustaceans are above 20 per cent.

**Table 23**  
**Imports from effective LDC beneficiaries under the GSP scheme of the EU\***  
**(1994–2001)**  
*(in million of US dollars)*

Year	Total imports	Dutiable imports	GSP imports		Percentages		
			Covered	Receiving	Coverage	Utilization	Utility
(1)	(2)	(3)	(4)	(5)	(4)/(3)	(5)/(4)	(5)/(3)
A	B	C	D	E	F	G	H
1994	2 471.2	1 823.4	1 791.7	748.1	98.3	41.8	41.0
1995	2 814.6	2 277.8	2 246.3	1 077.6	98.6	48.0	47.3
1996	3 219.0	2 580.3	2 520.1	1 196.8	97.7	47.5	46.4
1997	3 614.8	2 926.3	2 888.8	770.8	98.7	26.7	26.3
1998	3 519.4	2 932.1	2 908.0	761.8	99.2	26.2	26.0
1999	3 562.2	3 100.9	3 075.2	1 035.0	99.2	33.7	33.4
2000	4 247.1	3 671.7	3 633.6	1 499.5	99.0	41.3	40.8
2001	4 372.4	3 958.1	3 935.7	1 847.4	99.4	46.9	46.7

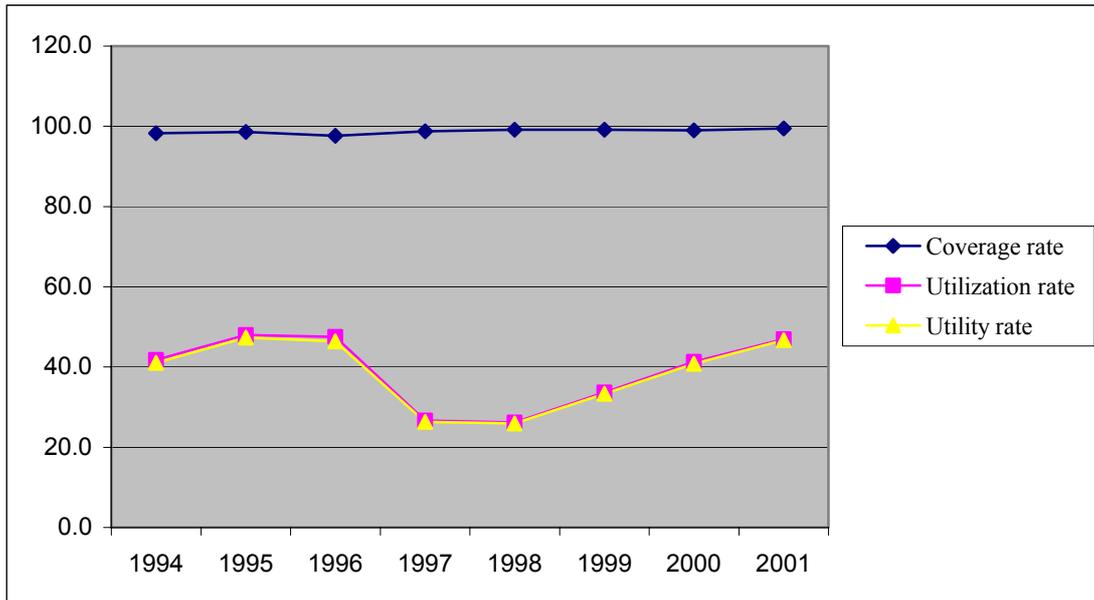
*Source:* Notifications and UNCTAD secretariat calculations.

\* Figures for 1994 and 1995 exclude Austria, Finland and Sweden.

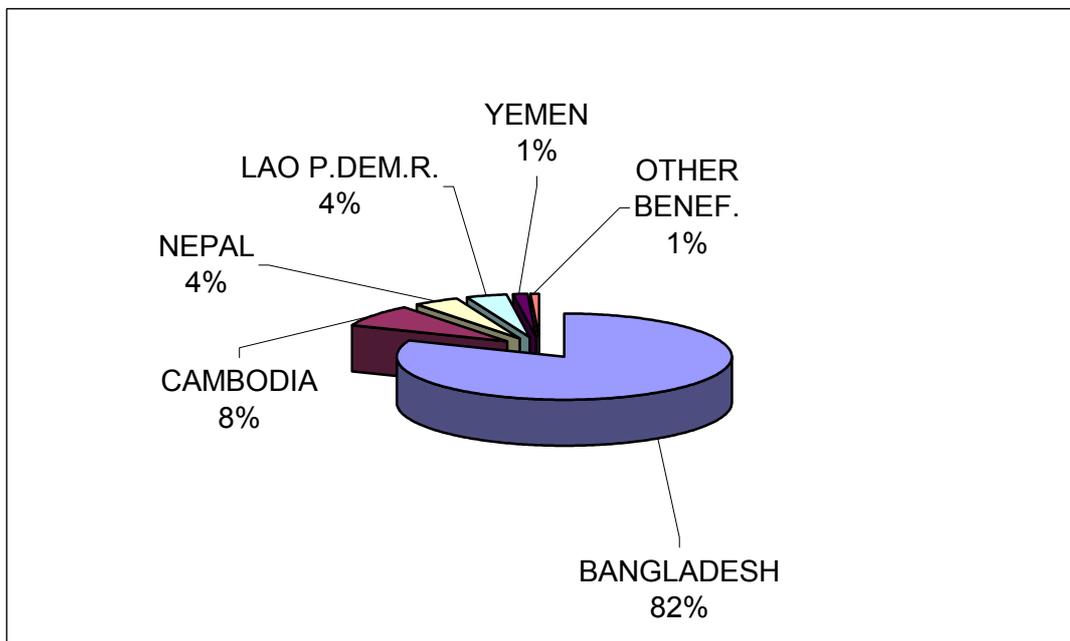
As shown in table 23, non-ACP LDCs' exports to the EU accounted for some US\$ 4.3 billion in 2001. Most exported products include textiles and clothing (74.5 per cent of total trade), minerals (5.8 per cent), prepared food (3.6 per cent), and hides and skins (3.2 per cent). As shown in figure 6, the (non-ACP) LDC country that so far has been benefiting the most from the GSP scheme is Bangladesh, followed by Cambodia (8 per cent), with Nepal and the Lao People's Democratic Republic accounting for 4 per cent each.<sup>47</sup> The top 10 products benefiting from the GSP scheme of the European Union come from Bangladesh and are clothing products of Chapter 61, which accounted for 13.7 per cent of total exports of effective GSP beneficiaries.

<sup>47</sup> According to 2001 data.

**Figure 5**  
**EU: Average of coverage, utilization and utility rates (1994–2001)**



**Figure 6**  
**Main effective beneficiaries of the EU GSP scheme (2001)<sup>48</sup>**



<sup>48</sup> Ranked according to GSP receiving trade volumes.

**Table 24**  
**Imports from effective LDC beneficiaries under the GSP scheme of**  
**the European Union for LDCs (2001)**  
*(in US\$ million)*

HS Section description	Value of imports from LDCs (excl. ACP benef.)	Imports dutiabale	Imports covered by the scheme	Imports receiving preferential treatment	Product coverage rate (%)	Utiliz. rate (%)	Utility rate (%)
(1)	(2)	(3)	(4)	(5)	(4)/(3)	(5)/(4)	(5)/(3)
A	B	C	D	E	F	G	H
Live animals & prod.	289.2	287.8	287.8	140.7	100.0	48.9	48.9
Vegetable products	51.3	11.9	11.8	8.1	99.1	68.6	67.9
Fats and oils	1.6	0.3	0.3	0.3	100.0	89.4	89.4
Prepared food, etc.	158.9	158.3	138.1	12.6	87.2	9.1	7.9
Mineral products	254.8	6.3	5.0	4.8	79.3	97.4	77.3
Chemical & prod.	5.8	5.0	5.0	3.2	100.0	64.1	64.1
Plastics & rubber	8.5	5.0	5.0	3.7	100.0	73.7	73.7
Hides and skins	139.3	115.3	115.3	99.1	100.0	85.9	85.9
Wood and articles	3.6	1.8	1.7	1.5	99.9	83.8	83.8
Pulp, paper, etc.	3.2	2.7	2.7	1.9	99.9	70.6	70.6
Textile & articles	3 258.8	3 187.0	3 186.4	1 446.8	100.0	45.4	45.4
Footwear, headgear	114.6	114.6	114.6	89.2	100.0	77.9	77.9
Articles of stone	16.6	16.6	16.6	15.7	100.0	94.5	94.6
Precious stones, etc.	6.8	2.0	2.0	0.8	99.7	38.4	38.2
Base metals & prod.	4.5	2.2	2.2	0.3	100.0	15.8	15.8
Machinery	27.1	20.9	20.9	0.9	100.0	4.4	4.4
Transport equipment	17.9	17.3	17.3	17.0	99.8	98.1	97.9
Precision instrument	5.5	1.6	1.6	0.1	100.0	4.9	4.9
Arms and ammunition	0.1	0.1	0.0	0.0	0.0	.	0.0
Misc. manufacturing	2.1	1.5	1.6	0.9	100.0	56.7	56.8
Works of art, etc.	2.2	0.0	0.0	0.0	.	.	.
Special uses	0.0	0.0	0.0	0.0	.	.	.
<b>TOTALS</b>	<b>4 372.4</b>	<b>3 958.1</b>	<b>3 935.7</b>	<b>1 847.4</b>	<b>99.4</b>	<b>46.9</b>	<b>46.7</b>

*Source:* UNCTAD secretariat calculations based on member States' notifications.

*(ii) A first examination of trade flows and utilization rate under the EBA GSP scheme of the European Union*

As can be seen from table 25, although it is difficult to draw conclusions from the examination of the trade data pertaining to a single year, it can be easily noted that the utilization rate under the EBA scheme is as low as 38 per cent. This percentage, which is lower than the 49 per cent recorded in 2001 for the effective GSP beneficiaries of the LDCs' scheme, may be due to the inclusion of trade from ACP-LDCs.

**Table 25**  
**Imports of all LDC beneficiaries under the EBA (2002)**

HS Section description	Total imports from benef.	Imports dutiable	Imports GSP- covered	Imports GSP- received	Pdt.covr rate (%)	Utiliz. rate (%)	Utility rate (%)
(1)	(2)	(3)	(4)	(5)	(4)/(3)	(5)/(4)	(5)/(3)
A	B	C	D	E	F	G	H
Live animals & prod.	963.6	955.6	955.6	198.6	100.0	20.8	20.8
Vegetable products	652.5	211.4	211.3	20.9	100.0	9.9	9.9
Fats and oils	81.1	80.2	80.2	0.7	100.0	0.9	0.9
Prepared food, etc.	444.0	367.7	367.4	45.9	99.9	12.5	12.5
Mineral products	2 922.8	13.7	13.6	4.5	99.2	32.8	32.6
Chemical & prod.	162.1	65.1	65.0	5.0	99.9	7.7	7.7
Plastics & rubber	31.6	8.2	8.2	4.7	99.9	57.3	57.3
Hides and skins	212.6	149.9	149.9	66.8	100.0	44.6	44.6
Wood and articles	177.9	19.6	19.6	2.3	100.0	11.6	11.6
Pulp, paper, etc.	6.7	4.2	4.2	2.3	100.0	53.5	53.6
Textile & articles	3 647.7	3 423.6	3 423.6	1 847.2	100.0	54.0	54.0
Footwear, headgear	121.2	121.0	121.0	92.9	100.0	76.8	76.8
Articles of stone	17.3	17.0	17.1	12.6	100.0	73.9	74.0
Precious stones, etc.	2 011.3	5.1	5.1	1.1	100.0	22.2	22.3
Base metals & prod.	517.0	450.4	450.3	1.0	100.0	0.2	0.2
Machinery	105.6	65.2	65.3	1.6	100.0	2.4	2.4
Transport equipment	811.4	31.0	31.0	15.5	100.0	49.9	50.0
Precision instruments	30.9	21.2	21.2	0.2	100.0	0.9	0.9
Arms and ammunition	0.1	0.1	0.0	0.0	0.0	.	0.0
Misc. manufacturing	11.3	8.2	8.2	1.4	100.0	16.9	16.9
Works of art, etc.	4.0	0.0	0.0	0.0	.	.	.
Special uses	0.0	0.0	0.0	0.0	.	.	.
<b>TOTALS</b>	<b>12 932.6</b>	<b>6 018.4</b>	<b>6 017.7</b>	<b>2 325.1</b>	<b>100.0</b>	<b>38.6</b>	<b>38.6</b>

*Source:* UNCTAD secretariat calculations from member States' notifications.

Be this as it may, one has to note the degree of consistency and pattern in the utilization rate of 54 per cent for textile articles and the 12.5 per cent for prepared foods with the utilization rates traditionally prevailing under the former GSP scheme of the European Union. As pointed out earlier, this persistent low utilization is probably due to the absence of changes and improvements in the rules of origin requirement under the EBA.

Once the performances of non-ACP and ACP EBA beneficiaries are separated, some salient features emerge. The analysis of trade flows of the Asian LDCs shows an increase of US\$ 475 million over the trade volume recorded in 2001. At the same time, the utilization has improved, totalling 57 per cent when compared with the previous year (46 per cent). These increases are explained by a rise in garment exports receiving preferential trade from Bangladesh (US\$ 320 million) and Cambodia

(US\$100 million). On the other hand, the EBA has not provided any additional market access in respect of the EU-GSP scheme of 2001 since duty-free treatment was already granted to textiles and clothing products and rules of origin for textiles and clothing have not been changed.

**Table 26**  
**Imports of non-ACP LDC beneficiaries under the EBA (2002)**

HS Section description	Total imports from benef.	Imports dutiable	Imports GSP-covered	Imports GSP-received	Product coverage rate (%)	Utiliz. rate (%)	Utility rate (%)
(1)	(2)	(3)	(4)	(5)	((4)/(3))	(5)/(4)	(5)/(3)
A	B	C	D	E	F	G	H
Live animals & prod.	306.2	305.2	305.2	189.6	100.0	62.1	62.1
Vegetable products	55.5	13.8	13.8	10.3	100.0	74.4	74.5
Fats and oils	0.2	0.1	0.1	0.0	100.0	5.9	5.9
Prepared food, etc.	159.5	158.2	158.2	28.1	100.0	17.8	17.8
Mineral products	241.8	4.6	4.6	4.5	100.0	97.1	97.1
Chemical & prod.	1.5	0.4	0.4	0.2	99.9	45.0	45.0
Plastics & rubber	7.5	4.8	4.8	4.3	99.9	89.2	89.1
Hides and skins	98.7	75.4	75.4	64.6	100.0	85.8	85.8
Wood and articles	3.9	2.2	2.2	2.0	100.0	90.4	90.5
Pulp, paper, etc.	3.1	2.7	2.7	2.2	100.0	83.1	83.2
Textile & articles	3 336.7	3 249.9	3 250.1	1 841.1	100.0	56.6	56.6
Footwear, headgear	108.6	108.5	108.5	92.2	100.0	85.0	85.0
Articles of stone	13.4	13.4	13.4	12.5	100.0	93.1	93.1
Precious stones, etc.	10.4	2.9	2.9	1.1	100.0	38.6	38.6
Base metals & prod.	4.8	3.0	3.0	0.4	100.0	12.2	12.2
Machinery	26.6	15.7	15.7	1.5	100.0	9.3	9.3
Transport equipment	20.4	17.9	17.9	15.4	100.0	86.2	86.3
Precision instrument	4.9	2.0	2.0	0.1	100.0	4.5	4.5
Arms and ammunition	0.1	0.0	0.0	0.0	0.0	.	0.0
Misc. manufacturing	2.7	1.8	1.8	1.2	100.0	68.4	68.5
Works of art, etc.	2.2	0.0	0.0	0.0	.	.	.
Special uses	0.0	0.0	0.0	0.0	.	.	.
<b>TOTALS</b>	<b>4 408.8</b>	<b>3 982.4</b>	<b>3 982.5</b>	<b>2 271.2</b>	<b>100.0</b>	<b>57.0</b>	<b>57.0</b>

Source: UNCTAD calculations from member States' notifications.

As shown in table 27, one apparent striking figure is the close to zero (2.6 per cent) figure of utilization recorded by ACP countries under EBA, in 2002. Previous years' utilization of the EU GSP scheme from 2000 to 2002 were also a single-digit figure.<sup>49</sup> However, as pointed out earlier, until May 2001, ACP preferences were more generous than those provided under the EU-GSP scheme for LDCs.

<sup>49</sup> Utilization rates were 2.6 per cent in 2002, 1.0 in 2001 and 1.5 in 2000.

**Table 27**  
**Imports from ACP LDC beneficiaries under the EBA (2002)**

HS Section description	Total imports from benef.	Imports dutiable	Imports GSP-covered	Imports GSP-received	Product coverage rate (%)	Utiliz. rate (%)	Utility rate (%)
(1)	(2)	(3)	(4)	(5)	(4)/(3)	(5)/(4)	(5)/(3)
A	B	C	D	E	F	G	H
Live animals & prod.	657.4	650.4	650.4	9.0	100.0	1.4	1.4
Vegetable products	596.9	197.6	197.5	10.7	99.9	5.4	5.4
Fats and oils	80.9	80.1	80.1	0.7	100.0	0.9	0.9
Prepared food, etc.	284.4	209.5	209.1	17.8	99.8	8.5	8.5
Mineral products	2'681.0	9.1	9.0	0.0	98.9	0.0	0.0
Chemical & prod.	160.6	64.7	64.6	4.8	99.9	7.5	7.5
Plastics & rubber	24.1	3.4	3.4	0.4	100.0	11.7	11.7
Hides and skins	113.9	74.5	74.5	2.2	100.0	2.9	2.9
Wood and articles	174.0	17.3	17.3	0.3	100.0	1.5	1.5
Pulp, paper, etc.	3.6	1.6	1.6	0.0	100.0	3.1	3.1
Textile & articles	311.0	173.7	173.6	6.2	99.9	3.5	3.5
Footwear, headgear	12.7	12.5	12.5	0.7	100.0	5.4	5.4
Articles of stone	3.9	3.6	3.6	0.1	100.0	3.4	3.4
Precious stones, etc.	2'000.9	2.2	2.2	0.0	100.0	1.1	1.1
Base metals & prod.	512.2	447.5	447.4	0.6	100.0	0.1	0.1
Machinery	79.0	49.6	49.6	0.1	100.0	0.2	0.2
Transport equipment	790.9	13.1	13.1	0.1	100.0	0.5	0.5
Precision instrument	26.0	19.3	19.3	0.1	100.0	0.5	0.5
Arms and ammunition	0.0	0.0	0.0	0.0	0.0	.	0.0
Misc. manufacturing	8.6	6.4	6.4	0.2	100.0	2.5	2.5
Works of art, etc.	1.8	0.0	0.0	0.0	.	.	.
Special uses	0.0	0.0	0.0	0.0	.	.	.
<b>TOTALS</b>	<b>8'523.8</b>	<b>2'036.0</b>	<b>2'035.2</b>	<b>53.9</b>	<b>100.0</b>	<b>2.6</b>	<b>2.6</b>

*Source:* UNCTAD calculations from member States' notifications.

After the entry into force of the EBA, ACP countries were expected to react to the new incentives provided by increased market access. However, trade data in table 27 seems to indicate that the majority of ACP countries are continuing to export under ACP trade preferences.

This may be hardly surprising when one considers that different formalities apply to the benefit of trade preferences under the CPA and EBA initiatives.

In fact, in order to benefit from CPA trade preferences, the certificate of origin "Form EUR I" is required as under the previous Lomé Conventions. Conversely, as the EBA is an amendment to the EU GSP scheme, in order to benefit from the EBA, the GSP certificate of origin "Form A" has to be used.

