The EU's new Generalised Scheme of Preferences (GSP)

Highlights of the new GSP

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Highlights of the new Generalised Scheme of Preferences

What is the Generalised Scheme of Preferences?

The EU's Generalised Scheme of Preferences (GSP), created following UNCTAD recommendations, helps developing countries (DC) by making it easier for them to export their products to the European Union. This is done in the form of reduced tariffs for their goods when entering the EU market. Through the **additional export revenue** which is generated, GSP fosters **growth in their income and supports economic growth and job creation**.

The GSP is a **specific instrument focussing on a single dimension** only: preferences for trade in goods. It does not have the ambition or the possibility to tackle other problems faced by developing countries. Only a much broader policy mix can address those complex issues.

The GSP is subject to WTO law, in particular to the GATT and the so-called "Enabling Clause" which allows for an exception to the WTO "most-favoured nation" principle (i.e. equal treatment should be accorded to all WTO Members).

As the **needs of developing countries vary widely** a differentiated approach has been taken in GSP, providing a sliding scale of preferences according to different needs:

(1) **Duty reductions** for ca. 66% of all tariff lines for **beneficiaries in general**. 111 countries and territories enjoy these reductions, and in 2011 exported products worth € 72.5 billion thanks to these preferences. This is 83% of all imports benefiting from GSP preferences.

(2) **Zero duties** for essentially the same 66% tariff lines for countries which implement core human rights, labour rights and other sustainable development conventions ("**GSP+**"). There are 16 beneficiaries which exported in 2011 € 4 billion thanks to these preferences. This is 5% of all GSP preferences.

(3) **Full duty free, quota free** access for all products except arms (Everything But Arms, or "EBA") for Least Developed Countries (**LDCs**). There are 49 beneficiaries which exported in 2011 products under GSP worth € 10.5 billion — 12% of all GSP preferences.

See Annex I for a more detailed explanation of the building blocks of the GSP scheme.

Highlights of the new Generalised Scheme of Preferences

Why has the EU updated the Generalised Scheme of Preferences?

A powerful institutional reason to change the instrument is the entry into force of the **Lisbon Treaty**. This requires the redesign of the GSP Regulation to reflect the new institutional environment, with the reinforced **role of the European Parliament in trade policy**.

From a substantive point of view, the Commission engaged in a mid-term review of the instrument. Extensive preparatory analysis (independent studies and the Commission's own Impact Assessment) and a broad public consultation has shown that, while it has been successful in achieving its objectives, our **GSP is no longer adapted to the current global landscape**. To remain relevant and efficient, the GSP has been updated along the following lines:

1. Better focus on those countries most in need

The last decade has seen the emergence of more advanced developing countries, which are now competitive on a global scale. We are providing preferences to many such countries and sectors which no longer need them: the more advanced economies have successfully integrated in world trade.

On the other hand, many poorer countries are lagging behind. They are affected by competition from the more advanced developing countries which often export very similar products.

Currently, the GSP preferences increase the competitive advantage of more advanced developing countries at the cost of exports from the Least Developed Countries (LDCs) and low-income economies. In fact, 40% of preferential exports are absorbed by the more advanced countries. This goes some way to explain the disappointing performance of the poorest.

Hence the need to concentrate preferences on those that most need them: low and lower middle income countries.

This need is the more urgent as tariffs continue to drop as a result of multilateral and bilateral trade liberalisation. With tariff levels falling, preferences also diminish—a process called "preference erosion". The more advanced countries can compete effectively with low or no preferences but the poorer, if they are to successfully join the path of export-led growth and development, will need to exploit the diminishing preferences to the full... The clock is ticking.

2. Further promote core principles of sustainable development and good governance

The GSP+ arrangement, which provides additional preferences to countries which ratify and implement a number of international conventions on core human and labour rights, the environment and good governance, has had a positive impact on the ratification of such conventions. Hence this scheme should provide stronger incentives for additional countries to sign up to and implement relevant international conventions.

