

The Generalized System of Preferences

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Introduction

Dating back to the 1940s, developing countries called for a change in the international economic system that would promote their interests for the purposes of alleviating poverty and promoting socioeconomic progress. The purpose of the movement towards a New International Economic Order (NIEO) was to replace the Bretton Woods system that had been designed by the United States, who had reaped the rewards of self-reflecting global economic system. Although no formal document regarding NIEO manifested until 1974, efforts by the global community were made to assist the development of the less materially wealthy states.¹ One of the goals was an improvement in the terms of trade for less developed countries.² International trade became and remains a central component of the development strategies of less developed countries (LDCs).

The concept of granting developing countries non-reciprocal preferential tariff rates to the markets of industrialized countries was first introduced in 1964 by Raul Prebisch, the first Secretary-General of the United Nations Conference on Trade and Development (UNCTAD). Known as the Generalized System of Preferences (GSP), it was adopted in 1968 at UNCTAD II.

¹ Looney, Robert. "New International Economic Order." 30 Nov. 2008, http://http://web.nps.navy.mil/~relooney/routledge_15b.htm. At a 1974 special session, the United Nations General Assembly adopted the "Declaration and Program of Action of the New International Order."

² A distinction must be placed between "less developed countries" and "least developed countries." The latter is a specific group of state formally recognized by the UN and is a subset of the more general term "less developed countries," while the former is used to describe the materially poor countries of the world.

Under GSP, certain products originating in LDCs are to be given reduced or zero tariff rates that supersede the Most Favored Nation (MFN) rates followed under the World Trade Organization (WTO). For instance, under MFN, if member country A gives a 5% tariff rate to member country B for its tea imports, then member country C and all other members must receive the same 5% tariff rate from member country A for their tea imports. No member country can be granted advantageous treatment; all must be favored the same. MFN is one of the core nondiscrimination principles of the WTO. Thus, GSP contradicts MFN by offering preferential treatment to LDCs below the MFN rates. For example, member country A may give a tariff rate of only 2% on tea imports to member country D instead of the 5% MFN rate if member country D is considered to be an LDC eligible for GSP. GSP basically calls for countries to violate their nondiscrimination commitments to the WTO.³

In 1971, signatories to the GATT approved a ten-year waiver of MFN in order to authorize GSP. Eight years later, they adopted the Enabling Clause, which is a permanent waiver that allows countries to give preferential treatment to LDCs.⁴ Each country that chooses to implement GSP establishes different rules that specify which countries will be beneficiaries and which products from each shall be eligible for reduced or zero tariffs. There are thirteen parties that currently offer GSP preferences: Australia, Belarus, Bulgaria, Canada, Estonia, the European Union, Japan, New Zealand, Norway, the Russian Federation, Switzerland, Turkey, and the United States of America.⁵

The goal of GSP is to promote economic growth and in the developing world and yet there are many factors that limit the full potential of this scheme. The EU and the US both

³ "About GSP." 2002. United Nations Conference on Trade and Development. 30 Nov. 2008, <http://unctad.org/Templates/Page.asp?intItemID=2309&lang=1>

⁴ Ibid.

⁵ Ibid. This paper will focus on the GSP schemes of the EU and the US.

administer market-distorting agricultural support programs that constrain agricultural export expansion in LDCs. They both undermine the use of GSP through the implementation of tariff escalation policies and complex Rules of Origin. In addition to this, the US excludes certain products from GSP in which LDCs have a comparative advantage, while also issuing competitive need limitations that can suspend GSP benefits. Annual reviews also destabilize GSP by leaving investors hesitant to invest due to uncertainty surrounding the future status of trade benefits. These are the numerous obstacles that limit the effectiveness of GSP.

Effectiveness of GSP in the European Union (EU)

GSP preferential access to EU markets can be classified into 3 categories: general GSP, GSP + and the Everything But Arms Initiative (EBA).