Since ACP countries have exported their products to the EU for the last 20 years utilizing the Form EUR I, it is likely that they will continue to use it even after the entry into force of the EBA.

The difference in certificates of origin between EBA and CPA could partly explain the low utilization of the EBA in 2002 and the continued reliance on the CPA trade preferences.

Since trade data on utilization of trade preferences are recorded according to the customs declaration made by the importer, this is probably the reason for the low utilization of EBA preferences by LDC-ACP countries. Obviously, when the importer presents a Form EUR I, the transaction will be recorded under ACP trade flows and not under EBA.

The major implication of this double system of certificates of origin varies depending on the product exported to the EU:

- If ACP countries are exporting under EBA, they are not granted the more liberal cumulation system available under the CPA;
- If ACP countries are exporting, under the CPA, agricultural products that have been granted additional liberalization under EBA by elimination of entry prices and agricultural components, they are depriving themselves of an additional margin of preferences.

Thus, for ACP-LDC countries, there might be pros and cons in utilizing EBA or the CPA preferences depending on the product.

Table 28 matches the list of products that have been granted additional trade preferences under EBA in respect of actual trade preferences under Cotonou with exports of ACP-LDC countries to the EU from 1999 to 2002.<sup>50</sup> These figures could provide a first assessment and quantification of the value of the additional and improved preferences provided by the EBA in respect of the CPA trade preferences.

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<sup>50</sup> For a similar analysis, see also Benton, *op. cit.*, p. no. 34.

**Table 28**  
**Major LDC exports covered by the effective market access improvement of EBA,**  
**excluding bananas, rice and sugar (1999–2001)**  
*(in thousand US dollars)*

Partner country	1999	2000	2001
Sudan	21 881	16 642	13 220
Senegal	4 077	5 092	5 362
Zambia	1 530	1 306	1 218
Djibouti	864	22	0
Ethiopia	743	379	877
Mozambique	585	844	1 111
Madagascar	389	312	69
Comoros	230	3	0
Uganda	228	2	106
Haiti	198	209	142
Myanmar	137	348	395
Lao People's Democratic Rep.	46	104	66
Yemen	0	0	151

*Source:* UNCTAD secretariat calculations.

At a more detailed level, the countries and products that are expected to benefit from the duty-free improvements provided by the EBA are Sudan for cane molasses, (US\$13 million in 2001 and an MFN rate of duty of 0.35 E/100 kg/net<sup>51</sup>), followed by Senegal for fresh tomatoes (US\$ 2.6 million in 2001 with an MFN rate of 8.8 per cent and entry prices), Mozambique for cane molasses (US\$888 million), Zambia for sweet corn (US\$ 1.2 million in 2001 and an MFN rate of 9.4 E/100 kg/net), Myanmar for garlic (US\$ 373,000 and an MFN rate of 9.6 + 120E/100 kg/net) and sorghum from Sudan (US\$ 691,000 and an MFN rate of 96E/ton). Sudan recorded a big drop in exports of sorghum from previous years in 1999 and 2000 when its exports amounted to US\$ 10 million and US\$ 6 million respectively.

Overall, the trade flow covered by the EBA's effective improvement of market access in respect of preferences granted under CPA appears quite limited at around 25 million in total. Some products such as tomatoes from Senegal may take advantage of the abolition of entry prices providing an additional element of preferences. However, it remains to be seen whether these additional market access opportunities provided by EBA are enough to generate a genuine increase in supply capacity in the medium term.

<sup>51</sup> For all MFN rates quoted on this page, see Commission Regulation (EC) No. 1832/2002 of 1 August 2002, amending Annex I to Council Regulation (EEC) No. 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff, OJ L 290 of 28 October 2002, laying down EU conventional rates of duty for 2003.

**Table 29**  
**Major exports of bananas, rice and sugar, from EBA beneficiaries (1999–2001)**  
*(in thousands US dollars)*

Partner country	1999	2000	2001
Malawi	22 514	23 176	20 256
Madagascar	10 135	7 987	7 613
United Republic of Tanzania	6 851	7 798	5 955
Myanmar	1 962	2 505	3 146
Zambia	1 475	5 392	5 978
Rwanda	144	136	70

*Source:* UNCTAD secretariat calculations.

Table 29 shows the trade volumes covered by the transitional exception to the duty-free, quota-free provision by EBA represented by bananas, rice and sugar.

The overall amount of trade is roughly equivalent to 43 million in 2001 and it mainly concerns sugar.

**Table 30**  
**EU imports of cane sugar for refining (EU combined nomenclature = 17011110)**  
**from EBA beneficiaries**

Partner country	Imports – values (\$ 000)			Imports – quantities (tonnes)		
	1999	2000	2001	1999	2000	2001
Zambia	1 475	5 392	5 978	3 000	12 427	14 513
Madagascar	1 847	0	1 138	4 044	0	3 013
Malawi	6 983	8 127	5 421	14 308	18 599	13 125

*Source:* UNCTAD secretariat calculations.

However, as indicated in table 22, under the EBA, a duty-free tariff quota is opened for sub-heading 17.011110 equivalent to 74.185 tons in 2001 with a growing rate factor. When matched with past trade performance of the major suppliers, it appears that the amount of sugar trade not covered by EBA could be diminished by almost 13 million since this amount appears to be covered by the duty-free tariff quota (see table 30). Moreover, the quotas allocated appear to provide ample room for trade growth for non-refined sugar.

Exports of bananas from all LDCs were equivalent to US\$ 175,000. Exports of rice were slightly over US\$ 1 million, mainly from Myanmar (US\$ 996,000). Given the fact that utilization figures of the preferential tariff quotas for sugar and rice opened under EBA are not available, it is rather difficult to quantify in absolute terms how the exclusion of these products from the EBA has affected the value of trade preferences under the scheme.



## PART II

### RULES OF ORIGIN AND LOW UTILIZATION OF TRADE PREFERENCES<sup>52</sup>

Recent literature<sup>53</sup> driven by the flourishing of unilateral and contractual preferential trading has been increasingly indicating rules of origin as prime suspects with regard to under-utilization of trade preferences and distortion in free trade areas.

This is not new to the beneficiaries of the GSP schemes.

At the outset of the GSP, drafting a uniform set of rules of origin to be applied to the different GSP schemes adopted by preference-giving countries was the principal aim of the UNCTAD Special Committee on Preferences. Hence the latter decided to set up a working group on rules of origin with the task of initiating consultations on the technical aspects of rules of origin with the objective of preparing draft rules of origin to be applied uniformly in all the GSP schemes. This working group was one of the first multilateral initiatives to regulate the issue of rules of origin at the intergovernmental level.

However, in the OECD's Ad Hoc Working Group of the Trade Committee on Preferences meeting in Paris in 1970, the preference-giving countries expressed the view that as preferences were being granted unilaterally and non-contractually, the general principle had to be that donor countries were free to decide on the rules of origin which they thought were appropriate after hearing the view of the beneficiary countries.<sup>54</sup> Within the general principle mentioned above, the preference-giving countries felt that the process of harmonization had to be limited to some related practical aspects such as certification, control, verification, sanctions and mutual cooperation. Even there, progress has been extremely limited.

Although changes and modifications have been introduced in the GSP rules of origin since the 1970s, the basic requirement, shortcomings and rationale for these rules have remained virtually the same for almost 30 years since the OECD meeting.

The first implication of the decision taken at the OECD meeting was that different sets of rules of origin applied according to each national GSP scheme. It followed that since national schemes had different product coverage, different customs regulations and different previous rules of origin for administering trade preferences, each

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<sup>52</sup> This part of the study is part of a larger exercise conducted by UNCTAD to assess the implications of rules of origin for trade preferences.

<sup>53</sup> See, for instance, A. Estevadeordal "Negotiating market access: The use of the North America Free Trade Area Agreement", *Journal of World Trade*, 34(1), 2000, and S. Inama "Trade preferences and the WTO negotiations on market access: Battling for compensation of erosion of GSP, ACP and other trade preferences or assessing and improving their utilization and value by addressing rules of origin and graduation?" *Journal of World Trade*, forthcoming, 2003.

<sup>54</sup> See OECD, Ad Hoc Working Group of the Trade Committee on Preferences, Rules of origin, second report, TC/Pref./70.25, p. 9, Paris, 25 September 1970.

preference-giving country modelled its own system of rules of origin according to these different parameters.

Throughout the three decades of existence of the GSP, the shortcomings of the origin system and consequent obstacles to GSP utilization identified by preference-receiving countries were discussed in the context of the UNCTAD Working Group on Rules of Origin and in the Special Committee on Preferences until 1995.

Following the restructuring of UNCTAD, the Working Group on Rules of Origin was discontinued. As a result, preferential rules of origin are not an item of discussion in a systemic and analytical manner in any intergovernmental meeting.

In fact, the Uruguay Round Agreement has not brought any significant discipline in the context of preferential rules of origin.<sup>55</sup> The ongoing Harmonization Work Programme concerns only non-preferential rules of origin. Preferential rules of origin are subject to a common declaration not providing any multilateral discipline. In this area, this has ultimately resulted in an uncontrolled proliferation of different sets of rules of origin in autonomous and contractual trade preferences.

A number of issues related to difficulties in meeting origin requirements and emerging from studies and surveys conducted under the mandate of the working groups have been recorded in the compendium of the work and analysis conducted by UNCTAD working groups and sessional committees on GSP rules of origin.<sup>56</sup> Given the few changes that have occurred in the substantive requirements under the different GSP schemes, some of the difficulties and problems discussed at the above-mentioned meetings are still fully relevant today.

As pointed out by a preference-receiving country,<sup>57</sup> insuperable obstacles were caused by the need to devise and operate an accounting system, which differed in the definition of concept, application of accounts, precision, scope and control from its internal legal requirements. The system must provide the costing information to satisfy the rules of the countries of destination, and to check the shares of domestic and imported inputs in the unit cost of the exported goods, in some cases identifying the country of origin of the inputs and establishing direct and indirect processing costs. This often required (and still requires) data-processing techniques, which are not in common use, especially in small and medium-sized enterprises.

Also, it was found that the willingness of enterprises to change or adopt accounting systems different from normal systems depends on the volume of exports, the share of such exports in total sales and the cost involved.<sup>58</sup> In addition, the expenditure

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<sup>55</sup> For a detailed analysis of the Uruguay Agreement on Rules of Origin and its implications, see the document UNCTAD/ITCD/TSB/2003/5.

<sup>56</sup> See UNCTAD, "Compendium of the work and analysis conducted by UNCTAD Working Groups and Sessional Committees on GSP Rules of Origin, Part I" (UNCTAD/ITD/GSP/31), 21 February 1996.

<sup>57</sup> See UNCTAD document TD/B/C.5/WG(X)/2, p. 6.

<sup>58</sup> *Ibid.* p. 22.

incurred in operating a parallel accounting system may outweigh the benefit of tariff preferences, for example, where the preferential margin is less than 5 per cent.<sup>59</sup>

For instance, an UNCTAD study conducted in 1973 on rules of origin in the textile and clothing industry pointed out that current multi-stage processing were going "far beyond the conceivable limits of substantive transformation".

According to the requirement laid down in the GSP rules, several multi-stage operations are required in the production of textiles. For example, GSP rules of origin in the early 1970s required that cotton yarn, in order to obtain the origin, had to be manufactured from cotton, not carded or combed, or from cotton waste not carded or combed (the required process was "manufacture from materials of heading n. 55.01 or 55.03"). According to the average value attributable to the specific processing factor, the spinning factor raised the value of the starting material usually by 75 per cent. For 100 units of raw cotton the yarn had a face value of 175, and the percentage of value added required by this process thus amounted on average to 75.<sup>60</sup>

For "other woven fabrics of cotton" the process prescribed in the rules was "manufacture from materials of headings Nos. 55.01, 55.03 and 55.04". Since the use of non-originating yarn was not permitted as raw material, the starting material for production of fabrics must again be raw cotton. Since it was assumed that the average value attributable to the weaving process was equivalent to 140 per cent, this process raised the value of the yarn to a value of 420 units. The percentage of value added required by the rules for cotton fabrics is therefore not less than 328.

Since these textile and clothing rules of origin have not undergone any substantive modification since 1973, it may be interesting to contrast them with the more recent data on utilization of trade preferences.

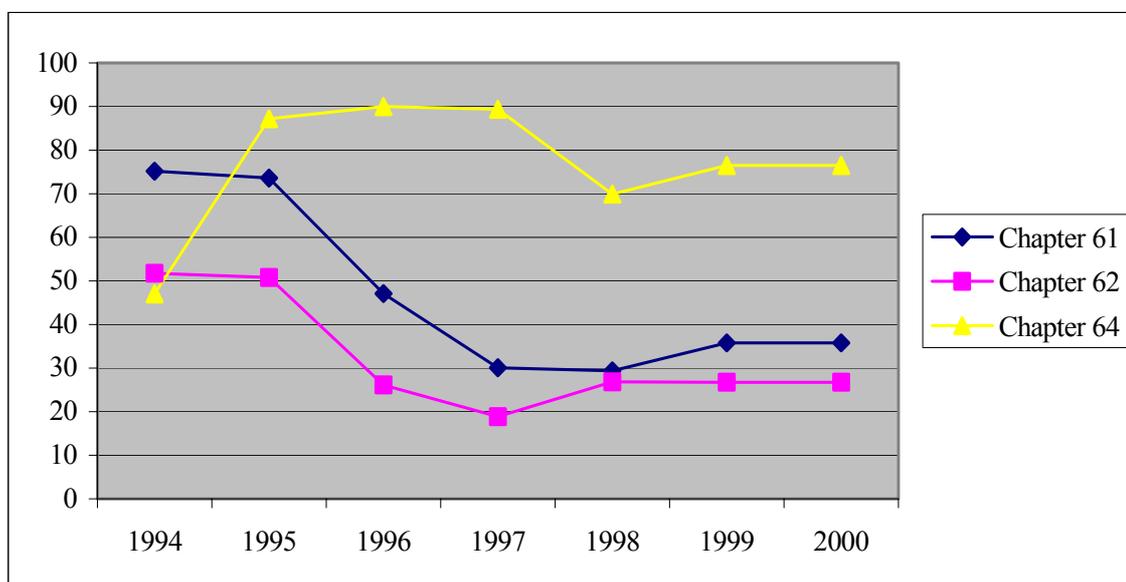
Graphs 7 and 8 show averages of utilization for Asian LDCs (average utilization rates of Bangladesh, Cambodia, the Lao People's Democratic Republic and Nepal) and Asian non-LDCs (average utilization rates of India, Philippines, Viet Nam and Sri Lanka) sectors for chapter 61 (articles of apparel and clothing accessories, knitted or crocheted), chapter 62 (articles of apparel and clothing accessories, not knitted or crocheted) and chapter 64 (footwear, and the like, parts of such articles) under the EU-GSP scheme.

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<sup>59</sup> Ibid, p. 5. A preference-receiving country showed, as an example, that in the case of the United States, out of a total of \$788.9 million of Mexican exports which could have benefited from GSP in 1983, and for which in principle there was no limitation apart from the presentation of origin certificates, 58.7 per cent (\$462.2 million) comprised goods whose preference margin was less than 5 per cent. For such goods the main reason for the non-use of preference might have been this low margin compared with the more costly administrative requirement needed to establish compliance with the origin rules. The remaining 41.3 per cent of exports, with a preference margin exceeding 5 per cent, largely represented cases where the goods had failed to satisfy the origin rules.

<sup>60</sup> In the EC GSP rules of origin the materials described in the text, classified in chapter 62 of the Harmonized System, obtain the origin if they are manufactured from yarn.

**Figure 7**  
**Average utilization rate of selected Asian LDCs,**  
**by HS Chapters: 61 & 62 (garments) and 64 (footwear) (1994-2000)**



As can be seen, the utilization rate has been steadily low in the cases of some Asian non-LDC and LDC selected countries for chapters 61 and 62 and relatively satisfactory for chapter 64. Among the LDC countries, the highest utilization rate is for Nepal and the lowest for Bangladesh and Cambodia.<sup>61</sup>

For chapter 62, the utilization rates of these latter two countries have been as low as 0.8 per cent for Cambodia and 11 per cent for Bangladesh.

In the case of Cambodia, relatively high utilization rates of around 70 per cent for chapters 61 and 62 have been recorded for 1994 and 1995. However, the volume of trade during those years was low.

In the years after 1995, when overall exports of garments classified in chapters 61 and 62 were increasing, the utilization rate was falling to as low as 10 per cent for the Lao People's Democratic Republic and to single digit figures for Cambodia.

Some observations may be made by contrasting the decreasing trend of the utilization rate after 1995 with data concerning inflows of foreign direct investment in these countries.

<sup>61</sup> For Asian LDCs the selected countries are Nepal, the Lao People's Democratic Republic, Cambodia and Bangladesh. For Asian non-LDCs the selected countries are India, Philippines, Viet Nam and Sri Lanka.

In the case of Cambodia, data<sup>62</sup> on foreign direct investments in clothing manufacturing flows show a net increase from US\$ 46.6 million in 1996 to US\$ 99.8 million in 1997 with a corresponding increase of investment stocks from US\$ 65.2 million in 1995 to US\$ 111.9 million in 1996 and US\$ 211.6 million in 1997. Similar trends are recorded for the Lao People's Democratic Republic.

These parallel flows of increased foreign trade investments, increased volume of exports and corresponding low utilization may suggest that there has been a switch of sourcing of the inputs whereby the investors have decided to forgo the tariff preferences for more efficient suppliers of inputs. Hence, there is a strong indication that rules of origin requiring the utilization of certain inputs rather than others have a direct bearing on low utilization. In the case of Cambodia and the Lao People's Democratic Republic, low utilization is particularly striking in the last years of the decade since those countries have been granted a derogation from rules of origin requirements for certain textiles and clothing. However, such derogation is subject to quotas and rather complex administrative requirements, which may largely affect the utilization rate of the derogation.<sup>63</sup>

In the case of selected non-LDC Asian countries, it has to be noted that even countries with a relatively diversified textile and clothing sector such as the Philippines, Viet Nam and Sri Lanka are showing low utilization rates. All these countries were showing for chapter 62, from 1994 to 2001, an average utilization rate of below 10 per cent.

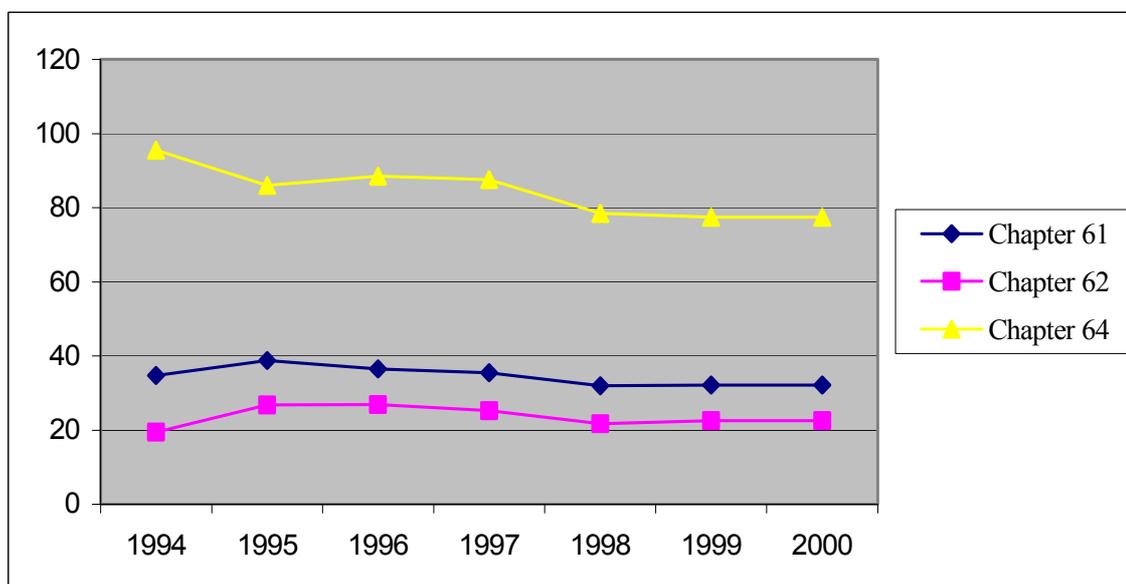
Given the availability of domestic inputs, the utilization rate of India was showing a rather satisfactory and stable rate of slightly over 70 per cent for the period 1994–2000 for chapters 61 and 62. This explains the total above 20 per cent average recorded in figure 7.