3. Enhance legal certainty and stability

The success of the GSP regime depends on the ease with which exporters and importers can use its preferences. The EU should ensure that the scheme is sufficiently stable and predictable for all economic operators.

Focus on need: which countries?

The new GSP focuses **preferences exclusively on those countries that need them**. The number of GSP beneficiaries is expected to be reduced **from today's 176 to 89**.

Countries with other preferential regimes to access the EU market

The first set of countries which do not need GSP contains countries and territories which already have **other preferential channels to enter the EU**. As those preferential channels are typically better than GSP, it is no wonder that they use GSP only marginally, if at all. Two broad groups can be established:

1. **33 overseas countries and territories** (see Annex II), mainly EU territories but also some US, Australian and New Zealand territories. The US, Australia or New Zealand are developed countries and therefore do not have the same needs as developing countries. As to EU territories, they have their own market access regulation. Given that GSP exports to the EU by these countries are marginal (if at all), the option of utilising GSP risks creating confusion for operators. These territories will cease to be eligible for GSP. Because of alternative market access arrangements, we expect that **reform will be neutral for them**.

2. **34 countries with FTAs or other preferential market access arrangements** (see Annex III). These countries enjoy another trade arrangement with the EU which provides substantially equivalent (or better) coverage as

compared to GSP. This includes countries with a Free Trade Agreement or with autonomous arrangements (such as the Market Access Regulation for countries with an Economic Partnership Agreement (EPA) or the special regime for Balkan countries).

These countries will remain "eligible" but will cease to receive preferences (they will not be "beneficiaries")—this nuance is important as **they could come back into the "beneficiary" list if the preferential market arrangement was terminated**. Again, use of GSP is marginal if at all by these countries. This is why **in general these countries will not suffer any negative impacts**—in fact, **some will benefit** from new export opportunities as competitors cease to receive preferences (see next paragraph).

High and upper middle income countries

While the first set of countries above move to other preferences, a second set of countries lose beneficiary status because their needs are no longer comparable to those of poorer developing countries. These more advanced developing countries no longer need preferences to export; in fact, continuing to provide preferences to them increases the competitive pressure on exports from LDCs and other poor countries.

Largely thanks to their exporting prowess, some countries have grown so significantly, that their per capita income levels are similar or higher than the incomes of certain developed countries. In terms of the World Bank per capita income classification, which is an objective and internationally recognised measure, they have become **high or upper middle income economies. They clearly no longer need preferences such as the GSP to successfully trade with the rest of the world**—and they have the resources to tackle more complex development problems such as income distribution, which require adequate internal policies.

Countries which have been listed in the World Bank classification as **high or upper middle income economies** during the most recent **three years**, based on Gross National Income (GNI) per capita, continue to be eligible but would cease to be beneficiaries. This includes 7 high-income countries (and one territory) and 12 upper-middle income countries (see annex IV). Negative impacts on these countries' exports are typically marginal (total exports fall by less than 1%).

Why are negative effects on these countries so small?

- The first reason is that for more advanced developing countries, exports under GSP are not necessarily a significant proportion out of total exports to the EU (the average is 8%).

- The second is that the margins of preference provided by the EU are relatively low, given our already low normal tariff levels.

A key point is that even **marginal drops in exports by the more advanced**, bigger economies, can potentially **provide significant opportunities for the poorest**, whose exports are very small in comparison. To give an idea of the order or magnitude, a drop of 1% in, say, Brazilian exports, is equivalent to more than 16 times Burkina Faso's total exports to the EU.

These countries remain "eligible", but are no longer "beneficiaries" of the GSP scheme. This means that in case their situation changes (if they are no longer classified as high or middle upper income) they will **become beneficiaries of the scheme again**.

A list of beneficiaries under the new GSP is provided under Annex V.

What will change regarding "graduation" of competitive sectors?