The EU implements general GSP in ten-year cycles, with the current one adopted in 2004 and set to last from 2006 to 2015. It is reviewed approximately every 3 years. Preferential treatment is given to 179 countries or territories for approximately 7200 products that are classified as being either “sensitive” or “non-sensitive.”⁶ Sensitive products are goods that are considered to be of special importance to the EU that require some protection for one reason or another (e.g. agriculture and food security/employment). Non-sensitive products do not have this stipulation so larger concessions on these goods are more freely given. In 2004, 7000 products were eligible for GSP of which 3250 were non-sensitive products that received duty-free access while 3750 sensitive items received reductions in tariffs.⁷ One can note that based on this statistic alone, over half of GSP eligible products in the EU were considered sensitive and faced some level of protectionist taxation at the border, albeit at lower rates than would be

⁶ "EU Generalised System of Preferences." EU at the UN. 21 Dec. 2005. European Commission. 30 Nov. 2008, http://www.europa-eu-un.org/articles/en/article_5520_en.htm

⁷ "Generalised System of Preferences." July 2008. European Commission. 30 Nov. 2008 http://ec.europa.eu/trade/issues/global/gsp/eba/index_en.htm.

normally imposed. Still, these can range from very low to very high tariffs. For example, in 2001, fresh cut flowers faced an MFN rate of 15-17% and a *GSP* tariff rate of 15%.⁸ Lower rates do not necessarily indicate low overall rates.

At first glance, one would think that since the number of GSP-eligible imports nearly matches the amount of dutiable imports, GSP must be quite effective as a development policy. Unfortunately, eligibility does not fully correlate with receiving the actual benefits. According to the 2004 “Least Developed Countries Report” issued by UNCTAD, the utilization rate of GSP for imports destined for the EU never reached 50% between the years 1994-2001. It peaked in 1995 at 48% and hit a low of 26.2% in 1998.⁹ This disparity does not bode well for trade as a development strategy for LDCs if they cannot accrue the benefits preferential trade systems are supposed to provide.

Besides the low rate of GSP use, the effectiveness of GSP is limited by non-tariff barriers that the EU imposes on imports. Agriculture is a major sticking point between less developed countries and advanced industrialized countries. Although LDCs have the comparative advantage in agriculture, they are unable to maximize this feature of their economies because the subsidies provided by the Common Agricultural Policy (CAP) of the EU cuts away at their competitive edge by lowering production costs. The EU spends 43 billion euros a year to its farmers in agricultural export subsidies and price supports.¹⁰ These market distortions encourage and result in overproduction in the EU and the subsequent dumping of surplus agricultural

⁸ Ismail, Faizel. "On the Road to Cancun: A Development Perspective on EU Trade Policies." Sept. 2002. South African Regional Poverty Network. 29 Nov. 2008, http://www.sarpn.org.za/documents/d0000475/P433_Ismail.pdf, 4.

⁹ *The Least Developed Countries Report 2004*. Rep.No. Secretariat, United Nations Conference of Trade and Development. United Nations Publications, 2004, 251. Utilization rate is calculated by dividing the number of imports receiving GSP preferences by the number of imports eligible for GSP preferences.

¹⁰ "Q & A: Common Agricultural Policy." 20 Nov. 2008. BBC News. 1 Dec. 2008, <http://news.bbc.co.uk/2/hi/europe/4407792.stm>

products on the world market such that local producers cannot compete in markets at home or abroad.

For example, The EU is one of the largest exporters of milk and milk products because it spends 16 billion euros of its annual budget on its dairy program. “The average EU cow is said to receive a \$2.20 daily subsidy, more than the daily wage of 20 percent of the world's population.”¹¹ Export subsidies allow producers to sell at below cost, often undercutting local farmers and crushing markets in places such as Kenya, India and Jamaica.¹² The same applies to the production of sugar. In 2002, the cost of production in the EU was two to three times that of South Africa but subsidies lowered this cost for European farmers to only one-third of that of South African producers. According to the Wall Street Journal, the resulting overproduction and dumping significantly lowered world sugar prices by 20%, reduced the income of South African farmers by one-third, and cost the country 100 million euros in potential exports.¹³ This chronic oversupply of agricultural products from the EU depresses world prices and limits market access. While only 4.3% of the population in the EU depends on agriculture, the livelihood of two-thirds of all poor people in LDCs relies on this sector.¹⁴ With agriculture as the primary source of employment, the lack of LDC competitiveness hinders export-led growth. Theoretically, LDCs should have the competitive advantage in agriculture and should therefore be able to specialize and export to the EU but the CAP distorts the market to such a large degree that LDCs cannot gain access, even with preferential access from GSP. This severely limits GSP effectiveness in local economic development.