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<sup>62</sup> See *World Investment Directory*, UNCTAD, New York and Geneva, 2000.

<sup>63</sup> Commission Regulation (EC) No. 292/2002 amending Regulation (EC) No. 1614/2000 derogating from Regulation (EEC) No. 2454/93 in respect of the definition of the concept of originating products used for the purposes of the scheme of generalised preferences to take account of the special situation of Cambodia regarding certain exports of textiles to the Community (OJ 2002 L 46, p. 14). Commission Regulation (EC) No. 291/2002 amending Regulation (EC) No. 1613/2000 derogating from Regulation (EEC) No. 2454/93 in respect of the definition of the concept of originating products used for the purposes of the scheme of generalised preferences to take account of the special situation of Laos regarding certain exports of textiles to the Community (OJ 2002 L 46, p. 12).

**Figure 8**  
**Average utilization rate of selected Asian non-LDCs**  
**by HS chapters: 61 & 62 (garments) and 64 (footwear) (1994–2000)**



**A. Linking low utilization of preferences with sourcing and rules of origin:  
A methodology**

On the basis of the trends of utilization rates recorded in the preceding section, further analysis has been conducted to detect and identify the reasons for such low or minimal utilization.

The objective of the exercise is to demonstrate that low utilization of trade preferences in Bangladesh and Cambodia is due to the current EU rules of origin requirements. As further explained below, such rules of origin are impeding the utilization of imported fabrics for the making up of finished garments. If imported fabrics<sup>64</sup> are utilized in the manufacture of finished garments, the duty-free treatment will not be granted since the garment is not considered as originating under current EU rules of origin.

Trade preferences of Cambodia and Bangladesh under the EU-GSP schemes have been sampled since they have been granted extensive trade preferences over the neighbouring countries which are either graduated from the EU-GSP as far as textiles and clothing are concerned or are not dependent on trade preferences to develop their export markets given their large supply capacity.

<sup>64</sup> See also the issue concerning cumulation supra. Some argue that cumulation may lessen the impact of such rules of origin. Import trends in Cambodia and Bangladesh demonstrate that cumulation is not a solution unless it includes the current suppliers of fabrics i.e. mainly China. Otherwise, there is no alternative to the liberalization of the product-specific rules of origin allowing the utilization of fabrics.

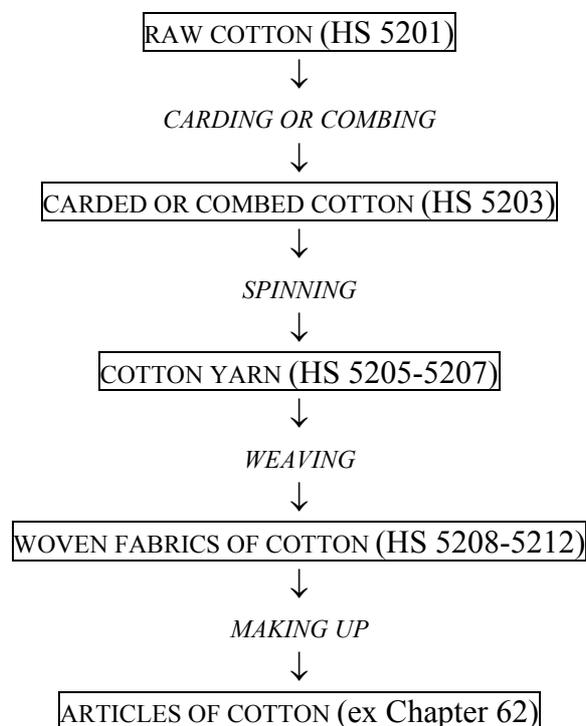
Second, Bangladesh and Cambodia have a minimum base of relatively stable industrial capacity over the years generating commercially meaningful trade flows of textile and clothing products.

Third, and perhaps most importantly, these countries are geographically positioned next to the most competitive supplier of intermediary textile inputs (yarns and fabrics) such as China and India. Thus, it is relatively easier to trace an established pattern of trade flows linked to constant and stable industrial relations and investment trends.

The analysis has been conducted by breaking down the production chain of textile and clothing products and on the basis of different textile materials (cotton, wool, man-made, synthetic) at different production stages.

The methodology's starting point identified the inputs and components of a specific finished product and matched them with the corresponding HS headings. As an example, the identification of some HS headings for some textiles and clothing items corresponding to the “production chains” of finished garments has been outlined below. Starting from the raw material, the sequencing of production stages in order to get to the finished product has been determined.

For instance, the production chain for articles of apparel and clothing accessories of cotton, not knitted or crocheted (of HS chapter 62), can be set out as follows:



In the case of knitted or crocheted articles of cotton, ex chapter 61, the last two stages, *weaving* and *making up*, should be replaced by *knitting or crocheting* (knitted or crocheted fabrics of cotton – ex chapter 60) and *making up* (knitted or crocheted articles of cotton – ex chapter 61).

The same breakdown and identification of the corresponding HS headings have been carried out for other textile materials such as wool, man-made and synthetics. A subsequent step has been undertaken to match these headings with import statistics of the sample countries on a time series basis of 1994 to 2001. The data set used was COMTRADE and in the case of Cambodia reverted trade has been used.<sup>65</sup> These graphics provided a map of imported inputs according to the level of manufacturing over the years and represented the first layer of the input matrix.

The other layer of the matrix represented the output, namely the exported products of chapters 60 (fabrics), 61 (garments, knitted or crocheted) and 62 (garments, not knitted or crocheted).

As a subsequent step, both input and output trade flows have been broken down respectively by country of origin for imports and country of destination of exports.

The next step has been to analyse and contrast the trade flows of imported inputs and their level of manufacturing in the production chain with the EU rules of origin requirements and to draw possible conclusions. It has to be noted that the missing point in this picture is the local output of manufacturing of the different segments of textile and clothing production.

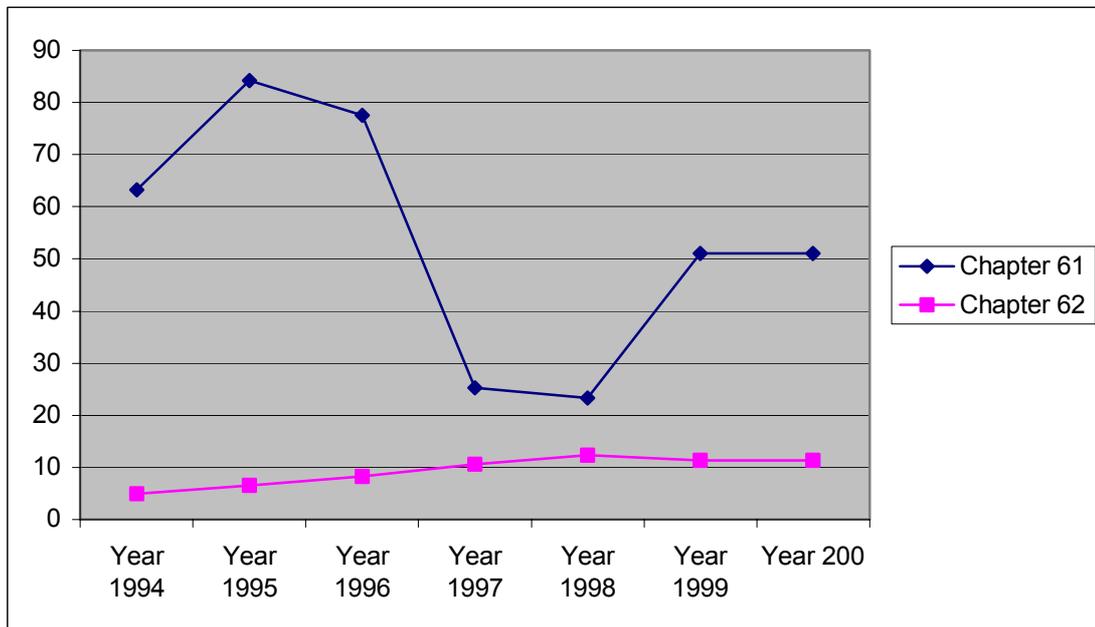
This latter area, where at present there are few data available or data not sufficiently complete to contribute further to the analysis, will be the subject of further empirical analysis.

Figures 9 and 10 represent the utilization rates over the period from 1994 to 2000 of Bangladesh and Cambodia and are the starting point of the analysis.

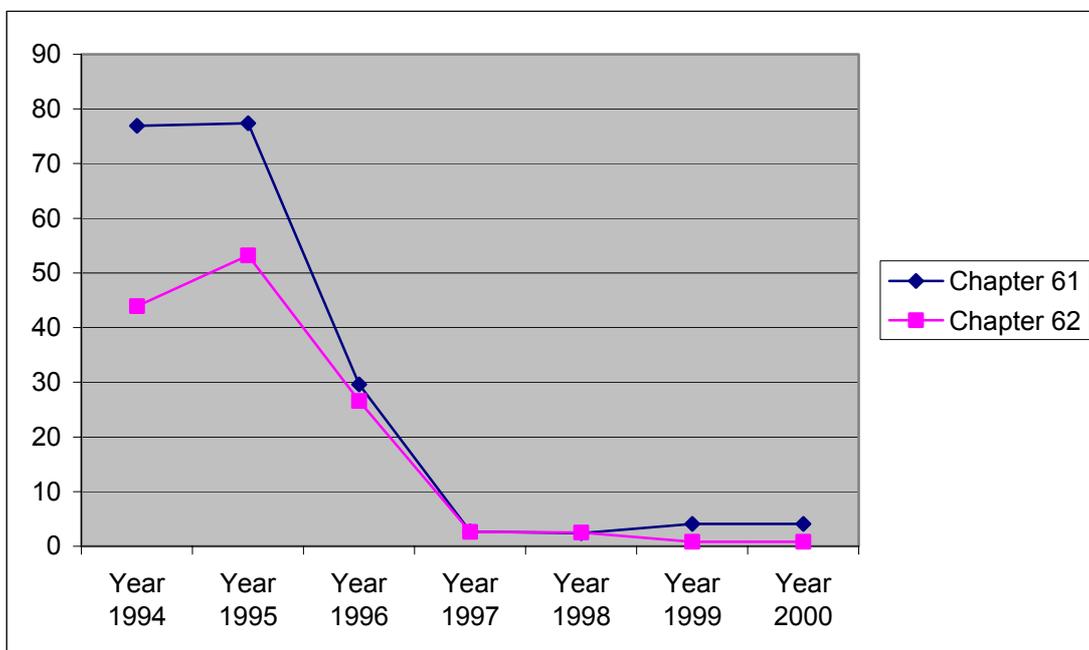
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<sup>65</sup> A comparison with local data sources carried out in Cambodia shows no significant divergence or discrepancies with figures obtained from reverted trade.

**Figure 9**  
**Bangladesh: EU-GSP utilization rates for HS chapters 61 and 62 (garments)**  
**(1994–2000)**



**Figure 10**  
**Cambodia: EU-GSP utilization rates for chapters 61 and 62 (garments)**  
**(1994–2000)**



In the case of Bangladesh it can be easily observed that the minimal utilization of trade preferences has been a constant feature in the exports of finished garments of chapter 62.

The relative positive peaks observed in Bangladesh for garments of chapter 61 are counterbalanced by the drastically lower rates recorded in 1997 and 1998. These latter variations may be easily explained by the discovery by the EU authorities of almost 10,000 wrongly issued certificates of origin which led to a disruption of transitional trade flows (see box 2).

**Box 2**  
**The case of Bangladesh T-shirts**

In March 1995, the customs authorities of several EU member States, intrigued by the increase in T-shirt imports from Bangladesh, decided to return systematically the certificates of origin Form A to the Department of Trade and Industry (DTI) asking that the validity of such certificates be confirmed.

Throughout 1995, the DTI did not respond to the requests from the European customs authorities since there was not a sufficient number of personnel to cope with this very important task. Under EU rules, a reply is expected within *10 months maximum* as to whether the certificates are applicable or not (which means they are not false, and that the criteria of origin for the T-shirts were indeed respected).

Since the maximum delay (10 months) expired in December 1995, the European Commission decided to launch a post-clearance investigation concerning T-shirt imports from Bangladesh for the period 1993–1995.

At the same time, the European Commission requested the customs authorities of the 15 Community member States to gather the certificates of origin submitted by the European importers since 1993 for imports from Bangladesh.

The Community member States gathered 9,000 certificates covering the period 1993–1995.

On the basis of the analysis of trade flows, the European Commission concluded that the very rapid increase in the rate of these imports (+30 per cent for three consecutive years) makes it possible to have doubts concerning the genuine origin of these T-shirts given the relative supply capacity of Bangladesh.

The European Commission decided to carry out a survey on the spot with the aid of customs officers of the Community member States.

As a result of the on-the-spot investigation, a total of 5,000 certificates were considered inapplicable. It was discovered that 4,000 certificates were issued wrongly, the criteria of origin not having been respected since imported yarn had been used. In fact, according to EU rules of origin for T-shirts, the yarn has to originate in the country or be manufactured from imports of raw cotton. A total of 1,000 certificates were false since they were not issued by the DTI.

Following the withdrawal of the certificates of origin by DTI the European Commission initiated the procedure for the post-clearance recovery of customs duty. As a result of these procedures, the European companies had to pay back the customs duties on all shipments covered by the wrongly issued certificates of origin and a customs penalty. This case had profound repercussions on the procedure to issue certificates of origin. Early in 1997, the DTI assembled the federations of products of textile and garments to explain that the certificate of origin Form A would no longer be issued unless there was full compliance with the rules of origin requirements. This policy of stricter enforcement of rules of origin probably led to the fall in the utilization rate in 1997–1998.

In the case of Cambodia, the utilization rate for chapters 61 and 62 follows a similar pattern of initial relative high utilization rate 1995 and a dramatic fall to single-digit numbers from 1997 onwards.

The graphs that follow examine the import trends of textile inputs of Cambodia and Bangladesh according to different textile materials: cotton and man-made. In reading these graphs, the following requirements under the EU rules of origin have to be borne in mind:<sup>66</sup>

- For products classified in chapter 62, garments not knitted or crocheted, the EU rules of origin require that the manufacturing process from non-originating materials starts from yarn; that is, utilization of imported fabrics is not permitted.
- For products classified in chapter 61, garments knitted and crocheted, the rules of origin require that the manufacturing process from non-originating materials starts from yarn or natural fibres.

Taking into account these requirements, a peak in imports of fabrics and a parallel low utilization rate can be assumed as a strong indication that the manufacturers in Bangladesh and Cambodia have forgone tariff preferences because they cannot comply with rules of origin requirements.

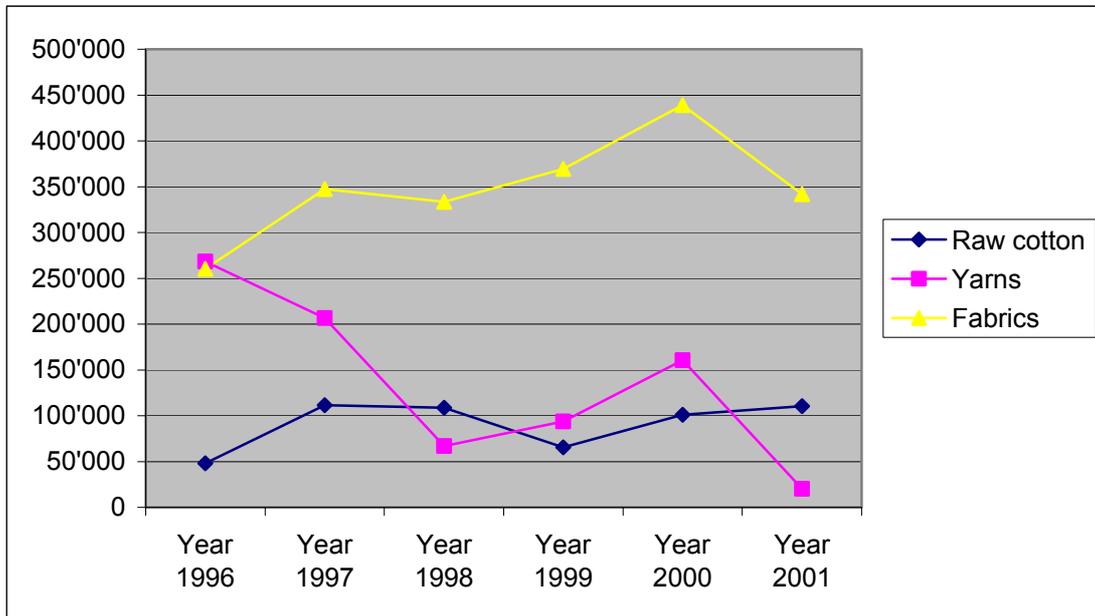
As shown in the graphs that follow, the analysis of the import flows of yarns and fabrics of cotton<sup>67</sup> in Bangladesh and Cambodia clearly show a consistent and steady increase in the imports of fabrics in both countries compared to minimal or decreasing import value of yarns.

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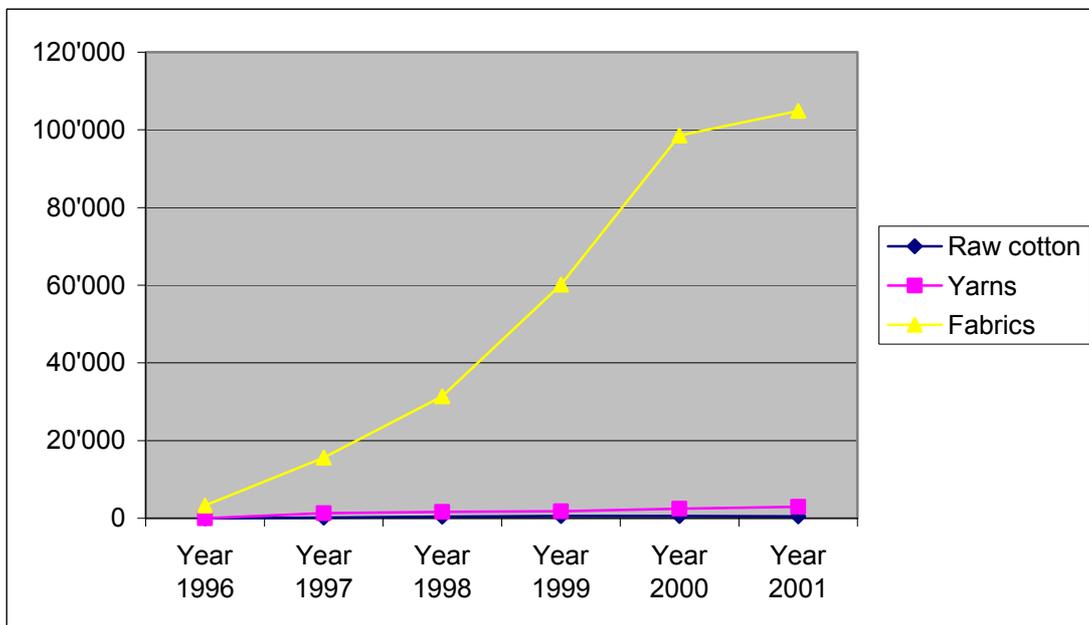
<sup>66</sup> For a detailed description of the rules and the specific working and processing requirements, see Handbook on the GSP scheme of the European Community (UNCTAD/ITCD/TSB/Misc.25/Rev.2).