Some developing countries still have low per capita income but have extremely successful export sectors for many industries. These industries (e.g., textiles, chemicals, leather products) are competitive worldwide at the highest level. They also do not need preferences to successfully penetrate world markets. Therefore, our GSP scheme withdraws preferences to such sectors on the basis of a "graduation" mechanism.

Graduation means that imports of particular groups of products and originating in a given GSP beneficiary country lose GSP preferences. Under the current scheme, graduation applies when the average imports of a section from a country exceed 15% of GSP imports of the same products from all GSP beneficiary countries during three years (the trigger is 12.5% for textiles and clothing). It concerns therefore imports that are competitive on the EU market and so no longer need the GSP to boost their exports to the EU.

The new GSP **maintains the core principles** behind graduation but **corrects three elements**:

- **Product sections used for graduation are expanded** from 21 to 32. This ensures that graduation is **more objective**, as the products in the categories are more homogenous. This avoids that graduation "overshoots", removing preferences for some products which are not competitive simply because they are in a section which includes other very competitive products from a different industry.

- **Graduation thresholds increase** from 15 % to 17.5 % (and from 12.5% to 14.5% for textiles. As the number of beneficiaries drop, graduation will happen sooner. This is an intended effect, as our current mechanism "undershoots", failing to identify many sectors which are competitive and thus need no preferences. However, an increase in the thresholds was necessary to keep this **increase in graduation to the minimum level necessary.**

- **Graduation no longer applies to GSP+ countries**. Like EBA countries, GSP+ countries are vulnerable and display a non-diversified export base. Given that graduation has never applied to EBA, it was only fair to treat GSP+ countries in the same fashion. This should also make GSP+ more attractive to potential applicants (see below).

On the whole, revamped graduation is expected to remove preferences from sectors that no longer need them—and provide opportunity to those most in need of our help.

The graduated sectors for the period 2014 – 2016

The Commission has adopted on 17 December 2102 a list of the sectors that are graduated for the period running from 1 January 2014 – 31 December 2016 (see annex VII). Thus, economic operators have more than a year to adapt to the new conditions.

A carefully selected product expansion and increase of preference margins

The new GSP incorporates a wider though limited expansion in products and preference margins:

-15 new tariff lines are added to GSP as "non-sensitive" (duty-free access);

-4 tariff lines under GSP which were "sensitive" turn to "non-sensitive" (duty-free access);

-4 new tariff lines are added to GSP+ (duty-free access).

These have been carefully selected.

Why such a careful selection, leading to a relatively modest number of lines? The reason is that the poorest (LDCs) already have duty free, quota free access for **all** products. This means that they have an advantage for those products—they can export them without duty while other developing countries have to pay duties. Increasing the products or preferences which enjoy GSP will then make LDC exports relatively less attractive. This would set the poorest back, rather than help them. This discussion underlines a general point: products from **developing countries are competing amongst each other** in the single market, and **preferences often determine which country can sell products** and which doesn't.

This whole question should be seen in context. In fact, product coverage under GSP is already very high: 66% of tariff lines. If we add 25% of other lines which are already at 0% normal duty, **only 9% tariff lines** (mostly agricultural products) **are today outside GSP**. The room for expansion is thus very limited—underlining the generosity of the scheme.

The EU's decision has thus focussed on tariff lines (mainly raw materials, see Annex VI for details) which would expand the opportunities to export of GSP and GSP+ beneficiaries, but would minimise the negative impact on LDCs.

What happens to GSP+?

The EU has the objective to further promote core human and labour rights, and principles of sustainable development and good governance. To achieve these aims, the EU will provide for **more incentives for countries to join the GSP+** scheme, while at the same time **enhancing its monitoring to ensure those rights and principles are respected**.

The new GSP provides **powerful incentives to join GSP+** and to implement the 27 core conventions:

1. There will be less competition from more advanced developing economies and sectors which lose preferences.

2. GSP+ countries will no longer be "graduated" by sections.

3. The so-called "vulnerability criterion" (one of two economic conditions a country needs to fulfil in order to be eligible for GSP+) is relaxed (increased from 1% to 2%) so more countries can apply. Pakistan, the Philippines and Ukraine would thus become eligible.