¹¹ Kaplan, Eben. "The WTO's Troubled 'Doha Negotiations,'" 9 Dec. 2005. Council on Foreign Relations. 28 Nov. 2008, <http://www.cfr.org/publication/9385/#3>

¹² Dahlsten, Sara. "Agriculture." Organisation for Economic Co-operation and Development. 1 Dec. 2008, <http://www.oecd.org/dataoecd/22/53/25507214.pdf>

¹³ Ismail, 4.

¹⁴ Ismail, Faziël. "A Development Perspective on EU Trade Policies and Their Implications for Central and Eastern European Countries." *Policy Perspectives* 1 (2003), 2. <http://www.tips.org.za/files/661.pdf>

In addition to agricultural assistance, tariff escalation also reduces the effectiveness of GSP. Tariff escalation occurs when the tariff charged for a product increases the further it is processed before entering the importing country. In the early 2000s, cocoa and coffee were subject to GSP tariffs between 9% and 12%. Unprocessed products, on the other hand, were duty-free. Clothing and textiles, other sensitive industries, are still highly protected by tariff escalation. Cotton seeds and waste are duty free, but yarn and cloth face single-digit taxes while tariffs on clothing can reach the double-digits.¹⁵ Tariff escalation continues to be an issue in the global movement towards trade liberalization. It protects domestic industries, prevents developing countries from building up their exports and processing sector and limits their economies to providing raw materials and commodities. The GSP program itself reflects the narrow role LDCs have been assigned in the global economy: providers of primary commodities. There is very little value added to raw materials, so GSP as an initiative for the development of industries in LDC economies is quite weak.

In order to benefit from GSP, LDCs must comply with Rules of Origin to prevent the movement of products to other countries in search of lower tariffs before reaching their final destinations. Rules of Origin require (a) goods to originate from the beneficiary country, (b) goods to be directly transported from the beneficiary country to the EU, and (c) submission of valid proof of origin. Goods “originate” in a given country if it was “wholly obtained” there or “sufficiently worked or processed there.”¹⁶ These conditions sound simple enough but the strict and detailed conditions for obtaining local-origin status make the process of obtaining duty-free entry more complicated and difficult. At times, this can require using higher cost inputs. For

¹⁵ Ismail, 5.

¹⁶ "The European Community's RULES OF ORIGIN for the Generalised System of Preferences." July 2007. European Commission. 3 Dec. 2008, 10. http://ec.europa.eu/taxation_customs/resources/documents/guide-contents_annex_1-en.pdf

products not completely obtained within one country (e.g. raw materials), exporters must demonstrate to European officials a certain level of processing or a minimum value that was added to the product locally. These requirements vary dramatically based on the individual product and fulfilling them can be costly. Should exporters fail to provide the proof demanded, they must pay the normal import duties.¹⁷ It is possible that paying normal duties may be more cost-effective than using GSP and complying with its complicated Rules of Origin. GSP is supposed to lower the cost of production by offering lower tariffs to beneficiaries, but adherence to Rules of Origin to obtain GSP benefits can raise costs, thereby diminishing the effectiveness of this preferential scheme.

The underperformance of GSP forced the EU to acknowledge the need for more preferential treatment, which manifested itself in the creation of the “Special Incentive Arrangement for Sustainable Development and Good Governance” (GSP+). GSP+ expands the duty-free benefits possible under GSP to sensitive products for countries whose economies are especially “vulnerable due to their lack of diversification and insufficient integration into the international trading system.”¹⁸ To qualify for GSP+, beneficiaries must (a) not be on the World Bank list of high income countries for three straight years, (b) have the five largest sectors of GSP-eligible imports to the EU be worth more than 75% in value of their total GSP-covered imports, and (c) have their GSP-covered imports to the EU represent less than 1% in value of total GSP-covered imports to the EU.¹⁹ The second criterion demonstrates the countries’ vulnerability to price fluctuations. Such few sectors comprise the majority of their exports to the