<sup>67</sup> In the present study, only cotton clothes made are taken as examples. In a more complete version, all textile materials have been examined including man-made synthetics and wool, and show the same pattern as cotton.

**Figure 11**  
**Bangladesh: Imports of cotton (1996–2001)**



**Figure 12**  
**Cambodia: Imports of cotton (1996–2001)**



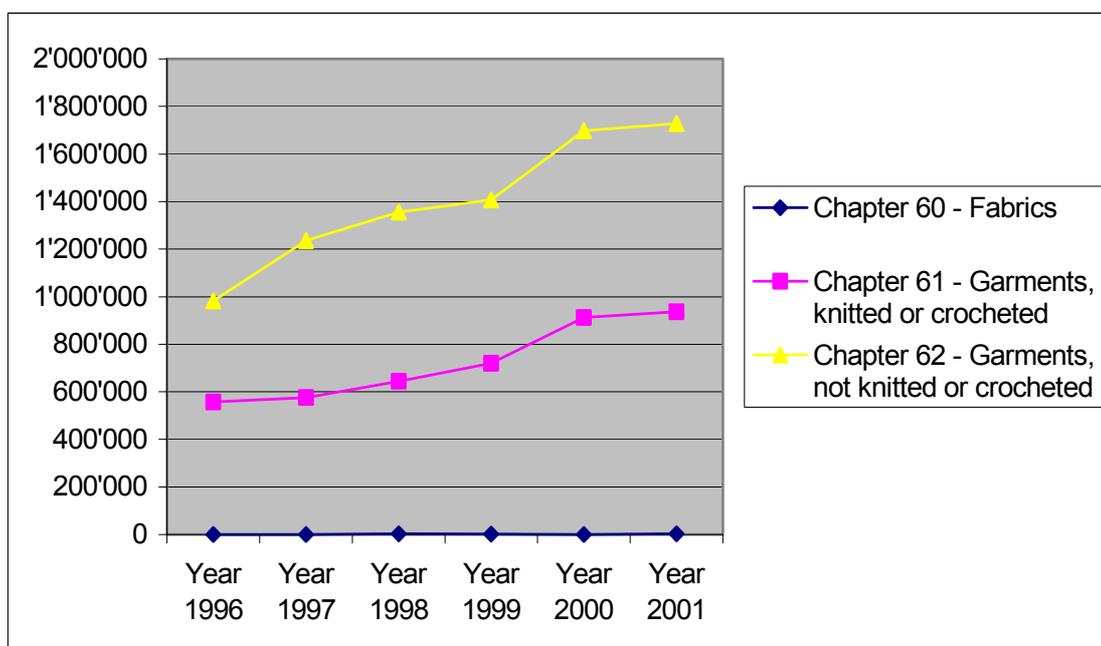
In the case of Cambodia it must be noted that imports of yarn are in the majority of the charts of minimal value in absolute terms and may not be reasonably attributed to existing manufacturing capacity to transform these yarns into fabrics through a weaving process. Conversely, relative substantive import volumes of raw cotton and

yarns in Bangladesh may lead to a presumption of existing industrial capacity able to transform these inputs into higher levels of manufacturing. In any case, imports of fabrics represent the preponderant mass in comparison with imports of yarns and other downstream inputs such as raw cotton or filament tow. These trends provide a strong indication that manufacturing industries in Bangladesh and Cambodia rely heavily on imports of fabrics from third countries.

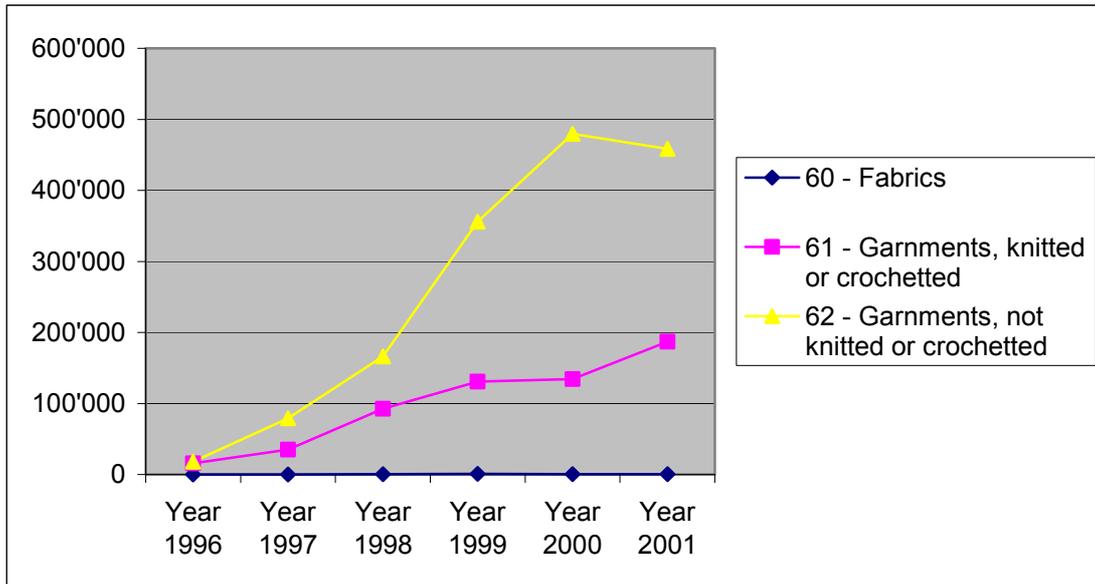
If the graphs of trade flows of imports of cotton and man-made synthetic inputs are contrasted with the corresponding output of exports of finished garments of chapters 61 and 62, a number of observations can be made. According to the general trends that can be identified in the charts, the more Bangladesh and Cambodia import cotton fabrics, the more exports of finished garments grow. These parallel trends further strengthen the indication that the manufacturing industries in Bangladesh and Cambodia are dependent on the sourcing of fabrics from external suppliers.

Dependence on imports of fabrics appears very pronounced in the case of Cambodia and to a lesser extent in the case of Bangladesh. In particular, it may be observed that imports of raw cotton in Bangladesh are matched by an above average utilization rate in chapter 61 and a high concentration of exports in the EU in relation to other markets (76 per cent). All these data may suggest that in some specific headings of chapter 61, some garment industries are able to comply with origin requirements.

**Figure 13**  
**Bangladesh: Exports of cotton (1996–2001)**



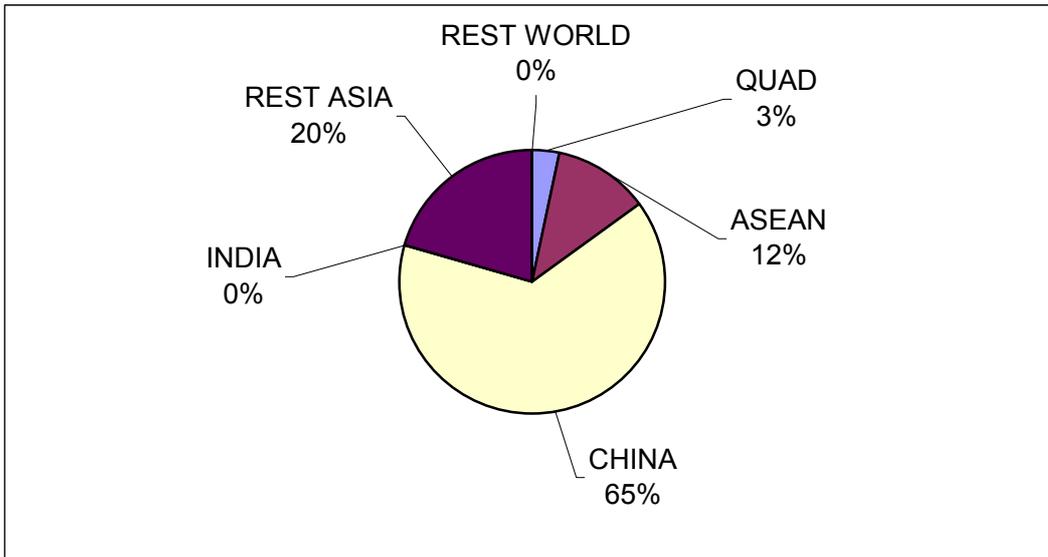
**Figure 14**  
**Cambodia: Exports of cotton (1996–2001)**



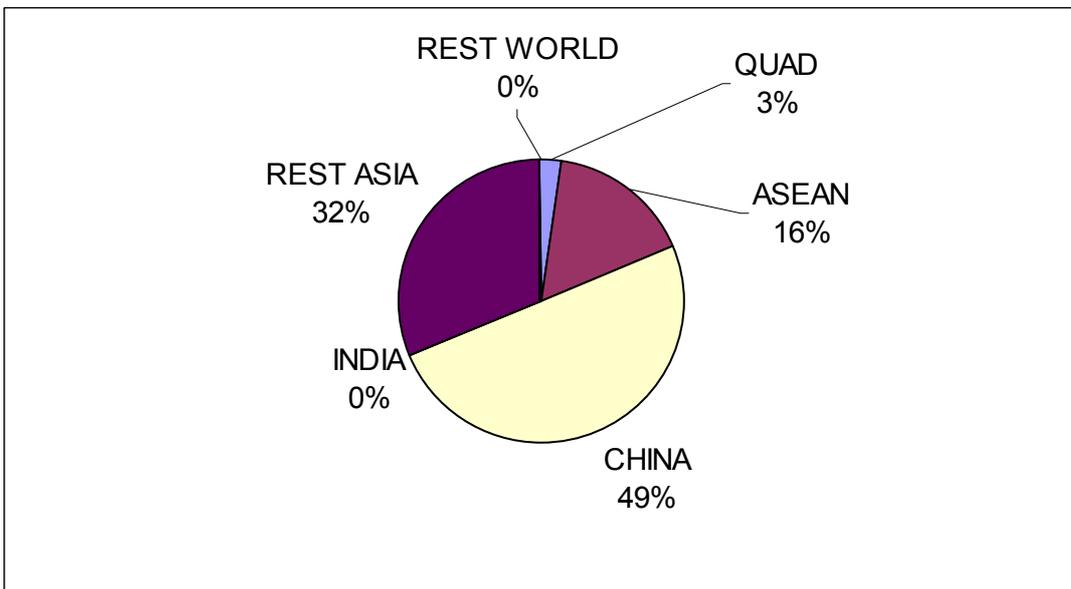
As a further step the analysis investigated the sourcing of these inputs to detect a pattern of trade flows.

In the case of Cambodia and Bangladesh, figures 15 and 16 provide an indication for the year 2001 of the sourcing of these inputs. A closer examination of the time series of trade flows from 1998 to 2001 show that in general they have been relatively steady in terms of percentage shares among the various suppliers. Thus, 2001 could be considered a valid representative year.

**Figure 15**  
**Bangladesh: Imports of cotton fabrics (2001)**



**Figure 16**  
**Cambodia: Imports of cotton fabrics (2001)**



The examination of the sourcing of fabrics clearly shows the limit of cumulative rules of origin. Normally, rules of origin in the context of autonomous or unilateral contractual preferences are to be complied with within the customs territory of a single beneficiary country. However, some preference-giving countries considered that this requirement *per se* was not adequate to the existing realities in developing countries, especially in view of the regional trade initiatives taking place among them. First, isolated and stringent requirements to comply with rules of origin may demand excessive "verticalization" of production, which does not exist in developing countries. Second, an excessive requirement for multi-stage operations or value-added operations would frustrate trade creation effects.

Under the schemes of some preference-giving countries, this rule has been liberalized so as to permit imported inputs from other beneficiary countries to be regarded as local content, thus easing compliance with the rules of origin requirements.

Under the EC GSP scheme, cumulation is permitted (subject to certain conditions) on a regional basis. Four regional economic groupings of preference-receiving countries are permitted to utilize the EC regional cumulation system, namely the Association of South-East Asian Nations (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 Asian Association for Regional Cooperation (SAARC: Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka).

Under the EC rules for regional cumulation, materials or parts imported by a member country of one of these four groupings from another member country of the same grouping for further manufacture are considered as originating products of the country of manufacture and not as third-country inputs, provided that the materials or parts are already "originating products" of the exporting member country of the grouping. Originating products are those that have acquired origin by fulfilling the individual origin requirements under the basic EC rules of origin for GSP purposes.

However, in the case of Bangladesh and Cambodia a quick glance at the charts indicates that by and large the countries supplying fabrics are not members of ASEAN or SAARC.

As shown in figure 16, almost half of the imports of cotton fabrics in Cambodia are sourced in China, with only 16 per cent from ASEAN. In the case of Bangladesh, as shown in figure 15, China's percentage even rises to 65 per cent. Similar figures around 80 per cent are counted for man-made fabrics sourced by Bangladesh and Cambodia from China and Taiwan, Province of China. This trend leaves minimal scope for cumulation as a means to improve utilization of trade preferences.

The analysis of the trade flows is completed by an examination of the destinations of exports of Bangladesh and Cambodia.

The importance of the EU market – 76 per cent for cotton – is quite evident for Bangladesh, especially for exports of cotton garments of chapter 61. For chapter 62, the US and EU market share is almost equally divided among them (49 per cent US and 48 per cent EU for cotton and 51 EU and 44 US for man-made).

As earlier mentioned, the reliance on the EU market is another factor that may have played a role in the efforts made by the local industries to comply with origin requirements for products of chapter 61.

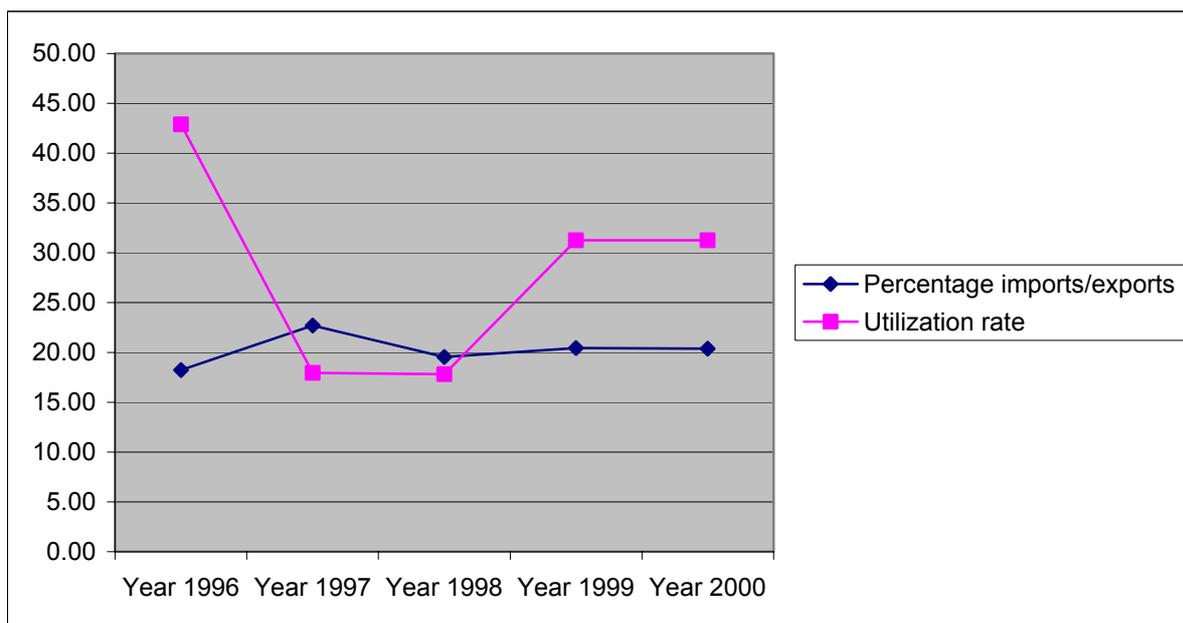
In the case of Cambodia's exports, the lion share is taken by the US market (78 per cent) for cotton of chapter 61 and 85 per cent for cotton garments of chapter 62.

Garments and textile products are not covered by the US GSP scheme for LDCs. Thus there is no incentive to comply with the rules of origin to seek preferences. The relative dependence on the United States may be one of the factors explaining the relative little attention paid to the low utilization of EU preferences.

Added as a final exercise, a comparison has been made between the ratio of imports fabrics and exports of finished garments of chapters 61 and 62 with the utilization rate of Bangladesh and Cambodia.

In the case of Bangladesh, a number of observations may be made.

**Figure 17**  
**Bangladesh: Comparison of imports of fabrics/exports,**  
**chapters 61 & 62 (garments), with EU-GSP utilization rate (1996–2000)**



As noted earlier, the low utilization rate recorded in 1997 and 1998 is probably due to stricter enforcement and surveillance of the issuance of certificates of origin following the investigation carried out by the European Union.

In the period 1996–1997, the trend appeared that the more fabrics were imported in relation to exports, the more the utilization rate was falling. In the years after 1998, the utilization rate was increasing with an almost unaltered import/export trade flow. The reason for this increase in utilization may be explained by a restructuring of the Bangladesh textile and garments industry after the shock of 1997/1998 to comply with origin requirements. This finding appears to be further corroborated by the fact that in 1999 and 2000 the utilization rate and import/exports ratio were parallel.

This may be explained by the fact that once the adjustment in 1998 had taken place given a certain mixture of input/output ratio between imports of fabrics and exports of finished garments – around 20 per cent – a corresponding utilization rate may not exceed an average of 30 per cent.

Obviously, the charts and percentages offer an indication that requires further analysis at a detailed level. Once again, this analysis will be developed in a more advanced version of this paper.

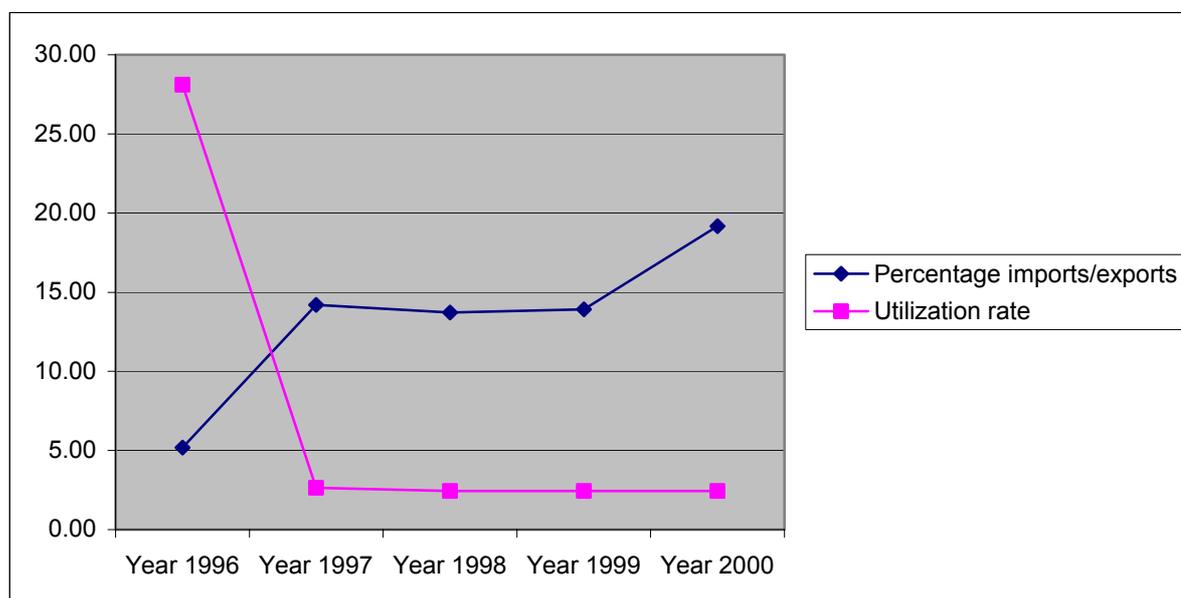
A quick glance at the chart for Cambodia is sufficient to note a clear and steady trend. The more the ratio of fabrics to exports is growing in 1996 and 1997, the more the utilization is decreasing or maintained at a minimal level. From 1997 to 2000, the trend is parallel showing a steady import/export ratio and a corresponding low utilization.