4. Applications will be accepted at any time—not every 1.5 years, as now.

5. The number of core conventions has not been expanded, allowing countries a realistic chance to focus on the essentials.

While more incentives are introduced, the new GSP **reinforces the mechanisms to track the implementation of conventions by GSP+ countries**. The main changes are as follows:

1. Countries should fully cooperate with international monitoring bodies, without reservations.

2. Monitoring will be more frequent (every 2 instead of 3 years) and with scrutiny not only by Council, but also by the European Parliament.

3. Withdrawal mechanisms will be more objective. To complement the reports of international monitoring bodies, the EU may use other sources of accurate information. Also, the burden of proof will be reversed: when evidence points to problems with implementation, it will be up to the country to show a positive record.

All countries which wish to enter the new GSP+ (including current GSP+ beneficiaries) must make a formal application showing that the requirements of the new regulation are met.

What happens to EBA?

The Everything But Arms arrangement already is an open-ended scheme and will not change. Least Developed Countries continue to benefit from duty-free, quota-free access to the European market for all products – except for arms and ammunition. LDCs will also continue to benefit from the recently amended, more favourable, GSP Rules of Origin.

Under the new GSP, the **effectiveness of the EBA scheme will be strengthened**. Reducing the GSP to fewer beneficiaries, and increasing graduation will reduce competitive pressure and make the preferences for LDCs more meaningful—providing much more opportunity to export.

Enhancing stability and predictability

Importers and exporters need stability and predictability to actually use GSP preferences. These have been reinforced by the new GSP, in several ways:

1. The scheme will no longer end every three years, as it is the case now. Rather, it will last 10 years.

2. There will be **transition periods of at least one year** for changes in the original set of beneficiaries list (listed in annex V).

3. Removals from the beneficiary lists will happen only if countries are listed as high or upper-middle income **3 years in a row**.

4. There are many procedures (temporary withdrawals, safeguards…) which affect operators—yet the current regulation is often silent about how these work and how operators can defend their rights. The new GSP has made all of these **more detailed and transparent**.

5. The new preferences will apply as of 1 January 2014—but the legal texts and rules of the new GSP have been published **more than one year in advance**. This provides ample time for economic operators to adapt.

Other changes

The new GSP also introduces balanced improvements to the conditions for withdrawal from the whole GSP scheme – notably in making explicit that **unfair trading practices** include those affecting the supply on raw materials.

Procedures that trigger the general safeguard clause have also been clarified, and special safeguards have been expanded to cover all textiles and ethanol.

Institutional adaptations

The new institutional framework of the Treaty of Lisbon, with the enhanced role of the European Parliament in trade policy, is reflected in the new GSP. The GSP is a dynamic tool, allowing countries to potentially come in and out of the beneficiary lists. This implies that the different thresholds foreseen in the regulation which are linked to the beneficiary pool (graduation, vulnerability), as well as the different lists of beneficiaries, will have to be amended swiftly. In particular the text of the new GSP foresees that all these elements, which have been included in different annexes, can be amended by the Commission via **delegated acts** and not via the ordinary legislative procedure which would take much longer.
An overview of the different institutional provisions is provided in Annex VII.

So what happens next?

The fact that the new preferences will apply only on 1 January 2014, i.e., more than one year after publication of the new GSP, provides ample time for operators to adapt. Until then, the current preferences under Council Regulation (EC) No. 732/2008, as extended by Regulation (EU) No 512/2011 of the European Parliament and of the Council will, apply.
The EU will publish in 2013 legal acts covering amongst others the following aspects:
-procedures regarding GSP+ entry, withdrawals and safeguards;
-adjustments to the GSP beneficiary list due to changes in World Bank classification or provisional application of market access arrangements such as free trade agreements.