¹⁷ "Preferential market access: why rules of origin matter." 5 Mar. 2008. Trade Law Centre for Southern Africa. 30 Nov. 2008, <http://www.agoa.info/?view=.&story=news&subtext=899>

¹⁸"The EU's Generalised System of Preferences (GSP)." 16 Oct. 2008. Ministry for Foreign Affairs of Finland. 1 Dec. 2008, <http://formin.finland.fi/public/default.aspx?nodeid=37788&contentlan=2&culture=en-US>, "Generalised System of Preferences 2006-2008." 22 June 2007. European Union. 2 Dec. 2008, <http://europa.eu/scadplus/leg/en/lvb/r11020.htm>

¹⁹ Generalised System of Preferences 2006-2008." 22 June 2007. European Union.

EU that a negative change in one sector can effectively cripple their economies. The third criterion shows the lack of consequence these countries possess in the international economy and their need for further assistance. They must also “have ratified and effectively implemented 27 specified international conventions in the fields of human rights, core labour standards, sustainable development and good governance.”²⁰ The preliminary implementation of GSP+ from 2006-2008 led to a rise in exports in this category to the EU of 17% and 11% in 2006 and 2007 respectively.²¹ It was renewed in summer of 2008 and is set to last through 2011. Some success is evident for this subset of GSP, however, these gains are currently limited to only 14 beneficiaries, a very small proportion of LDCs.²²

Under the GSP, the Everything But Arms initiative provides extra special treatment for the 50 least developed countries. Least developed countries are formally recognized by the United Nations based on three structural handicaps low-income, a lack of human resources, and economic vulnerability.²³ It is the most favorable trade preference scheme available to exporters to the EU. EBA offers duty free access for all products to EU markets except arms and ammunition and 41 tariff lines for rice and sugar. These two products have duty free quotas placed upon them until full liberalization in September 2009 for rice and October 2009 for sugar.

²⁰ "The Generalised System of Preferences (GSP) 2009-2011." EU at the UN. 23 July 2008. European Commission. 4 Dec. 2008, http://www.europa-eu-un.org/articles/en/article_8044_en.htm

²¹ "EC Special Initiative Arrangement for Sustainable Development and Good Governance (GSP+)." EU at the UN. 9 Dec. 2008. European Commission. 12 Dec. 2008, http://www.europa-eu-un.org/articles/en/article_8355_en.htm

²² Ibid. The current GSP + beneficiaries are Bolivia, Colombia, Costa Rica, Ecuador, El Salvador, Georgia, Guatemala, Honduras, Mongolia, Nicaragua, Panama, Peru, Sri Lanka and Venezuela. For GSP + 2009-2011, Panama will be taken off this list and Armenia, Azerbaijan and Paraguay will be added.

²³ United Nations Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States, "The Criteria for the identification of the LDCs," <http://www.un.org/special-rep/ohrlls/ldc/ldc%20criteria.htm>. Qualification of low income status is based on a three year average of gross national income under \$750. Low human resources is determined by indicators of nutrition, health, education, and adult literacy while economic vulnerability is indicated by the instability of agricultural production and exports of goods and services, the economic importance of manufacturing and modern services, the concentration of merchandise export, the handicap of economic smallness as derived from population, and the percentage of the population displaced by natural disasters.

Between October 1, 2009 and September 30, 2012, those importing sugar from the 50 least developed countries cannot pay less than 90% the reference price for sugar.²⁴

Effectiveness of EBA is limited by the same factors that limit the general GSP programs: the EU's CAP, tariff escalation, the Rules of Origin, and utilization rates. The utilization rate of EBA is far below that of general GSP, less than 3%. This can be accounted for by the fact that many of the exports to the EU are already duty-free or are entering under the Cotonou Agreement, which is not under the purview of GSP. Rules of Origin are more restrictive under EBA because it does not allow sourcing from outside EBA countries, whereas the Cotonou Agreement, with some exceptions, allows duty-free access to processed products that source outside of the beneficiary countries.²⁵ So even though EBA may have the most favorable rates, the inconvenience of complying with its requirements makes other options more effective.