Ultimately, the analysis of the import flows into Cambodia and Bangladesh has clearly found a parallel pattern of low utilization and increased import level of fabric, providing a strong indication that current EU rules of origin on textile and clothing are primarily responsible for low utilization of trade preferences.<sup>68</sup>

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<sup>68</sup> More empirical and field research will be carried out in a forthcoming study to further corroborate this finding.

**Figure 18**  
**Cambodia: Comparison of imports of fabrics/exports, chapters 61 & 62**  
**(garments), with EU-GSP utilization rate (1996–2000)**



**B. Options for harmonization and simplification of rules of origin as a key aspect for effectively improving market access and utilization of preferences**

The past 30 years of operation of the GSP trade preferences have been characterized by a low percentage of utilization, mainly caused by the inability of preference-receiving countries to fully exploit the available preferences when these are subject to strict origin requirements and related administrative requirements.

The problems, which have been discussed above, in relation to the restrictive and complex nature of GSP rules of origin have broadly remained the same over these years, although certain changes in the rules were introduced especially in the last decade.

As mentioned earlier, much of evidence of the link between origin requirements and low utilization derive from the discussion papers and debates arising from the UNCTAD Working Group on Rules of Origin and later the Sessional Committee on Rules of Origin. These intergovernmental meetings met regularly at UNCTAD from early 1970s until the mid-1990s. Since little has changed in GSP rules of origin since their inception, many of the findings of the studies and reports presented at these meetings remain fully valid.<sup>69</sup>

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<sup>69</sup> An earlier UNCTAD publication summarizes the main technical findings of these meetings – Compendium of the work and analysis conducted by UNCTAD Working Group and Sessional Committee on GSP Rules of Origin (UNCTAD/ITD/GSP/31, 21 February 1996).

On the basis of this experience and the recent experience gained through technical cooperation activities in assisting developing countries to negotiate and draft their own rules of origin, this part of the study attempts to formulate some possible options for harmonizing and simplifying rules of origin.

**Table 31**  
**The present rules of origin under Quad GSP schemes, AGOA and the**  
**Cotonou Partnership Agreement**

Country/ group of countries	Origin criteria	Requirements	Numerator	Denominator	Percentage Level	Administrative requirements
European Community (EBA)  Japan	Product-specific rules for all products	Change of HS heading with or without exemptions, specific working or processing requirements and/or maximum percentage of imported inputs or combinations of requirements	Customs value of imported inputs, or the earliest ascertainable price paid in the case of materials of unknown, undetermined origin	Ex-works price (FOB price in the case of Japan)	Maximum imported inputs 5%, 20%, 25%, 30%, 40%, 47.5%, 50% where used in the single list.	GSP- Form A compulsory for all products (EBA). Form A to be stamped by officially designated government authority. (Chamber of Commerce accepted in the case of Japan.) GSP – Form A needed only for certain products (Japan)
EU-Cotonou Partnership Agreement	Same as above	Same as above	Same as above	Same as above	Same as above	Form EUR 1 needed. Self- certificating procedures available.
Canada	One single rule across the board 40% for DC, 60% for LDCs, for all products except textile and apparel articles	Minimum local content requirement	Local content	Ex-factory price	Minimum 40% for LDCs	GSP-Form A not required. Self- certification possible.  Special certificate of origin for textile and clothing
United States	One single percentage (35%) rule across the board for all products <sup>70</sup>	Minimum local content requirement	Cost of materials produced in preference- receiving country plus the direct cost of processing carried out there	Ex-factory price or appraised value by US customs	Minimum 35%, exact % must be written in certificate of origin	No certificate of origin required.
AGOA	All products as above except apparel articles <sup>71</sup>	Same as above	Same as above	Same as above	Same as above	Special visa requirements apply for textiles and clothing

Source: UNCTAD secretariat.

<sup>70</sup> For product-specific rules of origin see below.

<sup>71</sup> For product-specific rules of origin see below.

**Table 32**  
**Product-specific rules for textiles and clothing under the**  
**Canadian initiative for LDCs**

Product description	Manufacturing requirement
Yarns and sewing threads	Spinning and extruding in an LDC and do not undergo further processing outside an LDC.
Fabrics	Manufacturing from yarns originating in an LDC. A developing country beneficiary of the Canadian GSP scheme or Canada provided that: Yarns do not undergo further processing outside an LDC, a beneficiary country or Canada; The fabrics do not undergo further processing outside an LDC
Apparel	Assembly in an LDC from fabric cut in that country or in Canada, or parts knit to shape, provided the fabric, or the parts knit to shape, are produced in: (a) Any LCD or Canada from yarns originating in an LDC, a beneficiary country or Canada, provided the yarns or fabric do not undergo further processing outside an LDC or Canada; or (b) Beneficiary country from yarns originating in an LDC, a beneficiary country or Canada, provided: (i) The yarns and fabric do not undergo further processing outside an LDC, a beneficiary country or Canada; and (ii) The value of any materials, including packing, that are used in the manufacture of the goods and that originate outside the least developed country in which the goods are assembled is no more than 75 per cent of the ex-factory price of the goods as packed for shipment to Canada.

*Source:* Based on the paper "An Introductory Guide to the Market Access Initiative for the Least Developed Country and the Least Developed Country Tariff", December 2002, Canada Customs and Revenue Agency (CCRA).

**Table 33**  
**Product-specific origin rules for apparel under AGOA**

AGOA for apparel	Yarn	Thread	Fabric	Components knit-to-shape	Cutting	Sewn	Assembled	Treatment
1. Apparel assembled from US formed and cut fabric from US yarns or components knit-to-shape	US		US	US	US	SSA <sup>72</sup>	SSA	Duty-quota-free
2. Apparel assembled and further processed from US formed and cut fabric from US yarn or components knit-to-shape	US		US	US	US	SSA	SSA	Duty-quota-free
3. Apparel assembled with US thread from US formed fabric and SSA cut fabric or components knit-to-shape from US yarns	US	US	US	US	SSA	SSA	SSA	Duty-quota-free
4. Apparel articles from regional fabric or yarns	US or SSA		SSA	SSA			SSA Assembled on seamless knitting machine in SSA	Duty-quota-free WITHIN CAP
5. Apparel assembled or knit-to-shape in a lesser developed country using foreign fabric	Foreign country		Foreign country				Lesser developed SSA	Duty-quota-free within cap
6. Cashmere sweaters: knit-to-shape			SSA					Duty-quota-free
7. Merino wool sweaters, knit-to-shape			SSA					Duty-quota-free
8. Apparel cut and sewn or assembled from fabric or yarns identified in the NAFTA "short supply" or not available in commercial quantities in the United States	Foreign country		Foreign country		SSA	SSA	SSA	Duty-quota-free
9. Handloomed, handmade and folklore articles								Duty-quota-free
New pref. Grouping/-grouping 10 Apparel articles assembled in SSA from US and SSA components	US	US	US	US and SSA	SSA and US	SSA	SSA	Duty-quota-free

<sup>72</sup> SSA = sub-Saharan Africa.

**Table 34**  
**Rules of origin: scope of cumulation and derogation**

Country/ Group of countries	Scope of cumulation		Donor country content	Documentation	Additional requirements/ Information	Other conditions	Possible derogation to rules of origin
	Full or diagonal	Global Regional					
European Union EBA	Partial/ diagonal	Regional	Yes	Certificate needed to indicate use of regional cumulation	Coordinating body of regional grouping undertakes to comply with rules. At present SAARC, ASEAN, ANDEAN and CACM.	Regional groups must make application and possess central organization capable of ensuring administrative cooperation	Yes, only for LDCs.
CPA	Full	All ACP countries	Yes	Supplier declaration	Not applicable	Limited cumulation with South Africa and other developing countries	Yes, with simplified procedures.
Japan	Full	Regional	Yes	Additional certificate required to indicate cumulation	At present, only ASEAN have been granted regional cumulation	Regional groups must make an application	No
United States	Full	Regional	No	Not specified	At present, ASEAN, CARICO, SADC, and WAEM are granted regional cumulation	(a) regional cumulation granted (on application to free trade areas and customs unions) (b) competitive need limits are assessed only against the "country of origin" and not the entire regional grouping	No
AGOA (For textile and apparel products refer to the specific table above)	Full	All sub- Saharan beneficiaries	Yes	Not specified	Not applicable		No
Canada (For textile and apparel products refer to the specific table above)	Full	All beneficiaries	Yes	Not specified	Not applicable		No

Source: UNCTAD secretariat.

## 1. Increase utilization by addressing rules of origin: Some proposals

### *(a) Some proposals for harmonizing and simplifying the percentage criterion*

As far as the percentage criterion is concerned, apart from the problems caused by lack of harmonization of the definition of domestic cost which could be allocated to the domestic content, the varied and incomplete definitions create not only substantial administrative burdens for traders in preference-receiving countries but also doubts as to whether their calculations are valid and accurate. In this connection, it should be borne in mind that the cost of both labour and materials may fluctuate, leading to different levels of “domestic content”, and thus consequent acquisition or loss of preference, although the extent of transformation carried out in the preference-receiving country remained largely unchanged.

By contrast, it has been shown that “import content” is more easily defined and its exact value determined, leaving less room for doubtful or incorrect interpretation. Although there is the possibility that the finished product may change its entitlement to preference as the value of imported materials fluctuates, this possibility is more limited than in the case of “domestic content”, where variations in labour costs must also be taken into account.

The formulation of the numerator in terms of “import content” has the following advantages over “local content”:

- Greater simplicity and a smaller burden for preference-receiving countries in terms of administrative effort, including the maintenance of records for imported materials only; a consequently reduced possibility of incorrect certificates of origin;
- Less uncertainty in determining entitlement to preferential treatment;
- Flexibility in allowing a higher proportion of imported materials, etc., as the tariff barriers of the preference-giving countries are reduced.

In conclusion, there is a tendency, if not a consensus, among exporters/manufacturers to prefer the adoption of a maximum imported inputs allowance rather than a minimum value-added requirement. There are two reasons for this preference:

- The percentage calculation of the value of the imported input is easier to compute and the value of the imported input may be supported by suppliers' invoices. For example, the EU scheme provides clear rules on this aspect:
  - “the term ‘value’ means the customs value at the time of importation of the non-originating materials used or, if this is not known and cannot be ascertained, the first ascertainable price paid for the materials in the country concerned”; [customs value is defined as the customs value determined in accordance with the Agreement on Implementation of Article VII of the GATT 1994];

- The calculation of the value added is complex as it entails:
  - A differentiation of costs, which could be computed as local value added; and
  - Itemization of such cost to the single unit of production. As a consequence, it often requires accounting, and discretion may be used in assessing unit costs. Additionally, currency fluctuations in beneficiary countries may affect the value of the calculation.

Furthermore, in view of the general lowering of tariff protection by preference-giving countries as a consequence of multilateral trade negotiations, the risk of deflection of trade under the GSP can be expected to diminish. In that case, although the need to ensure a satisfactory degree of manufacturing in preference-receiving countries should be taken into account, it might be considered appropriate to allow the use of a proportion of imported materials in the manufacture of GSP goods which is higher than under present rules. This could be achieved readily and directly by allowing a higher proportion of “import content” in the total value of the finished product.

As mentioned above, it is worth noting that the current use of the percentage criterion under the US and Canada GSP scheme is very much the consequence of the exclusion from its coverage of the textile and clothing products. As a matter of fact, in other contexts where the United States has granted preferences to such products, the origin criterion applicable has been double the triple transformation requirement (see the NAFTA rules of origin or the rules applicable under the recent AGOA initiative), which if possible, is even more restrictive than the 35 percentage rule.

Even where rules of origin based on a percentage rule continue to be used, as in NAFTA, they are based on a different method of calculating the value added percentage: the starting point is the value of the non-originating materials, which is then subtracted from the transaction value of the final product to obtain the minimum level of domestic value added. This method of calculation reduces the difficulties and uncertainties related to the definition of the costs to be included in the 35 per cent domestic content provision.

Thus, if rules of origin based on a percentage criterion were to be used under some unilateral preferences of GSP schemes, it would be desirable that they are based on a maximum import content criterion.

A logical extension of the "import content" approach is value-added tariffs for determining duty. The problem with all rules of origin is that there is an arbitrary cut-off point above which one gets preferences and below which one pays MFN. With value added tariffs the preferential rate is paid on the preferential component and MFN on the remainder. Further analysis should be carried out on concrete modalities to work out such a system.

**(b) Some proposals to design product-specific rules of origin matching the industrial capacity of LDCs**

As summarized in table 35, the EU's and Japan's GSP schemes have, since their inception, adopted a totally different approach from across-the-board percentage rule utilised by Canada and the United States. In fact, the EU's and Japan's schemes adopted a product-specific approach utilizing a variety of criteria such as CTH with exclusion, specific working on processing requirement, and various maximum import context percentages.

Table 35 shows for some selected HS chapters the current specific rules of origin and column 4 contains possible proposals for harmonized GSP rules. Obviously, these proposals are by no way definitive and may be the subject of further analysis.

**Table 35**  
**Current product-specific rules of origin for selected HS chapters**

<b>HS Heading No.</b>	<b>Description of products</b>	<b>Current rules under EU and Japan GSP rules</b>	<b>Proposed Harmonised Rules</b>
Chapter 16	Preparations of meat, of fish or of crustaceans, molluscs or other aquatic invertebrates	<b>EU:</b> Manufacture from animals of Chapter 1. All the materials of Chapter 3 used must be wholly obtained <b>Japan:</b> Equivalent to EU	Manufacture from meat of chapter 2 or fish of chapter 3. However, simple addition of seasoning or preservatives will not be a conferring operation.
Chapter 20	Preparations of vegetables, fruit, nuts or other parts of plants	<b>EU:</b> Manufacture in which all the fruits, nuts or vegetables used must be wholly obtained; except for specific rules for ex 2001, ex 2004 and ex 2005, 2006, 2007, ex 2008 and 2009 <b>Japan:</b> CTH except for specific rules for 2001, 2002, 2003, 3x 2004 and ex 2005	Manufacture from fruits, nuts and vegetables of chapters 7 and 8, including reconstitution of juices in retail packing from concentrate of juices.
Chapter 61	Articles of apparel and clothing knitted or crocheted	<b>EU:</b> Manufacturers from yarn, manufactures from natural fibres	Knitting or crocheting to shape Assembly of parts knitted or crocheted to shape
Chapter 62	Articles of apparel and clothing, not knitted or crocheted	Manufacture from yarn For AGOA and Canada, product specific rules of origin (see above)	Cutting and assembly of finished garments

### ***Rules for fish and fish preparations of chapter 16***

The EU (both GSP and Lomé/Cotonou) and Japan rules of origin for processed fish (ex chapter 3) and fish preparations (ex chapter 16) require that all the materials of chapter 3 (fish and crustaceans, molluscs and other aquatic invertebrates) used in the manufacture be already originating. The rule applicable to chapter 3 products is “wholly obtained”.

Under the EU rules, in order to be considered as “wholly obtained” in a beneficiary country, the vessels and factory ships used in the sea fishing must comply with a series of conditions related to the ownership of the vessels and to the nationality of managers and crew. In particular, such vessels and factory ships must be registered or recorded in the beneficiary country or in a EU member State, must sail under the flag of a beneficiary country or of a EU member State or must be owned to the extent of at least 50 per cent by nationals of the beneficiary country or of a EU member State or by a company having its head office in the country or in one of the EU member States. The manager(s), chairman of the board and the majority of the members of such boards must be nationals of that beneficiary country or of the EU member State and, in the case of companies, at least half the capital must belong to that beneficiary country or one of the EU member States or to public bodies or nationals of that beneficiary country or of the EU member States.

The master and officers of such vessels and factory ships must be nationals of the beneficiary country or one of the EU member States; and at least 75 per cent of the crew must be nationals of the beneficiary country or of a EU member State (article 68, paragraph 2, of the EC Customs Code). These severe limitations on the ownership of the vessels have consistently represented an obstacle to the full utilization of the tariff preferences by least developed beneficiary countries.

- A broadly similar provision applies under the Lomé/Cotonou regime. However, ACP countries have been granted a valuable option that allows them to charter or lease vessels in order to undertake fishery activities. Three conditions must be respected so as to obtain EU approval:
- The ACP State must have offered the Community the opportunity to negotiate a fisheries agreement that the Community did not accept;
- At least 50 per cent of the crew, master and officers included must be nationals of States party to the Cotonou Agreement or of an Overseas Countries Territories (OCT);
- The charter or lease contract must have been accepted by the ACP-EU Customs Cooperation Committee as providing adequate opportunities for developing the capacity of the ACP State to fish on its own account and in particular as conferring on the ACP State the responsibility for the nautical

and commercial management of the vessel placed at its disposal for a significant period of time.<sup>73</sup>

Notwithstanding these additional conditions, the possibility of leasing or chartering a vessel represents an important concession by the EU that could at least be extended to non-ACP LDCs as well.

Given the above conditions, the origin requirement for fish preparations that the fish be originating may be difficult to comply with for those LDCs not having the necessary fishing fleet unless they conclude an agreement with their European counterparts. The proposed rule for chapter 16 would allow the utilization of non-originating fish to make fish preparation classified under chapter 16 subject to the condition that mere addition of seasoning or preservatives will not confer origin.

### ***Processed foodstuffs***

The rules of origin in this area are generally rather complex. For example, the basic rule under the EU GSP for preparations of chapter 20 requires all fruits, nuts and vegetables used to be “wholly obtained”. In the same chapter, there are many exceptions to this rule. Such exceptions are expressed in terms of: (a) simple CTH; (b) 30 per cent maximum import content allowance for materials of chapter 17 – sugar; (c) CTH and 30 per cent maximum import content allowance of sugar; and (d) 60 per cent minimum domestic content of nuts and oil seed. Under the Japanese GSP scheme specific rules for chapter 20 preparations are sometimes even stricter, requiring the manufacture to start from originating edible vegetables, roots and tubers (chapter 7), and originating fruit and nuts (chapter 8). The proposed harmonized rule for chapter 20 products would allow the utilization of non-originating fruits to make fruit juices. At the same time, it is proposed that the reconstitution of fruit juices from concentrates is an origin-conferring operation since this process entails a number of operations besides the simple diluting.

### ***Rules for textiles and clothing***

The difficulties encountered by LDCs in fulfilling the double transformation rule for textile and clothing products have been widely recognized by preference-giving countries. As a matter of fact, the GSP or AGOA requirement for multi-stage rules of origin originally derived from an industry policy and production technique, based on vertically integrated structure of the manufacturing chain, is now obsolete.

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<sup>73</sup> See article 3, paragraph 3, of Protocol 1 on rules of origin to the Annex on the trade regime applicable during the preparatory period, Decision 1/2000 of the ACP-EU Committee of Ambassadors, OJ L 217, 26 August 2000.