Please see our website for further information http://ec.europa.eu/trade/wider-agenda/development/generalised-scheme-of-preferences

ANNEX 1

SALIENT FEATURES OF THE CURRENT EU GSP SCHEME

[This information, the data and tables referred therein can be further consulted in the Impact Assessment to the Commission's proposal for the new GSP scheme under the following link: *http://ec.europa.eu/governance/impact/ia_carried_out/docs/ia_2011/sec_2011_0536_en.pdf*]

Introduction

The Generalised Scheme of Preferences (hereinafter, "the scheme") is born out of three factors.

- First, there is wide agreement that international trade is essential for development, as it can generate significant revenue and economic activity.
- Second, certain countries face difficulties to integrate fully into the international trading system, and require preferences to partake in the benefits of international trade.
- Third, development will only be sustainable in the long run if an economy can also rely on industrial production rather than primarily on commodities—in other words if it is sufficiently diversified. Preferences should thus foster exports of industrial products.

Development and poverty reduction are complex goals, which necessitate myriad building blocks to be realised. The scheme is one of those many blocks. While, on its own, the scheme will not reduce poverty, it can help developing countries boost exports and develop new industries—a factor which, given an adequate political and economic context, can contribute significantly towards development and poverty reduction. This explains why the EU was the pioneer in the introduction of a scheme in 1971, and why it has remained an important policy tool, whose objective is the expansion of exports to the EU by those countries in accordance with their needs.

In a changing world, the EU's scheme has had to adapt. The last decade has seen a move towards greater differentiation amongst beneficiary countries in terms of development, trade and financial needs. To reflect that, given their different circumstances, they require also different patterns of preferences. As a result, Least Developed Countries (LDCs) have been provided full duty free, quota free access to the EU (Everything But Arms initiative, hereinafter "EBA").

Also, the scheme has taken up a new role: to provide incentives to those countries committed to promote sustainable development and good governance (hereinafter, "GSP+") *via* additional preferences. This objective is intended to complement the overall goal to help those most in need to boost exports.

Today's scheme is thus a three-tier system, with significant preferences for 111[1] general beneficiaries (hereinafter, "GSP"), enhanced preferences for 15 GSP+ countries, and full preferences for 50 EBA countries[2]. For a list of beneficiary countries and their exports see Table 1-1 and Table 1-2 on page 8 to 15 of the Impact Assessment document Vol. II (http://ec.europa.eu/governance/impact/ia_carried_out/docs/ia_2011/sec_2011_0536_en.pdf) Preferential imports per product category are analysed in Table 1-3 p.16. of the same document.

1. The general arrangement

Beneficiaries

There are 111 beneficiaries of the general arrangement. Beneficiaries are established by applying two "negative" principles:

- High income countries as classified by the World Bank are not eligible—unless their economies are not sufficiently diversified. For this purpose, an economy is not sufficiently diversified if its exports to the EU of the five categories with the highest export values are more than 75% of its total exports to the EU.

- FTA partners are not eligible, if the level of preferential access provided by their agreement is the same as that offered by GSP.

Due to historical reasons, Overseas Countries and Territories of the EU and certain overseas territories of other high income countries have been included as beneficiaries.

Ex-USSR economies were also included with a view to facilitate their transition to a market system.

Product coverage

The general arrangement covers over 6200 tariff lines out of a total of approximately 7100 tariff lines with non-zero tariffs. Roughly 2300 lines are not covered by the scheme as standard tariffs (so-called "most favoured nation" or MFN) are already at 0.

Products are split into non-sensitive and sensitive categories:

- *Non-sensitive* products enjoy duty-free access, and represent about 2400 lines;
- *Sensitive* products (a mixture of agricultural, textile, clothing, apparel, carpets and footwear items) benefit from tariff reductions (typically 3.5 percentage points on ad valorem duties) compared to the standard most favoured nation tariff. These represent about 3800 lines.

Trade involved

In 2009, just under €60 billion imports received preferences — €48 billion for countries under the general arrangement.