In addition, the exclusion of rice and sugar is a major restriction facing least developed countries. According to the same 2004 UNCTAD report, rice and sugar are the top two products of importance to least developed countries in their relationship with the advanced industrialized countries of the Organisation for Economic Co-operation and Development (OECD).²⁶ The current constraint of the two largest exporting sectors of the poorest countries of the world demonstrates the potential EBA has yet to fulfill in promoting economic development for the poorest peoples abroad. The eventual liberalization of sugar and rice will provide a step in the right direction.

GSP in the United States (US)

²⁴"Generalised System of Preferences." July 2008. European Commission. 30 Nov. 2008

²⁵ "African Trade and Preferences-Tunis Version," United Nations Economic Commission for Africa, Nov 2004, <http://www.uneca.org/TRID/meetings/TunisNovember2004/African%20trade%20and%20preferences%20-%20Tunsia%20version.pdf>, 22-25.

²⁶ The Least Developed Countries Report 2004, 226.

GSP was first adopted by the US with the passing of the Trade Act of 1974. The program offers duty-free access or reduced tariff rates to 139 beneficiary countries. US products are classified into sensitive and non-sensitive products just as the EU program. Around 5000 products receive duty-free entry to the US, which in 2004, amounted to nearly \$23 billion. Of this, nearly 70% of all GSP-eligible non-petroleum imports into the US originated from only 10 countries, most of which have the advantage of being very large countries (e.g. India, Russia, and Brazil).

GSP in the US faces many of the same obstacles that its counterpart in the EU does, such as tariff escalation. While GSP in the EU is extended to many products but underutilized, GSP in the US has a high utilization rate but low eligibility rate. From 1994 to 1996, the percentage of imports that qualified for GSP benefits was less than 5%. Though this number rose significantly into 2001, it never reached higher than about 60%²⁷ This smaller percentage of goods eligible significantly reduces the potential use of GSP for promoting export-led growth in LDCs.

US GSP loses a significant amount of its effectiveness by excluding apparel from its program. Apparel makes a large amount of the potential exports that LDCs could direct towards the US. The labor-intensive nature of this industry indicates a comparative advantage that LDCs possess due to the lower level of wages that exist locally. This deliberate exclusion of apparel to GSP for the protection of domestic industries substantially diminishes the growth that could be derived from GSP by its beneficiaries.²⁸

Agricultural support programs remain a hindrance to GSP effectiveness in the US for the same reasons as CAP in the EU. The US government gives subsidies to farmers that amount to

²⁷ Ibid, 251.

²⁸ Secretariat. United Nations Conference of Trade and Development, 4 Aug. 2005, Geneva. Erosion of Preferences for the Least Developed Countries: Assessment of Effects and Mitigating Options. http://www.unctad.org/en/docs/tdb52d4_en.pdf, 13.

an average of \$20 billion per year.²⁹ Negative consequences of these subsidies reverberate throughout the world. Financial assistance of the US sugar industry is the main cause of a substantial drop in world prices of cotton, which have been reduced by one-half of what they were in the mid-1990s. This had resulted in an estimated loss of \$300 million for West and Central Africa, where over 10 million farmers depend on cotton production for a living. According to a report by OECD, the distortion by the US is so great that the elimination of US agricultural subsidies would raise world cotton prices by 26%. An increase in the cotton price would greatly augment the income of poor cotton farmers in LDCs.³⁰

Unlike GSP in the EU, US GSP is subject to annual reviews to determine if certain products will remain eligible for preferences. The uncertainty and instability that comes from these frequent reviews make investors more hesitant to direct their money towards developing industries in LDCs. The total goods exported to the US from LDCs is less than the potential amount had investors felt secure in starting new businesses.

Similar to the EU, Rules of Origin require direct shipment of articles from the beneficiary country to the US, or if passing through another country, shipments must remain sealed and untouched until they reach the US as a final destination point.³¹ Unlike the EU, the US requires a specific percentage of value to be added to all goods. 35% of the value must have been added in the same country. A special provision, however, allows this percentage to be accumulated across countries in 5 regional associations, the Andean Group, The Association of South-East Asian Nations (excluding Singapore and Brunei Darussalam), the Caribbean Common Market,

²⁹ Bhagwati, Jagdish N. "Bhagwati: U.S. Must Rethink Doha Demands." Interview with Lee Teslik. Council of Foreign Relations 9 Feb. 2007, <http://www.cfr.org/publication/12592/bhagwati.html>

³⁰ Dahlsten, Sara. "Agriculture." Organisation for Economic Co-operation and Development, 3.