Production of competitive products on a global scale demands a combination of production factors and inputs from a variety of sources so as to produce an output that is optimal in terms of cost, quality and suitability for different markets. Existing rules of origin, by limiting the capacity of outsourcing inputs and demanding vertically integrated production chains, reflect uncompetitive industrial models and act as disincentive. While tariff preferences are taken to promote industrialization, the rules of origin attached to them may have perverse effects.

The most recent negotiations on non-preferential rules of origin in the context of the WCO/WTO have demonstrated that, in the textile and clothing sectors, besides the production stages, there are other significant manufacturing operations that may be origin-conferring alone or taken in combination, such as bleaching, printing, dyeing, coating, laminating, preparing for spinning, mercerization, texturing or bulking. The proposed rule for articles ex chapter 62 provides for the goods to undergo assembly in a single country. According to the Chapter Note, the requirement “assembly in a single country” means that all of the assembly operations following the cutting of the fabric of the parts must be performed in that single country. The rule in this case provides for the manufacture to start from parts, that is from cut fabrics or part of garments knitted to shape.

Thus, the vision of single, double or triple processing stages is simplistic and may, in certain cases, not take into account processing which may imply significant value added and labour skills. An industrial vision centred on production stages may not fully reflect the interests of the LDCs’ textile industry in concentrating their efforts in certain market segments when certain specific manufacturing operations may bring higher value added. Rules of origin should follow to the extent possible a modern vision of the textile and clothing industry which may take into account other production techniques, without being exclusively based on a vertical concept of spinning-weaving-making up.

The non-preferential rule applied to Chapter 62 products by the EU is less restrictive than the corresponding rule under the GSP. The EU GSP rule of origin for ex chapter 62 products requires the manufacture to start from yarn (“double jump” requirement), while the rule for apparel of chapter 62 in the Japanese scheme is based on a single transformation rule – “manufacture from fabrics”.

The corresponding EC non-preferential rule requires “complete making-up”<sup>74</sup> for finished or complete articles, while the manufacture from yarn is required for unfinished or incomplete articles. For the purpose of achieving “complete making up”, the EU explanatory notes require performance of all the operations *following* the cutting of the fabric. In particular, “the exporters should perform a full cut, make and trim operation starting from uncut fabric and perform the cutting, sewing, pressing, finishing and packing operation, thus dispatching completely made-up garments/textiles”.

The necessity to ease the origin rules for textiles and clothing has been indirectly recognized by the EU. Both the GSP and Lomé/Cotonou arrangements include statutory provisions on the possibility of granting temporary derogations from the double-stage transformation rule in favour of least developed beneficiary countries when such a concession is justified by the development of existing industries or the creation of new industries. As discussed above, in the last years, in the context of its GSP scheme, the Community has granted selected Asian LDCs a special derogation from rules of origin. The practical effect of such derogation is to allow these LDCs to start the manufacture from imported fabrics *originating* in an ASEAN, SAARC or ACP country.

Another relevant and extremely recent example of the recognition of the need to grant special treatment in this area to LDCs can be found in the amended Protocol on Trade of the Southern African Development Community, whereby SACU has agreed to apply, for the first five years from the implementation of the Protocol,<sup>75</sup> a single-stage rule to selected textile and clothing products exported by Malawi, Mozambique, the United Republic of Tanzania and Zambia, subject to annual quota limits.

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<sup>74</sup> The term “complete making-up” used in the schedule above means that all the operations following cutting of the fabric or knitting or crocheting of the fabric directly to shape have to be performed. However, making-up shall not necessarily be considered incomplete where one or more finishing operations have not been carried out. The following is a list of examples of finishing operations:

- fitting buttons and/or other types of fastenings;
- making of button-holes;
- finishing off the ends of trouser legs and sleeves or the bottom hemming of skirts and dresses;
- fitting of trimmings and accessories such as pockets, labels, badges, etc.;
- ironing and other preparations of garments for sale “ready made”.

<sup>75</sup> The implementation of the SADC Trade Protocol containing, *inter alia*, the schedules of tariff reduction, a revised set of rules of origin, an agreement on trade in sugar and a detailed regulation on the settlement of trade disputes among SADC Members started on 1 September 2000. At the time of writing, only Mauritius and South Africa have deposited their instrument of implementation.

The proposed rule is currently replacing the two-stage processing requirement for chapters 61 and 62 to a single one. It is suggested that for chapter 61 the process of knitting and crocheting a finished product to shape is origin-conferring. At the same time it is suggested that assembly of parts knitted or crocheted to shape is also an origin-conferring operation. For chapter 62, it is suggested that the process of cutting the fabric and assembling the parts is an origin-conferring operation. These rules have been inspired by the current results of the harmonization work programme of non-preferential rules of origin carried out under WTO/WCO auspices.

## **PART III**

### **IDENTIFICATION AND QUANTIFICATION OF THE POSSIBLE GAINS ARISING FROM AN ENHANCED MARKET ACCESS FOR LDC EXPORTS: THE ISSUES OF INCREASING UTILIZATION AND EXPANDING PRODUCT COVERAGE**

The first part of this study has examined the current coverage and utilization of the different Quad initiatives in favour of LDCs. It found that in some cases, as under the US-GSP scheme, the exclusion of certain products such as textiles and clothing limits the value and impact of the preferences granted under the scheme. Until the expansion of product coverage introduced this year, a limited product coverage also affected the value of trade preferences under the schemes of Japan and Canada.

Part II of the study focused on the cross-cutting issue of under-utilization of trade preferences and rules of origin. It found some evidence indicating that rules of origin and related administrative procedures are among the prime culprits for such a low utilization in industrial sectors such as textiles and clothing where Asian LDCs have demonstrated supply capacity.

This third part of the study provides a quantification of the trade effects that are generated by:

- An expansion of product coverage; and
- A full utilization of available trade preferences.

This approach reflects the fact that preferential arrangements do not share the same structure in terms of product coverage and depth of tariff cuts.

The issue of quantifying the possible benefits accruing to LDCs deriving from an expansion of product coverage is essential in the case of the US and, until recently, Japan GSP schemes, since in these markets a large proportion of LDCs' exports is, or was, in the case of Japan, currently not being granted any preferential treatment. The value of the excluded products as a percentage of total dutiable exports was as high as 48 per cent in Japan before the implementation of new improvements and almost 90 per cent in the United States if petroleum, oils and aircraft goods are not considered. Things are different for Canada: before the extension of the preferential treatment to textiles and clothing, excluded products were 93 per cent of total dutiable. In 2003, they are expected to go down almost to zero. Obviously, whether significant gains are identified and quantified for certain products, these are the ones where product coverage should be expanded as a matter of priority according to the initiative for duty-free and quota-free treatment.

The issue of utilization is mainly relevant in the case of the EU (and to a lesser extent Japan), since the current trade-weighted product coverage appears to be close to 100 per cent. However, this should not be interpreted in the sense that there is no

scope for improving market access in the EU beyond the current level. The recent EBA initiative is a tangible example that market access for LDCs exports can be improved. In particular, the analysis based on the current utilization of the different preferences granted to LDCs by Quad countries demonstrates considerable scope for substantially increasing the market access conditions currently granted to LDCs by liberalizing rules of origin.

The evaluation of the possible effects due to full liberalization (i.e. to full product coverage and/or full utilization) has been carried out utilizing WITS. WITS is a simple tool for quantification of the effects on trade flows induced by changes in market access conditions constructed by the UNCTAD secretariat in cooperation with the World Bank. The model used in WITS is partial equilibrium and is particularly useful for analysing the first round or impact effects of trade liberalization on specific products. Some caution is advised in looking at the totals across products as these may also be subject to intersectoral effects (general equilibrium considerations), which normally lead to even larger effects. However, given the small value of LDC trade this may be less serious an issue than a much wider liberalization scenario, for example, WTO negotiations.

This simulation has been carried out on the above assumptions and does not cover other non-tariff barriers that could be liberalized. In particular, the simulation does not take into account the trade effects that may arise from the expected end of textile and clothing restrictions under the ATC. This may have a significant impact on the results of the simulations since, as will be discussed below, the majority of trade effects of the simulation activity take place in the textile and clothing area. Other models and studies are assessing the impact of trade liberalization on textiles and clothing.<sup>76</sup> The present exercise is aimed at simply quantifying the "missed trade preferences" either because there is no coverage or because utilization rates are low. Thus, the results of the simulation have to be read within this context.

## **A. Possible trade effects arising from the expansion of product coverage**

### **1. United States: GSP and AGOA trade simulation**

According to the WITS trade simulation, a duty-quota-free scenario over all products might increase LDCs' exports in the US market by almost US\$ 2.7 billion, equal to the 6 per cent of their total imports from LDCs. Not surprisingly much of the benefits would accrue to the two main product categories currently excluded by the GSP scheme, notably textiles and clothing, and footwear (see table 36). Note that these effects include the change in trade due to an extension to full coverage of products both under the LDC and non-LDC GSP schemes and under the new AGOA system. Put in other terms, in the present simulation the benchmark for each country is its specific trade preferential treatment.

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<sup>76</sup> See, for instance, Dean Spinanger, *Beyond eternity: What will happen when textile and clothing quotas are eliminated as of 31/12/200*, forthcoming UNCTAD publication.

The textile and clothing chapter represents almost the 96 per cent of total benefits from full coverage; this is equivalent to an increase in the 6 per cent of the current LDCs' total covered exports. The same percentages in the footwear sector are, respectively, 11 per cent and 2 per cent. Imports of hides, skins and leather would increase by 15 per cent. Given the limited trade recorded under these items, however, the overall effect on LDC trade would be very limited (just 0.8 per cent of total trade effects).

In spite of the fact that they are countries subject to the AGOA regime, Lesotho, Madagascar and Malawi are those that gain more in relative terms from a full coverage expansion. This trade expansion is generated by simulating a full utilization of trade preferences subsequent to liberalization of rules of origin.

**Table 36**  
**Expected trade effects from full coverage in the US market**

HS	Description of the HS Section	Imports from LDCs*	Duty-free	Imports covered*	Util. rate (%)	TC*	TD*	TE*	TE in %
01	Live animals & products	154 540	153 762	358	68.71	5	10	15	0.00
02	Vegetable products	190 193	177 112	10 076	83.28	3	5	7	0.00
03	Fats and oils	6 887	768	6 119	3.69	0	0	0	0
04	Prepared foodstuffs, beverages, etc..	114 044	13 783	41 683	60.10	0	0	0	0
05	Mineral products	145 208	144 800	204	18.63	0	0	0	0
06	Chemical products	45 421	13 294	31 595	99.64	0	0	0	0
07	Plastics & rubber	62 244	44 939	3 064	29.89	0	0	0	0
08	Hides and skins, leather, etc.	143 277	1 223	5 136	94.84	14 236	6 997	21 233	0.79
09	Wood & articles of wood	49 939	10 331	4 438	80.28	1	1	2	0.00
10	Pulp of wood, paper, books, etc.	4 718	718	1 919	77.23	0	0	0	0
11	Textile & textile articles	42 078 244	10 307	457 323	56.26	1 723 501	856 423	2 579 925	96.30
12	Footwear, headgear, umbrellas, etc.	1 290 519	2 479	1 935	30.39	55 988	21 497	77 486	2.89
13	Articles of stone, cement, etc.	5 757	94	4 898	95.79	0	0	0	0
14	Precious stones, etc	89 967	46 853	15 609	95.03	0	0	0	0
15	Base metals & products	35 586	24 621	6 741	96.38	0	1	1	0.00
16	Machinery & electrical equipment	13 310	5 171	2 938	52.72	0	0	0	0
17	Transport equipment	280	90	112	3.57	0	0	0	0
18	Optical & precision instruments	4 707	721	1 642	54.02	0	0	0	0
19	Arms and ammunition	0	0	0	.	0	0	.	.
20	Misc. manufactured articles	26 792	10 584	13 444	98.26	125	89	215	0.01
21	Works of art, etc..	10 849	10 849	0	.	0	0	0	0
22	Special uses	.	.	.	.	.	.	.	.
	<b>TOTALS</b>	<b>44 472 482</b>	<b>672 499</b>	<b>4 394 245</b>		<b>1 793 859</b>	<b>885 023</b>	<b>2 678 884</b>	

Source: UNCTAD calculations.

\* In thousands current US \$.

Notes: Simulations are done using 2001 trade data and 2001 tariffs. Products 2709 (Petroleum oils and oils obtained from bituminous minerals, crude) and 2710 (Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included, containing by weight 70% or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations) and 88 (Aircraft, spacecraft, and parts thereof) are excluded.

## 2. Japan: GSP trade simulation<sup>77</sup>

If duty-free market access were extended to all products, total covered Japanese imports from LDCs would increase by 5.7 per cent (a bit more than 3 per cent of dutiable). Under this simulation, the product coverage of the GSP scheme of Japan of 2001 is taken as a reference.

As can be seen in table 37, sectors such as textiles would not see any trade gain because they are already either duty-free or fully covered. The main and, basically, the only contribution to the effect on trade comes from section 1, live animals and products, representing more than the 93 per cent of the total trade effect. MFN dutiable imports of meat products would increase by 85 per cent and those of fish by almost 5 per cent. Imports of vegetable products contribute with a 5 per cent increase to the total trade effect. MFN dutiable imports of oil seeds and oleaginous fruits increase by 20 per cent, while those of edible vegetables by 18 per cent.

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<sup>77</sup> The simulation does not take into account the improvement made in the scheme of Japan in 2003.

**Table 37**  
**Expected trade effects from full coverage in the Japanese market prior to**  
**the 2003 changes**

#	HS Section Description	Imports from LDCs*	Duty- free	Imports covered*	Utiliz. rate (%)	TC*	TD*	TE*	TE in %
01	Live animals & products	313 947	2 225	73 718	98.68	6 058	10 295	16 354	93.40
02	Vegetable products	160 081	153 407	1 771	80.13	190	741	931	5.37
03	Fats and oils	1 589	0	1 589	70.17	0	0	0	0
04	Prepared foodstuffs, beverages, etc.	65 937	59 873	5 884	91.49	16	34	50	0.29
05	Mineral products	4 618	4 618	0	.	0	0	0	0
06	Chemical products	865	838	27	92.59	0	0	0	0
07	Plastics & rubber	540	19	521	89.63	0	0	0	0
08	Hides and skins, leather, etc.	18 674	2 395	16 266	92.69	2	3	5	0.03
09	Wood & articles of wood	39 702	33 314	6 063	86.29	0	37	37	0.21
10	Pulp of wood, paper, books, etc.	1 312	1 186	126	88.09	0	0	0	0
11	Textile & textile articles	71 122	11 389	59 733	59.45	0	0	0	0
12	Footwear, headgear, umbrellas, etc.	73 429	0	73 178	98.30	66	67	133	0.76
13	Articles of stone, cement, etc.	169	109	60	51.67	0	0	0	0
14	Precious stones, etc.	4 080	3 348	732	39.75	0	0	0	0
15	Base metals & products	127 353	62 349	65 004	43.97	0	0	0	0
16	Machinery & electrical equipment	15 796	14 430	1 366	98.53	0	0	0	0
17	Transport equipment	5 825	5 825	0	.	0	0	0	0
18	Optical & precision instruments	4 783	4 780	3	100	0	0	0	0
19	Arms and ammunition	0	0	0	.	0	0	0	0
20	Misc. manufactured articles	1 305	949	356	99.16	0	0	0	0
21	Works of art, etc.	53	53	0	.	0	0	0	0
22	Special uses	.	.	.	.	.	.	.	.
	<b>TOTALS</b>	<b>911 180</b>	<b>361 107</b>	<b>306 397</b>		<b>5 994</b>	<b>6 782</b>	<b>12 780</b>	

Source: UNCTAD calculations.

\* In thousands current US \$.

Notes: Simulations are done using 2000 trade data and 2001 tariffs. Products 2709 (Petroleum oils and oils obtained from bituminous minerals, crude), 2710 (Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included, containing by weight 70% or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations) and 88 (Aircraft, spacecraft, and parts thereof) are excluded.

### 3. Canada: GSP trade simulation

Until January 2003, textiles and clothing represented by far the most important Canadian exclusion from the GSP scheme. Following the changes introduced, the excluded products are extremely limited.

If duty free were applied to all products, total LDC exports would increase only by a little more than half a million dollars, most part of which would still be attributable to section 11.

**Table 38**  
**Expected trade effects from full coverage in the Canadian market**

#	HS Section Description	Imports from LDCs*	Duty free	Imports covered*	Utiliz. rate (%)	TC*	TD*	TE*	TE in (%)
01	Live animals & products	14 193	13 829	0	.	12	21	33	6.26
02	Vegetable products	8 719	8 654	62	20.97	0	0	0	0
03	Fats and oils	19	9	5	60	1	1	1	0.19
04	Prepared foodstuffs beverages, etc.	3 795	2 074	1 662	90.07	5	10	16	3.04
05	Mineral products	13 556	13 556	0	.	0	0	0	0
06	Chemical products	9 363	1 740	7 623	63.64	0	0	0	0
07	Plastics & rubber	2 484	1 931	553	80.47	0	0	0	0
08	Hides and skins, leather, etc.	938	34	904	53.65	0	0	0	0
09	Wood & articles of wood	908	691	217	71.89	0	0	0	0
10	Pulp of wood, paper, books, etc.	235	163	72	77.78	0	0	0	0
11	Textile & textile articles	179 134	7 555	171 153	63.92	268	143	412	78.18
12	Footwear, headgear, umbrellas, etc.	4 029	55	3 903	64.77	35	19	54	10.25
13	Articles of stone, cement, etc.	474	314	160	70.62	0	0	0	0
14	Precious stones, etc.	1 895	1 329	566	87.63	0	0	0	0
15	Base metals & products	679	402	243	67.90	3	3	6	1.14
16	Machinery & electrical equipment	15 307	14 637	670	49.25	0	0	0	0
17	Transport equipment	49	33	16	43.75	0	0	0	0
18	Optical & precision instruments	276	254	22	45.45	0	0	0	0
19	Arms and ammunition	0	0	0	.	0	0	0	.
20	Misc. manufactured articles	1 266	629	630	50	2	1	5	0.95
21	Works of art, etc.	208	204	4	100	0	0	0	0
22	Special uses	.	.	.	.	.	.	.	.
TOTALS		257 527	68 093	188 465		326	198	527	

Source: UNCTAD calculations.

\* In thousands current US \$.

Notes: Simulations are done using 2000 trade data and 2000 tariffs. Products 2709 (Petroleum oils and oils obtained from bituminous minerals, crude), 2710 (Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included, containing by weight 70% or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations) and 88 (Aircraft, spacecraft, and parts thereof) are excluded.

## **B. Possible trade effects arising from a full utilization of the preferential schemes**

A second simulation has been carried out to quantify what LDCs could gain from a full utilization of their preferences.

### **1. The GSP scheme of the European Union and ACP Cotonou preferences**

Tables 39 to 44 contain the results of the simulation for LDCs' exports in the EU market broken down at a HS section level of aggregation both for ACP and non-ACP LDC countries. The “cost” of not fully utilizing the preferences has been retrieved by simulating the trade effects on the volume of trade that which has not received trade preferences. It has be assumed that this volume of trade, which has not received trade preferences moves from a MFN rate situation to full duty-free market access.

Simulations have been run at the single tariff line. At this level of disaggregation it might well happen that for some product either trade is zero because the beneficiary country does not export that good or the trade volume is too small. In both cases the corresponding utilization rate will be zero.

In these cases, that is when the utilization rate is not available at the tariff line, the utilization rate of the corresponding HS6 (sub heading) or HS4 (heading) level has been taken in order to calculate the effects on trade from full utilization. If neither of these was available, we used the average utilization rate of all other non-ACP developing countries at the same HS4 heading level. Besides, since the utilization rate may vary a great deal from year to year for extemporary reasons, in the simulations the average of the last three years has been taken.