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[1] Belarus is temporarily suspended, see below.
[2] Myanmar is temporarily suspended, see below.

Some terminology

There are three different terms to describe imports under the scheme. The first is "**covered**" imports. These are those which are theoretically able to obtain preferences. But some products are graduated from the scheme or preferences are temporarily withdrawn (see below), so certain goods from certain beneficiary countries will not be eligible for preferences. If excluded products are subtracted from the "covered" imports, "**eligible**" imports are obtained. Finally, importers may not always choose to use the preferences at hand. "**Preferential**" imports are those the goods where EU customs actually accorded preferences.

2. GSP+ arrangement

The philosophy of GSP+ is that of an incentive based mechanism, as opposed to a tool based on sanctions. It fosters the achievement of its goals by offering the "carrot" of preferences, which it provides when the relevant conventions are ratified and effectively implemented. Thereafter, preferences are used as a lever to ensure that implementation (i) does not deteriorate and (ii) improves over time. A regular dialogue with beneficiaries provides the necessary follow-up, which includes temporary withdrawal mechanisms. This approach of progressive improvement is considered the most appropriate given that the changes that need to take place to fully implement conventions are of a complex, structural nature and involve high economic costs. Thus, they will not happen overnight, and need to be accompanied of over longer periods.

"Effective implementation" and entry into GSP+

Depending on its application, "effective implementation" criterion for entry into GSP+ could be contrary to the incentive-based essence of this tool. An extreme interpretation of the term would imply that countries would have to attain an impeccable standard of implementation before receiving preferences. This would mean that the country's stakeholders would have to bear the significant costs of implementation for a number of years before such a high standard could be achieved. In practice, this would erode the political support necessary for the implementation of the core conventions—a self-defeating approach.

Instead, the EU's practice regarding entry has been to place emphasis on ratification of conventions and on a clear undertaking by countries to ensure effective implementation, rather than on impeccable implementation from the outset. Preferences create incentives within the country to support effective implementation, as stakeholders stand to lose significantly from the withdrawal of preferences if the necessary progress is not achieved.

Beneficiaries

The GSP+, applying until 31 December 2011 currently covers 15 beneficiaries: Armenia, Azerbaijan, Bolivia, Colombia, Costa Rica, Ecuador, El Salvador, Georgia, Guatemala, Honduras, Mongolia, Nicaragua, Peru, Paraguay and Panama (Sri Lanka has been temporarily withdrawn—see below).

In order to qualify for GSP+, countries must meet the following **criteria**:

(1) must have ratified and effectively implemented 27 specified international conventions in the fields of core human and labour right, the environment and good governance.

(2) must give an undertaking to maintain the ratification of the conventions and their implementing legislation and measures, and accept regular monitoring and review of the implementation record in accordance with the implementation provisions of the relevant conventions;

(3) are considered 'vulnerable[3].' A vulnerable country means a country:

- which is not classified by the World Bank as a high income country during three consecutive years;
- and whose exports to the EU are heavily concentrated in a few products (the 5 largest sections of GSP-covered imports into the EU represent more than 75% in value of their total GSP covered exports);
- and with a low level of exports to the EU (it represents less than 1% in value of total GSP covered imports).

The rationale for the vulnerability criteria is as follows. In 2004, the GSP Regulation was simplified from five arrangements to three: standard GSP, EBA and GSP+ in a manner that responds positively to special development, financial and trade needs in consistency with the Enabling Clause. EBA (see below) is aimed at the LDCs, developmentally the most in need and who are accorded the most generous preferences under the scheme; GSP+, offers preferences over and above the standard GSP to a subset of beneficiary countries. These countries, though not LDCs, tend to be small and relatively poor economies with a narrow tax base - particularly those with a high export concentration on a narrow range of products and therefore on a steep path of development. However, because of their relative economic advantage over LDCs, they are in a better position to dedicate resources to sustainable development and take on relevant international commitments. Vulnerability criteria reflect this.

Entry is possible once every 18 months.