³¹ Generalized System of Preferences: Handbook on the Scheme of the United States of America. United Nations. May 2003, 7, http://unctad.org/en/docs/itcdtsbmisc58rev1_en.pdf

the Southern Africa Development Community, and the West African Economic and Monetary Union.³²

A major restrictive component of the US GSP program is the implementation of competitive need limitations (CNLs). CNLs set a cap on the GSP benefits a country can receive for a specific product. Countries that become internationally competitive in the production of a certain item, as determined by the US government, will lose GSP benefits for that product. An industry is considered sufficiently competitive “if either a trade cap or import share cap is exceeded in the previous calendar year.”³³ CNLs thus limit the success a beneficiary country can achieve because the suspension of GSP benefits can eliminate the viability of "sufficiently competitive" industries should importers favor competitors in other countries that still possess GSP benefits for that same good. Firms can petition for CNL waivers but this is an expensive and time-consuming process. Unlike Rules of Origin for regional associations, CNLs are only assessed against individual countries and not entire organizations.³⁴

In May of 2000, the African Growth and Opportunity Act was signed into law by the President of the United States as part of the Trade and Development Act of 2000. The Trade Act of 2002 amended AGOA to added provisions for textiles and apparel to include knit-to-shape, raising the cap for imports of apparel, giving Namibia and Botswana "least developed country" status, and altering the technical definition of merino wool. It also elaborated on the allowance of exporters to undertake some processing for apparel products in both the US and AGOA

³² Ibid, 8.

³³ Broadbent, Meredith, “Statement of Meredith Broadbent, Assistant U.S. Trade Representative for Industry, Market Access, and Telecommunications Before the Senate Finance Committee- May 16, 2007,” 2, <http://www.finance.senate.gov/hearings/testimony/2007test/051607testb.pdf>

³⁴ Generalized System of Preferences: Handbook on the Scheme of the United States of America, 8.

countries without losing eligibility.³⁵ There are currently 41 countries that the President of the United States deems eligible for AGOA, of which 27 have special apparel rights.³⁶

Unlike the general GSP, AGOA benefits are not subject to annual reviews but are established for a longer period of time. The AGOA was first set to last for a period of 8 years and has since then been extended 7 more years (until 2015).³⁷ This adds an element of stability and security that regular GSP does not possess, which serves to encourage investors in AGOA countries more so than those in just general GSP countries, thus rendering AGOA more effective as a development strategy.³⁸

AGOA also extends preferential treatment to an additional 1,835 products normally considered sensitive and excluded from general GSP: "watches, electronic articles, steel articles, footwear, handbags, luggage, flat goods, work gloves and leather wearing apparel, and semi-manufactured and manufactured glass products." Also important is the elimination of competitive need limitations.³⁹ The removal of certain restraints put on regular GSP enhances the effectiveness of AGOA.

On the other hand, additional conditions complicate becoming an AGOA country. AGOA eligibility also depends upon the fulfillment of major institutional requirements. These include, but are not limited to, eliminating barriers to US trade and investment, protecting human rights, labor rights, and intellectual property rights, establishing a market-based economy with minimal government intervention, upholding the rule of law, and

³⁵ Ibid, 16.

³⁶ 2008 Comprehensive Report on U.S. Trade and Investment Policy Toward Sub-Saharan Africa and Implementation of the African Growth and Opportunity Act. United States of America. Office of the United States Trade Representative. May 2008, 7, http://www.usaid.gov/locations/sub-saharan_africa/initiatives/2008_agoa_ustr_report.pdf

³⁷ "Summary of AGOA III." U.S. Department of Commerce. 5 Dec. 2008, http://www.agoa.gov/agoa_legislation/agoa_legislation3.html

³⁸ 2008 Comprehensive Report on U.S. Trade and Investment Policy Toward Sub-Saharan Africa and Implementation of the African Growth and Opportunity Act, 17.