**Table 39**  
**Expected trade effects from full utilization of preferential schemes:**  
**EU-non ACP LDCs**

#	HS Section Description	Imports from non-ACP LDCs*	Duty- free	Imports covered*	Utiliz. rate (%)	TC*	TD*	TE*	TE in (%)
01	Live animals & products	189 847	307	189 540	75.91	5 365	7 755	13 120	0.96
02	Vegetable products	24 967	15 091	9 876	90.34	37	98	135	0.01
03	Fats and oils	1	0	1	0	0	0	0	0
04	Prepared foodstuffs, beverages, etc.	24 694	6	24 650	56.81	1 774	3 140	4 914	0.36
05	Mineral products	2 651	141	2 510	100	0	0	0	0
06	Chemical products	3 282	825	2 457	90.15	24	29	53	0.00
07	Plastics & rubber	7 366	1 987	5 359	55.61	735	287	1 022	0.07
08	Hides and skins, leather, etc.	109 414	17 721	91 693	86.10	1 930	797	2 727	0.32
09	Wood & articles of wood	50140	33 798	16 342	68.71	96	464	560	0.04
10	Pulp of wood, paper, books, etc.	3 554	820	2 734	79.96	23	33	6	0.00
11	Textile & textile articles	3 294 446	74 125	3 220 321	31.68	902 460	420 546	1 323 006	96.90
12	Footwear, headgear, umbrellas, etc.	109 970	31	109 939	78.54	11 377	5 261	16 637	1.29
13	Articles of stone, cement, etc.	12 641	49	12 592	96.11	138	66	204	0.01
14	Precious stones, etc.	7 316	5 564	1 752	52.51	85	45	131	0.01
15	Base metals & products	4 823	2 144	2 679	46.96	139	138	278	0.02
16	Machinery & electrical equipment	23 766	11 302	12 464	11.56	813	651	1 464	0.11
17	Transport equipment	12 759	170	12 589	93.18	254	125	379	0.03
18	Optical & precision instruments	3 245	2 158	1 087	7.36	81	51	132	0.01
19	Arms and ammunition	8	0	8	50	0	0	0	0
20	Misc. manufactured articles	14 296	8 441	5 855	63.93	364	150	514	0.04
21	Works of art, etc.	2 121	2 121	0	.	0	0	0	0
22	Special uses	.	.	.	.	.	.	.	.

Source: UNCTAD calculations.

\* In thousands current US \$.

Note: Simulations are done using 2000 trade data and 2001 tariffs. Products 2709 (Petroleum oils and oils obtained from bituminous minerals, crude), 2710 (Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included, containing by weight 70 per cent or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations) and 88 (Aircraft, spacecraft, and parts thereof) are excluded.

As far as non-ACP countries are concerned, the trade effect in textile and textile articles stands out from all the others, with an increase of more than US\$1 billion. This is mainly due to chapters 61 and 62 (articles of apparel and clothing accessories). Missed trade preferences in these two chapters are considerable. Even if to a much lesser extent, the sections "live animals and products" and "footwear, headgear, umbrellas, etc." also show a relevant increase in exports in spite of a utilization rate already relatively high.

In table 40 we report the trade effect in selected chapters for each country involved in the simulation that has been reported. The country that would benefit more in absolute value if all covered goods in chapters 61-63 actually received the special treatment they are entitled to is Bangladesh, followed by Cambodia. For the vast majority of countries imports covered would double. Figures in other sectors are perhaps less impressive. Nevertheless, Maldives, for example, would see an increase in its covered exports of prepared fish and crustaceans of almost 20 per cent, while for Myanmar<sup>78</sup> the figure for sugar would be almost 60 per cent and that for fish and crustaceans 4 per cent.

Also in the case of ACP LDCs the biggest trade effect is in section 11 (textile and textile articles), even if this is much smaller than in the case of Asian LDCs. This is mainly due to the fact that EU imports of textiles and textile articles from ACP countries are smaller and also to the fact that a more considerable part of them is already duty-free. In this case (details are not reported), Madagascar would be the major contributor to the total trade effect with an increase in export of "articles of apparel and clothing accessories" of more than US\$ 87 million.

The increase in exports from full utilization is relevant also for "live animals and products" and "prepared foodstuffs, beverages, etc." (US\$ 40 million and US\$ 46 million, respectively) and, to a lesser extent, for "transport equipment".<sup>79</sup> Covered imports of fish and crustaceans from Madagascar and Mozambique would increase by 10 per cent. Covered imports of sugar from Malawi would increase by almost 60 per cent (equal to US\$ 23 million).

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<sup>78</sup> Myanmar is currently suspended from the EBA.

<sup>79</sup> The trade effect in "transport equipment" should be considered taking into account that the majority of trade under this section is represented by cargo vessels from Liberia.

**Table 40**  
**Expected trade effects from full utilization of preferential schemes:**  
**EU-non ACP LDCs, selected countries and markets**

HS Section	HS Chapter	Chapter description	Country	Imports covered	Utilization rate (%)	TE*	As a % of Imports covered
11	61	Art of apparel & clothing accessories knitted or crocheted.	Afghanistan	571	2.98	348	60.95
11	61	Idem	Bangladesh	1 186 006	49.55	360 514	30.40
11	61	Idem	Cambodia	193 799	6.97	113 284	58.45
11	61	Idem	Lao P.D.R.	45 854	18.49	23 356	50.94
11	61	Idem	Maldives	8 035	0.02	4 958	61.70
11	61	Idem	Myanmar	151 160	31.58	64 078	42.39
11	61	Idem	Nepal	7 624	76.59	1 081	14.18
11	61	Idem	Yemen	1	0	0	0
11	62	Art of apparel & clothing accessories, not knitted/crocheted	Afghanistan	1 160	0.09	537	46.29
11	62	Idem	Bangladesh	1 101 511	13.01	582 636	52.89
11	62	Idem	Bhutan	2	50	1	50
11	62	Idem	Cambodia	61 593	3.84	37 710	61.22
11	62	Idem	Lao PDR.	54 963	37.81	20 854	37.94
11	62	Idem	Maldives	8 024	1.16	5 082	63.33
11	62	Idem	Myanmar	112 059	20.76	54 733	48.84
11	62	Idem	Nepal	35 186	71.60	5 272	14.98
11	62	Idem	Yemen	4	50	1	25
11	63	Other made up textile articles; sets; worn clothing, etc.	Afghanistan	90	13.33	28	31.11
11	63	Idem	Bangladesh	44 582	75.21	2 280	5.11
11	63	Idem	Bhutan	1	100	0	0
11	63	Idem	Cambodia	11	0	3	27.27
11	63	Idem	Lao PDR.	5	80	0	0
11	63	Idem	Myanmar	3	66.67	0	0
11	63	Idem	Nepal	686	86.88	28	4.08

Source: UNCTAD calculations.

\* In thousands current US \$.

Note: Simulations are done using 2000 trade data and 2001 tariffs. Products 2709 (Petroleum oils and oils obtained from bituminous minerals, crude), 2710 (Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included, containing by weight 70% or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations) and 88 (Aircraft, spacecraft, and parts thereof) are excluded.

**Table 41**  
**Expected trade effects from full utilization of preferential schemes:**  
**EU-ACP LDCs**

HS Section	Description of the HS Section	Imports from ACP LDCs*	Duty free	Imports covered *	Utilization rate (%)	TC*	TD*	TE*	TE in %
01	Live animals & products	637 834	8 807	629 027	77.49	17 434	23 041	40 475	16.51
02	Vegetable products	844 719	700 881	141 667	37.48	5 692	9 567	15 260	6.22
03	Fats and oils	83 797	2 152	81 645	64.65	2 097	1 574	3 671	1.50
04	Prepared foodstuffs, beverages, etc.	340 972	58 632	281 976	46.92	15 462	31 086	46 548	18.99
05	Mineral products	618 747	618 577	170	51.18	4	6	10	0.00
06	Chemical products	133 998	129 079	4 651	50.27	166	201	366	0.15
07	Plastics & rubber	11 772	10 046	1 695	44.07	250	101	350	0.14
08	Hides and skins, leather, etc.	103 239	34 427	68 812	49.15	2 813	937	3 751	1.53
09	Wood & articles of wood	177 355	164 269	13 086	81.79	95	158	253	0.10
10	Pulp of wood, paper, books, etc.	5 139	1 903	3 236	63.32	46	66	112	0.046
11	Textile & textile articles	526 028	224 076	301 952	34.87	66 181	34 111	100 293	40.91
12	Footwear, headgear, umbrellas, etc.	14 422	92	14 330	60.63	646	288	934	0.38
13	Articles of stone, cement, etc.	3 717	191	3 526	75.38	51	89	140	0.06
14	Precious stones, etc	2 049 189	2 047 946	1 243	38.21	79	42	121	0.05
15	Base metals & products	117 234	90 277	26 957	46.67	808	1 430	2 238	0.91
16	Machinery & electrical equipment	78 704	42 081	36 623	17.88	1 570	1 253	2 823	1.15
17	Transport equipment <sup>80</sup>	264 390	190 697	73 693	0.43	15 636	9 860	25 496	10.40
18	Optical & precision instruments	21 738	5 586	16 152	18.75	1 229	662	1 891	0.77
19	Arms and ammunition	44	0	44	52.27	0	1	1	0.00
20	Misc. manufactured articles	8 989	2 670	6 319	70.63	278	130	408	0.17
21	Works of art, etc.	2 881	2 881	0	.	0	0	0	0
22	Special uses	.	.	.	.	.	.	.	.

Source: UNCTAD calculations.

\* In thousands current US \$

Notes: Simulations are done using 2000 trade data and 2001 tariffs. Products 2709 (Petroleum oils and oils obtained from bituminous minerals, crude), 2710 (Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included, containing by weight 70 per cent or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations) and 88 (Aircraft, spacecraft, and parts thereof) are excluded.

<sup>80</sup> The trade volume is almost totally represented by cargo vessels from Liberia.

## **2. Full simulation for Japan, USA and Canada**

In this part the simulation carried out for the EU is extended to other Quad countries and combined with the results already attained from the previous simulation on the GSP excluded products. The goal is to provide an overall picture of the total benefits, in terms of enhanced exports, LDCs might get from a condition of full liberalisation *and* full utilization of the preferential schemes.

Obviously, the realisation of the cumulative results from full trade liberalisation crucially depends on the ability of LDC countries to respond to the newly created trade opportunities.

At a country level, the analysis identifies in the EU the market producing by far the more important gains for LDCs from a full utilization of their already existent preferences. In the following we report the results of a simulation evaluating the effects of both full coverage and full utilization for Canada, USA and Japan. This is providing a possible scenario of total possible gains and allow a comparison between different schemes. For the USA, the results of the simulation are consistent with the structure of their GSP schemes: most of the trade creation stems from the coverage of GSP excluded products, in particular textiles, while limited gains originate from a full utilization of the available preferences (also because of the limited exports value of some products covered by the scheme as a starting point). As we will see soon, the opposite is true for Canada, while the aggregate trade effects in the Japanese market are almost equally split between full coverage and full utilization.

As mentioned above, the largest part of LDC exports to Canada are already either freely traded or covered by special treatment when the new provisions are taken into account. Consequently, the effects of an additional tariff cut are not so huge. This is not the case, however, when full liberalization, that is full coverage and full utilization, is considered. Indeed, for some products the actual utilization rates are not very high, leading to an increase of almost US\$ 58 million in total exports (equal to 30 per cent of dutiable imports) when full utilization is supposed.

As often happens in these simulations, the total trade increase is almost entirely attributable to chapter 11. Indeed, the very high imports of textiles and textile articles from LDCs, together with the fact that the overall utilization rate for this section equals 64 per cent of covered imports, clearly explain why.

**Table 42**  
**Expected trade effects from full utilization and full coverage in**  
**the Canadian market**

#	HS section Description	Imports from LDCs*	Duty free	Imports covered*	Utilization rate (%)	TC*	TD*	TE*	TE in %
01	Live animals & products	14 193	13 829	0	.	12	21	33	0.06
02	Vegetable products	8 719	8 654	62	20.97	2	3	5	0.01
03	Fats and oils	19	9	5	60	1	1	2	0.00
04	Prepared foodstuffs, beverages, etc.	3 795	2 074	1 662	90.07	18	34	52	0.09
05	Mineral products	13 556	13 556	0	.	0	0	0	0
06	Chemical products	9 363	1 740	7 623	63.64	173	45	219	0.38
07	Plastics & rubber	2 484	1 931	553	80.47	60	23	83	0.14
08	Hides and skins, leather, etc.	938	34	904	53.65	123	60	182	0.31
09	Wood & articles of wood	908	691	217	71.89	7	7	14	0.02
10	Pulp of wood, paper, books, etc.	235	163	72	77.78	1	1	2	0.00
11	Textile & textile articles	179 134	7 555	171 153	63.92	37 167	18 929	56 096	96.98
12	Footwear, headgear, umbrellas, etc.	4 029	55	3 903	64.77	611	319	930	1.61
13	Articles of stone, cement, etc.	474	314	160	70.62	13	6	19	0.03
14	Precious stones, etc.	1 895	1 329	566	87.63	7	10	17	0.03
15	Base metals & products	679	402	243	67.90	10	13	23	0.04
16	Machinery & electrical equipment	15 307	14 637	670	49.25	26	25	51	0.09
17	Transport equipment	49	33	16	43.75	1	1	2	0.00
18	Optical & precision instruments	276	254	22	45.45	2	1	3	0.00
19	Arms and ammunition	0	0	0	.	0	0	.	.
20	Misc. manufactured articles	1 266	629	630	50	70	40	111	0.19
21	Works of art, etc.	208	204	4	100	0	0	0	0
22	Special uses	.	.	.	.	.	.	.	.

Source: UNCTAD calculations.

\* In thousands current US \$.

Note: Simulations are done using 2000 trade data and 2001 tariffs. Products 2709 (Petroleum oils and oils obtained from bituminous minerals, crude), 2710 (Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included, containing by weight 70% or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations) and 88 (Aircraft, spacecraft, and parts thereof) are excluded.

As can be seen by comparing table 43 with table 36, the increase in US imports is due by far to a full coverage of products. Effects coming from the full utilization of the existing preferential schemes are much less important. Overall dutiable imports from LDCs, GSP LDCs and AGOA countries would increase by 6.5 per cent.

At a country level the country that would gain considerably from a full utilization of the existent system of preferences is Bangladesh, with an increase in exports of one and half billion US dollars. Cambodia and Nepal follow with a much smaller increase (US\$ 250 and 125 million respectively).

**Table 43**  
**Expected trade effects from full utilization *and* full coverage in the US market**

#	HS Section Description	Imports from LDCs*	Duty free	Imports covered*	Utiliz. rate (%)	TC*	TD*	TE*	TE in %
01	Live animals & products	154 540	153 762	366	67.21	6	13	19	0.00
02	Vegetable products	190 193	177 112	10 127	82.86	47	103	150	0.00
03	Fats and oils	6 887	768	6 119	3.69	605	816	1,421	0.05
04	Prepared foodstuffs, beverages, etc.	114 044	13 783	41 683	60.10	682	2 637	3 319	0.12
05	Mineral products	145 208	144 800	204	18.63	13	23	36	0.00
06	Chemical products	45 421	13 294	31 595	99.64	6	7	12	0.00
07	Plastics & rubber	62 244	44 939	3 064	29.90	441	188	628	0.02
08	Hides and skins, leather, etc.	143 277	1 223	28 590	17.04	14 310	7 034	21 344	0.75
09	Wood & articles of wood	49 939	10 331	4 448	80.10	65	89	154	0.00
10	Pulp of wood, paper, books, etc.	4 718	718	1 919	77.23	6	8	14	0.00
11	Textile & textile articles	42 078 244	10 307	4 014 814	6.41	1 828 861	910 011	2 738 873	96.2
12	Footwear, headgear, umbrellas, etc.	1 290 519	2 479	205 305	0.29	56 435	21 716	78,152	2.75
13	Articles of stone, cement, etc.	5 757	94	4 898	95.79	39	22	60	0.00
14	Precious stones, etc.	89 967	46 853	15 609	95.03	158	85	243	0.01
15	Base metals & products	35 586	24 621	6 752	96.22	9	11	20	0.00
16	Machinery & electrical equipment	13 310	5 171	2 938	52.72	70	55	125	0.00
17	Transport equipment	280	90	112	3.57	5	4	9	0.00
18	Optical & precision instruments	4 707	721	1 642	54.02	39	28	67	0.00
19	Arms and ammunition	0	0	0		0	0		
20	Miscellaneous manufact. Articles	26 792	10 584	14 060	93.95	148	106	255	0.01
21	Works of art, etc.	10 849	10 849	0		0		0	0
22	Special uses								

Source: UNCTAD calculations.

\* In thousands current US \$.

Notes: Simulations are done using 2001 trade data and 2001 tariffs. Products 2709 (Petroleum oils and oils obtained from bituminous minerals, crude), 2710 (Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included, containing by weight 70% or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations) and 88 (Aircraft, spacecraft, and parts thereof) are excluded.

As far as the Japanese market is concerned, should duty-free market access be granted for all products,<sup>81</sup> covered and not, according to the simulation, covered imports from LDCs would increase by almost 10 per cent equal to the 5.5 per cent of the current dutiable exports. Total gains are evenly distributed between the effects of a full utilization of the existent preferences and those due to the coverage of excluded products only (see table 44).

Major gains would originate from live animals and products, in particular from fish (+4.8 per cent of total imports), meat products (+85 per cent) and edible vegetables (+10 per cent). Together these products account for almost 58 per cent of the total trade effect. Increases in textiles (+28 per cent) and in base metals and products (+10 per cent) imports accrue exclusively from full utilization of already existing coverage.

It is worth noting that although very small in absolute terms, large trade effects at product level are likely to accrue to bovine products, leather articles, footwear, silk and cotton products and prepared food because protection on these products in the Japanese market remains high.

In absolute value Japan would see its net imports raised by US\$ 12 million, equal to 2 per cent only of the value of LDC exports currently not covered by the scheme. Conversely, owing to strong trade diversion effects, LDCs would see their total exports rise by more than US\$ 30 million. The reason for this is that fish imports from LDCs represent only a tiny fraction of total fish imports in the Japanese market. Therefore, although the potential preferential margins are extremely low the trade diversion effect is greater than the trade creation effect. LDCs likely to gain the most are clearly fish exporters such as Bangladesh (shrimps), the Solomon Islands (tuna), Mauritania<sup>82</sup> (mongo ika), the United Republic of Tanzania (fillets) and Madagascar (lobsters).

Given the static nature of the model and its dependence on the current trade flows the overall gains for the LDCs appear limited.<sup>83</sup> However, implementing the duty-free proposal might encourage LDCs to diversify in those products with a larger preferential margin (for example, in footwear, leather and meat products), providing them with a competitive advantage over other exporters subjected to the MFN duties.

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<sup>81</sup> Current simulation does not take into account the improvement of product coverage introduced in April 2003.

<sup>82</sup> Mauritania is the LDC benefiting the most from the GSP scheme. It may seem strange therefore that it does not rank as the first gainer from trade liberalization. The reason for this is that Mauritania products are already largely covered by the scheme itself and therefore there is little scope for further improvement.

<sup>83</sup> The model used to run our simulations does not take into account any dynamic effects.