Product coverage
GSP+ has essentially the same coverage as GSP, covering roughly 70 more lines than the general arrangement. The main advantage over GSP is that GSP+ gives improved treatment by offering additional, mostly duty-free preferences also for some sensitive products.

Trade involved
In 2009, just over €5 billion imports were made by countries with GSP+ benefits.

3. Everything but Arms (EBA)

The EBA gives LDCs[4], as defined by the UN, duty free and quota-free access to the EU for the over 7000 tariff lines (all EU non-0 tariff lines with the exception of arms and

[3] For a list of all countries deemed vulnerable see the impact assessment document.

armaments). In 2009, just over €6 billion imports were made by countries with EBA benefits.

4. The graduation mechanism for GSP and GSP+[5]

Graduation means that imports of particular groups of products (listed as one section in the EU Customs Tariff see Table 1-5, p.18 of the Impact Assessment document Vol. II (http://ec.europa.eu/governance/impact/ia_carried_out/docs/ia_2011/sec_2011_0536_en.pdf) and originating in a given beneficiary country lose GSP and GSP+ preferences.

Which product groups? The importance of defining sections adequately
Graduation will have different results depending on how product groups are defined. One option is to graduate by each of the thousands of lines of the Customs Tariff (as some countries like the US have done). This has the benefit of being highly targeted, but will offer less predictability to economic operators (imports of individual tariff lines are more likely to fluctuate than broader categories, and thus to be graduated and de-graduated). Managing a system of thousands of lines is administratively more complex.

Another option is to define broader categories, which has the benefit of being more stable for operators (graduation and de-graduation will not occur as often), but risks putting heterogeneous products in the same basket (making the system less meaningful). Administration is also simpler.

Graduation applies when the average imports of a section from a country exceed 15% of covered imports of the same products from all beneficiary countries during three years (the trigger is 12.5% for textiles and clothing). This is a proxy for those country-sector combinations which are sufficiently competitive and so no longer need the scheme to boost their exports to the EU.

Graduation takes the pool of beneficiaries rather than total EU imports as basis due to two empirical realities. First, the share of imports covered by the scheme as a proportion of total EU imports, per product category, is significant. Therefore, 15% (or 12.5%) of covered imports will be significant also in terms of total EU imports. Second, there is large competition amongst the three categories of beneficiaries so it is logical to have a comparative tool within this beneficiary pool to better target preferences to the most needy.

It should be noted that if a specific group of products accounts for more than 50% of total GSP-covered exports, the group can not be graduated. The reason is that for such extreme cases of non-diversification, graduation could disrupt the main pillar of the economy, with damaging systematic effects.

Out of a total of over 2400 country-product group combinations which exist, 20 (less than 1%) have been graduated. Thirteen of these involve China, with the rest split amongst 6 other countries (Brazil with 2, and India, Indonesia, Malaysia, Thailand and Vietnam, with one product category each).

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[4] In addition, countries which cease to be LDCs have a three year transition period where they continue to enjoy EBA treatment. At the moment, this applies to Cape Verde and Maldives.
[5] EBA countries cannot be graduated.

As of 1 January 2009, GSP preferences have been re-established (de-graduation) for six countries in the following product groups:

- Algeria, Section 5 *(Minerals products)*;
- India, Section 14 *(Jewellery, pearls, precious metals and stones)*;
- Indonesia, Section 9 *(Wood and articles of wood)*;
- Russia, Section 6 *(Products of the chemical or allied industries)* and Section 15 *(Base metals)*;
- South Africa, Section 17 *(Transport equipment)*;
- Thailand, Section 17 *(Transport equipment)*.

5. Temporary withdrawal

Any of the GSP arrangements may be temporarily withdrawn for serious and systematic violations of core principles laid down in core human and labour rights conventions and on a number of other grounds such as unfair trading practices and serious shortcomings in customs controls.