³⁹ Ibid, 18.

combating corruption and bribery. These preconditions make it difficult for other least developed countries in Sub-Saharan Africa to obtain AGOA eligibility if they do not possess the capacity to institute the changes demanded by the US. The President reserves the right to revoke AGOA GSP benefits for noncompliance. Smaller least developed countries possess a disadvantage in joining the AGOA initiative, which would assist them in eventually developing the infrastructure and resources necessary to execute these reforms.⁴⁰ Another hindrance of AGOA requirement of importers to provide export visas from AGOA countries to claim the special preferences for textile and apparel.

While the Rules of Origin do make it difficult for to receive GSP benefits, the Rules of Origin under AGOA are slightly more lax. The 35% added value requirement allows up to 15% of this value to be added in the customs territory of the US. This 35% is not even required under the special textile and apparel provision.⁴¹ The cost or value of inputs produced in one or more AGOA beneficiary countries will also be counted towards the 35%. This "cumulation among AGOA-designated countries" promotes a higher rate of utilization of the preference scheme.⁴² However, it is still possible for some firms to choose to use imported inputs because it is cheaper overall to do so than try to use the tariff cut available under AGOA.

One of the goals of AGOA was to diversify its export base, but this has yet to occur. The Office of the United States Trade Representative admits the need for intensification of diversification of AGOA economies.⁴³ Oil continues to be the leading export from these countries, making their economies vulnerable to frequent fluctuations in world prices.

⁴⁰ Ibid, 17.

⁴¹ Ibid, 20.

⁴² Ibid, 18.

⁴³2008 Comprehensive Report on U.S. Trade and Investment Policy Toward Sub-Saharan Africa and Implementation of the African Growth and Opportunity Act, 14.

Utilization rates vary widely across the different AGOA beneficiaries. For some such as Uganda and Ethiopia, the percentage of total exports under AGOA is quite low, only 4.3% and 9% respectively. For others, AGOA has a strong presence, accounting for 90% of total exports from Mozambique, 83% from Swaziland, and 95% from Lesotho.⁴⁴ This leaves AGOA with a mixed record for effectiveness as a preference system. Full utilization still remains elusive as evidenced by the fact that not all AGOA-eligible countries even use the preference program.⁴⁵

Conclusion

The EU and the US impose limiting factors on international trade that hinder GSP. They do this because their compulsion to assist LDCs falls short of their willingness to sacrifice their own economic interests for the sake of the development of other states. Both possess market-distorting agricultural programs, practice tariff escalation, and require adherence to complicated Rules of Origin for eligibility. The US is unique from the EU in that it offers less GSP-eligible products, issues CNLs and subjects GSP to *annual* reviews. All of these elements combined severely diminish the potential GSP could have on overseas development.

Nevertheless, GSP has made some progress over the years. Both countries now offer additional preferences to the most vulnerable of the less developed world (e.g. AGOA, GSP+, and EBA). Although utilization of these schemes is also affected by the same limitations as their respective general GSP programs, some steps have been taken to increase utilization. This is evident in the expansion of product coverage under EBA and AGOA and the relaxation of Rules of Origin for AGOA beneficiaries.

Unfortunately, for beneficiaries of GSP, the continuation of trade liberalization worldwide narrows the advantage offered to them. The lowering of MFN rates and the

⁴⁴ "African Trade and Preferences-Tunis Version," United Nations Economic Commission for Africa, Nov 2004, 34.

⁴⁵ 2008 Comprehensive Report on U.S. Trade and Investment Policy Toward Sub-Saharan Africa and Implementation of the African Growth and Opportunity Act, 13.

proliferation of free trade agreements have eroded the preference margins of GSP, thus decreasing the effectiveness of GSP without the implementation of protectionist policies.

More can be done, however, to augment the impact of GSP. The governments of the EU and the US can expand the list of products eligible under GSP, reduce tariff escalation, further simplify and relax the Rules of Origin, and liberalize their own agricultural sectors. By doing so, the economies of the developing world can improve their incomes and eventually improve their standards of living. If economic development is to be the object of trade between the advanced industrialized countries and the less developed countries, then the EU and the US will have to make concessions in opening their markets as much as they require LDCs to open theirs.

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http://ec.europa.eu/taxation_customs/resources/documents/guide-contents_annex_1-en.pdf.
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