**Table 44**  
**Expected trade effects from full utilization and full coverage in the Japanese market**

HS Section		Imports from LDCs*	Duty free	Imports covered*	Utiliz. rate (%)	TC*	TD*	TE*	TE in %
#	Description								
01	Live animals & products	313 947	2 225	73 718	98.68	6,119	10,386	16,506	54.49
02	Vegetable products	160 081	153 407	1 771	80.12	230	813	1,043	3.44
03	Fats and oils	1 589	0	1 589	70.17	0	42	42	0.14
04	Prepared foodstuffs, beverages, etc.	65 937	59 873	5 884	91.48	65	122	187	0.62
05	Mineral products	4 618	4 618	0	.	0	0	0	0
06	Chemical products	865	838	27	92.59	0	0	0	0
07	Plastics & rubber	540	19	521	89.63	4	4	8	0.03
08	Hides and skins, leather, etc.	18 674	2 395	16 266	92.69	172	168	340	1.12
09	Wood & articles of wood	39 702	33 314	6 063	86.29	73	136	209	0.69
10	Pulp of wood, paper, books, etc.	1 312	11 806	126	88.09	0	0	1	0.00
11	Textile & textile articles	71 122	11 389	59 733	59.45	4 223	4 245	8 469	27.96
12	Footwear, headgear, umbrellas, etc.	73 429	0	73 178	98.30	248	244	492	1.62
13	Articles of stone, cement, etc.	169	109	60	51.67	1	1	3	0.00
14	Precious stones, etc.	4,080	3,348	732	39.75	23	44	67	0.22
15	Base metals & products	127 353	62 349	65 004	43.97	1 167	1 753	2 920	9.64
16	Machinery & electrical equipment	15 796	14 430	1 366	98.54	1	1	3	0.01
17	Transport equipment	5 825	5 825	0	.	0	0	0	0
18	Optical & precision instruments	4 783	4 780	3	100	0	0	0	0
19	Arms and ammunition	0	0	0	.	0	0	0	0
20	Misc. manufactured articles	1,305	949	356	99.16	0	0	0	0
21	Works of art, etc.	53	53	0	.	0	0	0	0
22	Special uses	.	.	.	.	.	.	.	.

Source: UNCTAD calculations.

\* In thousands current US \$.

Notes: Simulations are done using 2000 trade data and 2001 tariffs. Products 2709 (Petroleum oils and oils obtained from bituminous minerals, crude), 2710 (Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included, containing by weight 70% or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations) and 88 (Aircraft, spacecraft, and parts thereof) are excluded.

The advantage of distinguishing the possible export gains of the two simulations lies in the fact that it is possible to investigate the rationale behind the different performances in different schemes for similar products. Indeed, these findings might have an immediate practical use for LDCs in the forthcoming negotiations on market access. For instance, if they want to see market access conditions for their prepared food products improved, in the case of Japan they should ask for an additional expansion of the product coverage to include the excluded products since the utilization of the preference already available on these products appears good at the moment. Conversely, the EU should require a simplification of the conditionalities and rules of origin as most of its exports in these products are already covered by the scheme, but very little trade qualifies for preference. In this sense, the analysis highlights those areas where preferential market access improvements are needed to enhance the LDCs' export performance, thus making the current initiative for LDCs quota-free and duty-free access really effective. Whether LDCs will be able to exploit the new opportunities arising from an enhanced market access in the Quad remains to be tested as supply-side constraints might still represent an important factor. However, the magnitude of the findings does reveal wide scope for further expansion of LDCs' exports.



## CONCLUSIONS

This study has examined issues related to the new initiatives in the field of trade preferences to improve market access for LDCs.

Obviously, the notion of market access covers much broader aspects than trade preferences. In particular, this paper has not considered other non-tariff barriers such as sanitary and phytosanitary requirements or the liberalization of textile and clothing products in 2005.

Other aspects related to the stability and predictability of trade preferences have already been explored by a previous UNCTAD study.<sup>84</sup> The present analysis has primarily focused on a first assessment of the newly granted initiatives by Quad countries, comparing them with those formerly granted to LDCs and assessing their potential impact on trade flows.

This preliminary analysis has shown that some initiatives have improved market access for LDCs. On the other hand, areas of further improvements are being identified such as expansion of preferences on the currently non-covered products as well enhanced utilization of the available preferences.

In particular, the United States under its own GSP scheme is recording a significant amount of trade excluded from preferences. Therefore, if some improvements are to be achieved in terms of higher gains for LDCs' exports under the current duty-free quota-free initiative, any future expansion of market access should cover these excluded products in order to be really meaningful. This is certainly the case for textiles and clothing products in the US GSP scheme. As earlier examined, given the actual export composition of LDCs' exports in these markets, the current coverage and utilization rate of the GSP scheme relates to a very small fraction of their actual trade. The AGOA product coverage includes textiles and clothing products for African LDCs; however, the conditionalities for designation, rules of origin and quota limitations attached to the concession suggest that on the basis of the experience gained with the utilization of the GSP, the trade impact of the concession could be greater in the absence of these constraints.

The recent improvements introduced by Canada and Japan in 2003 to their GSP schemes are expected to cover most of the gaps on product coverage existing before these changes. Yet the trade effects expected to be generated by these initiatives will have to be monitored.

Overall, the value and effectiveness of trade preferences available to LDCs' exports is diminished by the low utilization rate recorded. To a different extent depending on the category of products and the GSP preference-giving country, the low utilization rate is a cross-cutting issue that has to be addressed.

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<sup>84</sup> See "Improving Market Access for LDCs" (UNCTAD/TNCD/4 of 2 May 2001).

As earlier mentioned, the analytical studies and intergovernmental debates in the UNCTAD Special Committee on Preferences have traditionally identified as possible explanations for low utilization rate the existence of quantitative limitations on preferential treatment, lack of knowledge on the part of the exporters of the requirements to be fulfilled to benefit from GSP and rules of origin requirements. The findings of the study show that, under the new Quad initiative, quantitative limitations or some other form of graduation mechanism as reasons for low utilization are generally not applicable in the case of LDC countries. All GSP schemes of Quad countries do not provide for any form of a priori limitations on preferential treatment of LDC exports. General safeguard clauses remain applicable, but they have not been used for LDC exports.

All these findings point in the direction of rules of origin and related administrative procedures as the main reason for low utilization. In the case of LDCs, rules of origin have been largely demonstrated to be, at both the analytical and empirical levels, one of the main obstacles to a better utilization rate of the available trade preferences on industrial products. Overly strict and unsound from the point of view of industrial development, rules of origin represent the main constraints for LDCs. The origin requirements and related administrative procedures are largely responsible for the nullification of the trade preferences and the application of MFN rate for a substantial amount of the exports of LDCs. Their implications may have acted as a disincentive to the FDI that trade preferences were originally designated to boost.

Earlier estimates<sup>85</sup> carried out in developed countries show that the cost of the border formalities needed to determine the origin of a product amounts to at least 3 per cent of the value of the goods concerned. The costs to firms of not being able to apply cost-minimizing production due to origin rules may be as large as a few percentage points of the value of the goods or at most equal to the external tariff. Such costs are expected to be necessarily higher in LDCs, given the lack of capacity in their administration and the limited industrial base.

The costs related to administrative requirements and accounting techniques needed to satisfy not only product-specific requirements but also issuance of certificates of origin, the cost of keeping related documentary evidence, and so on have yet to be calculated in developing countries. This issue will be the subject of further research. However, it is intuitive that such requirements are at the opposite of the concept of trade facilitation that some preference-giving countries are advocating in WTO negotiations.

In spite of earlier intergovernmental debates and discussion on improvements and harmonization of preferential rules of origin contained in unilateral preferences, few results have been achieved in adopting a pragmatic approach. Since the outset of the GSP rules of origin historical inertia and the difference of product coverage of the

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<sup>85</sup> See Jan Herin, Occasional Paper No. 13, Rules of Origin and Differences between Tariff Levels in EFTA and in the EC, European Free Trade Association, 1986.

schemes were the reasons for the lack of progress recorded by the international community in this area.

The Uruguay Round Agreement on Rules of Origin has failed to regulate preferential rules of origin, creating a no-man's land where they have proliferated. In the course of the ongoing debate and initiatives undertaken under the umbrella of the Doha development agenda, a workable way forward for having a common set of preferential rules of origin for unilateral trade preferences could be explored.

New GSP rules of origin could be formulated to reflect modern and competitive industrial development on the basis of the work carried out by the World Customs Organization under the harmonization work programme of the non-preferential rules of origin. The lack of agreement impeding, at the time of this writing, the conclusion of such harmonization in the WTO committee on rules of origin has not impeded the technical committee on rules of origin established in the WCO from completing most of its work. During the negotiations conducted in this latter committee the international community has been able to give a fresh and highly technical consideration to the whole issue of origin.

A number of technical innovations for old problems have been found, and new production methods have been taken into account during the process. This wealth of experience and achievements should provide the substantial technical background for progressing towards a harmonized and updated set of rules of origin to be applied in the context of the initiative for duty-free and quota-free access to LDCs.

In fact, many of the product-specific rules of origin proposed for consideration in the second part of this study draw from the results of these negotiations.

Ultimately, increased utilization of trade preferences through changes in rules of origin and improved preferential market access on textiles and clothing for all LDCs could cushion and alleviate some transitional difficulties that may arise for small suppliers following the dismantling of ATC.

Annex 1 summarizes the main areas and issues where actual trade preferences need improvement.



## **ANNEXES**



## Annex 1

### Areas of possible improvements under existing preferential market access for LDCs

COUNTRY/ PROGRAMME		CURRENT PREFERENTIAL TREATMENT AND RULES OF ORIGIN	IMPROVEMENT IN PREFERENTIAL TREATMENT	IMPROVEMENT IN RULES OF ORIGIN
USA	GSP	<ul style="list-style-type: none"> <li>- Duty-free treatment for all products covered except for most textiles and clothing, and any other product considered “import sensitive”</li> <li>- One single percentage (35%) rule across the board for all products<sup>86</sup></li> </ul>	<ul style="list-style-type: none"> <li>Extend product coverage to all products.</li> <li>Extend time frame of GSP preferences to provide stability.</li> </ul>	<ul style="list-style-type: none"> <li>Adopt an harmonized import percentage criterion.</li> <li>Enlarge scope of cumulation to all beneficiary countries.</li> </ul>
	AGOA	<ul style="list-style-type: none"> <li>Sub-Saharan African countries enjoy duty-free access for nearly all goods, some eligible AGOA countries also have duty and quota-free access for textiles and apparel.<sup>87</sup></li> <li>- One single percentage (35%) rule across the board for all products<sup>88</sup></li> </ul>	<ul style="list-style-type: none"> <li>Expand eligibility to all LDCs.</li> <li>Extend time frame of preferences for textiles and clothing and increase quotas.</li> </ul>	<ul style="list-style-type: none"> <li>Adopt a harmonized import percentage criterion.</li> <li>Adopt a single stage manufacturing criterion for textiles and clothing.</li> </ul>
EU	GSP/EBA	<ul style="list-style-type: none"> <li>All products are covered and granted duty-free except for chapter 93 and bananas, rice and sugar</li> <li>Product specific rules of origin for all products</li> <li>Change of HS heading with or without exemptions, specific working or processing requirements and/or maximum percentage of imported inputs</li> </ul>	<ul style="list-style-type: none"> <li>Expand duty-free treatment to bananas, rice and sugar</li> </ul>	<ul style="list-style-type: none"> <li>Revise stringent rules of origin. For example, revise rules on fish (rule on definition of vessels and factory ships) and fish preparations (manufacture from originating fish)</li> <li>Replace double-stage transformation for textile and clothing products with a single manufacturing stage.</li> <li>Replace partial regional cumulation with full and global cumulation.</li> <li>Simplify certification- and administration- related procedures.</li> </ul>

<sup>86</sup> For product specific rules of origin see below.

<sup>87</sup> See for details of this textile and apparel preferential treatment, page XXX.

<sup>88</sup> For product-specific rules of origin see below.

COUNTRY/ PROGRAMME	CURRENT PREFERENTIAL TREATMENT AND RULES OF ORIGIN	IMPROVEMENT IN PREFERENTIAL TREATMENT	IMPROVEMENT IN RULES OF ORIGIN
Cotonou Partnership Agreement	<p>Duty-free treatment for all industrial and agricultural products not covered by CAP.</p> <p>For products covered by CAP list of specific concessions in an annex.</p> <p>Product-specific rules for all products</p> <p>Change of HS heading with or without exemptions, specific working or processing requirements and/or maximum percentage of imported inputs</p>	<p>Expand duty-free treatment on all products which are not already duty-free as contained in annex, especially those where only where tariff reduction applies in particular:</p> <p>Expand duty-free treatment to agricultural products where specific duties still apply</p> <p>Abolish/reduce Entry Price System</p> <p>Abolish Agricultural Component where applicable</p>	<p>Revise stringent rules of origin such as fish (rule on definition of vessels and factory ships) and fish preparations (manufacture from originating fish)</p> <p>Replace double-stage transformation for textile and clothing products with a single manufacturing stage.</p> <p>Full cumulation on all products expanded to the Republic of South Africa. Simplify certification and administration-related procedures</p>
Japan	Almost all products are covered and duty free.	Expand product coverage to all products.	<p>Expand cumulation to all beneficiaries of the GSP scheme.</p> <p>Revise stringent rules of origin.</p> <p>Simplify certification- and administration-related procedures.</p>
Canada	Duty-free treatment for all products excluding eggs, dairy and poultry.	Extend the time limit of the concession	<p>Revise rules of origin on textile and clothing to allow one single manufacturing stage as origin conferring operation.<sup>89</sup></p> <p>Simplify certification- and administration- related procedures for textile and clothing.</p>

<sup>89</sup> For product-specific textiles and clothing, see table 32 of this study.

## Annex 2

### List of least developed countries

There are currently 48 least developed countries on the UN list, 29 of which to date have become WTO Members.

1	Afghanistan (not a WTO Member)	26	Madagascar*
2	Angola*	27	Malawi*
3	Bangladesh	28	Maldives (not a WTO Member)
4	Benin*	29	Mali*
5	Bhutan (not a WTO Member)	30	Mauritania*
6	Burkina Faso*	31	Mozambique*
7	Burundi*	32	Myanmar
8	Cambodia (not a WTO Member)	33	Niger*
9	Cape Verde* (not a WTO Member)	34	Nepal (Observer status at WTO)
10	Central African Republic*	35	Rwanda*
11	Chad*	36	Sao Tome & Principe* (not a WTO Member)
12	Comoros* (not a WTO Member)	37	Sierra Leone*
13	Congo, Democratic Republic of the*	38	Solomon Islands*
14	Djibouti*	39	Somalia* (not a WTO Member)
15	Equatorial Guinea* (not a WTO Member)	40	Sudan* (Observer status at WTO)
16	Eritrea* (not a WTO Member)	41	Togo*
17	Ethiopia* (not a WTO Member)	42	Tuvalu* (not a WTO Member)
18	Gambia*	43	Uganda*
19	Guinea*	44	United Republic of Tanzania*
20	Guinea-Bissau*	45	Vanuatu* (Observer status at WTO)
21	Haiti*	46	Western Samoa* (not a WTO Member)
22	Kiribati* (not a WTO Member)	47	Yemen (not a WTO Member)
23	Lao PDR (not a WTO Member)	48	Zambia*
24	Lesotho*		
25	Liberia* (not a WTO Member)		

The countries marked with an asterisk are members of the ACP group. Six least developed countries are in the process of accession to the WTO: Cambodia, Lao People's Democratic Republic, Nepal, Samoa, Sudan and Vanuatu.



### Annex 3

## Visa requirements, country beneficiaries and rules of origin for textiles and clothing under AGOA

### Visa requirements under AGOA

On 18 January 2001, the USTR directed the Commissioner of Customs to require that importers provide an appropriate export visa from a designated beneficiary sub-Saharan African country when the country claims preferential treatment of textile and apparel products under the Act.<sup>90</sup>

A shipment shall be visaed by stamping an original circular visa in blue ink only on the front of the original commercial invoice. The original visa shall not be stamped on duplicate copies of the invoice. The original of the invoice with the original visa stamp shall be required in order to obtain preferential tariff treatment. Duplicates of the invoice and/or visa may not be used for this purpose. Each visa stamp shall include (a) the visa number, including the preferential groupings the apparels qualify for, a country code, and a numerical serial number identifying the shipment; (b) the date of visa issuance; (c) the authorized signature of an authorized official of the beneficiary countries; and (d) the quantity of goods being shipped.

A visa shall not be accepted and preferential tariff treatment shall not be permitted if the visa number, date of issuance, authorized signature, correct grouping, quantity or the unit of quantity is missing, incorrect or illegible, or has been crossed out or altered in any way.

If the visa is not acceptable, a new visa must be obtained from an authorized official of the eligible country, or a designate, before preferential tariff treatment can be claimed. Waivers are not permitted.

If the visaed invoice is deemed invalid, the United States Customs Service will not return the original document after entry, but will provide a certified copy of it for use in obtaining a new correct original visaed invoice.

In order to be declared eligible for textile/apparel provisions, sub-Saharan African countries are required to:<sup>91</sup>

- Adopt an effective visa system, domestic law and enforcement procedure in order to prevent illegal trans-shipment and the use of counterfeit documents relating to the importation of the eligible apparel products into the United States;

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<sup>90</sup> See *Visa Requirements under the AGOA*, vol. 66, Federal Register 7837, 25 January 2001.

<sup>91</sup> Section 113 (a)(1) of the Act.

- Enact legislation or issue regulations in order to permit the United States Customs Service to investigate thoroughly allegations of trans-shipment;
- Agree to report on the total exports and imports of covered articles in the country;
- Cooperate with the United States in order to prevent circumvention;
- Agree to require all producers and exporters of covered articles in the country to maintain complete records of the production and the export of covered articles, including materials used in the production, for at least two years after the production or export;
- Agree to provide documentation to the United States Customs Service establishing the country of origin of covered articles. This includes the production record, information relating to the place of production, the number and identification of the types of machinery used in production, the number of workers employed in production, and certification from both the manufacturer and the exporter. These records should be retained for five years.

#### **Countries beneficiaries of the AGOA Textiles Provision**

Benin*	Ghana	Niger*
Botswana	Guinea*	Nigeria
Cape Verde*	Guinea-Bissau*	Rwanda*
Cameroon	Kenya	Sao Tome and Principe*
Central African Republic*	Lesotho*	Senegal
Chad*	Madagascar*	Seychelles
Congo	Malawi*	Sierra Leone*
Côte d'Ivoire	Mali*	South Africa
Djibouti*	Mauritania*	Swaziland
Eritrea*	Mauritius	United Republic of Tanzania*
Ethiopia*	Mozambique*	Uganda*

#### **Rules of origin under the AGOA Textiles Provision**

AGOA provides duty-free and quota-free access for selected textile and apparel articles if they are imported from designated sub-Saharan African countries under the textile/apparel provision. The 35 per cent value-added requirement for AGOA GSP treatment is not required for the textile/apparel provision. Apparel products eligible for benefits under the AGOA must fall within one of 10 specific preferential groupings and meet the related requirements. The Trade Act of 2002 modifies certain rules by making knit-to-shape articles eligible for duty-free and quota-free treatment in the preferential groupings.

Before each preferential group is examined in detail, it is important to note that groupings 4 and 5 are subject to the quantitative limitations called “cap”<sup>92</sup> given the fact that beneficiary countries are allowed to use regional or foreign fabrics or yarns. More details about “cap” are given below.

The granting of preferential treatment depends on the origin of the fabric and yarn used. This is the rule of origin under AGOA for textile/apparel articles.

In October 2000,<sup>93</sup> the President designated the above-mentioned sub-Saharan African countries as AGOA beneficiaries, subject to compliance with the provisions on illegal transshipment (the asterisk indicates that the country is an LDC).

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<sup>92</sup> The word “cap” is utilized by the USTR as a tariff quota.

<sup>93</sup> See the White House, Office of the Press Secretary, October 2, 2000.