In addition, GSP+ benefits may be temporarily withdrawn if the national legislation of a GSP+ beneficiary country no longer incorporates the relevant conventions or if that legislation is not effectively implemented - in other words if the underlying balance in GSP+ between additional trade preferences in the EU market and beneficiaries' acceptance and implementation of international sustainable development and good governance rules and standards is no longer properly respected. In this regard, the Commission monitors the situation in beneficiary countries on an ongoing basis primarily by drawing on material available from the relevant international monitoring bodies.

The investigation mechanism[6]
The Commission informs the Council if information from the competent international monitoring bodies (such as UN and ILO) indicates that there has been a diversion, by a beneficiary country, from the effective implementation of any of conventions. In such cases, and following consultation with EU Member States in the GSP Committee, the Commission decides to conduct an investigation to clarify the situation. In cases where the Commission following its investigation considers that temporary withdrawal of trade preferences would be necessary, it makes an appropriate proposal to this effect to the Council.

Investigation is a technical tool to gather the facts necessary to take a decision. As compared with other similar technical instruments of EU trade law (e.g., trade defence), the scheme does not set out in sufficient details as to procedure and rights of parties involved.

Two investigations have been completed in 2009 in relation to GSP+ – one in respect of El Salvador on non-incorporation of ILO core standards and another in respect of Sri Lanka on non-effective implementation of certain human rights conventions. The mere opening of investigations can be a catalyst for change. In the case of the investigation in respect of El Salvador, in order to avoid temporary withdrawal from GSP+, the

[6] This followed the pre Lisbon Treaty procedures, which will be reviewed shortly.

country introduced the necessary reforms in order to remove substantial obstacles to the exercise of ILO core labour standards.

Withdrawals

For GSP, temporary withdrawal has been applied most recently in December 2006 in respect of Belarus on the grounds of serious and systematic violations of labour rights, as determined by the ILO. Myanmar since 1997 has also had standard benefits withdrawn on the same grounds. Preferences should be re-established as and when the situation changes in these two countries.

For GSP+, Sri Lanka's benefits were temporarily withdrawn in 2010 due to non-effective implementation of certain human rights conventions. Thus, imports from Sri Lanka benefit only from the standard GSP preferential treatment.

The GSP+ special dialogue mechanism

As a complement and support to ongoing monitoring by ILO, UN etc, the Commission seeks an ongoing dialogue with GSP+ beneficiary countries on any issues concerning their effective implementation of GSP+ related conventions. The GSP+ is a pro-development instrument and the Commission's approach has been to use it as an incentive for progress in the effective implementation of the GSP+ relevant international conventions, to indicate the shortcomings in the framework of dialogue, provide time for a reactions, encourage cooperation with ILO and UN and apply GSP+ withdrawal only in cases of evident non-cooperation or violations of standards confirmed by international monitoring bodies.

This regular follow-up has underlined that ratification of all conventions has been maintained by all GSP+ beneficiaries, and that in general their implementation has progressed. However, significant work remains for certain countries.

6. Safeguards

Safeguard measures may be applied where imports from beneficiary countries cause or threaten to cause "serious difficulty" to a Union producer. Surveillance measures are also possible for agricultural products. None of these measures have ever been taken in the history of the scheme.

ANNEX II

"Overseas countries and territories (OCT's)" (33):

As explained in the body of the text, these partners already have a special market access arrangement to the EU or belong to developed countries. They would no longer be eligible.

Anguilla, Netherlands Antilles, Antarctica, American Samoa, Aruba, Bermuda, Bouvet Island, Cocos Islands, Christmas Islands, Falkland Islands, Gibraltar, Greenland, South Georgia and South Sandwich Islands, Guam, Heard Island and McDonald Islands, British Indian Ocean Territory, Cayman Islands, Northern Mariana Islands, Montserrat, New Caledonia, Norfolk Island, French Polynesia, St Pierre and Miquelon, Pitcairn, Saint Helena, Turks and Caicos Islands, French Southern Territories, Tokelau, United States Minor Outlying Islands, Virgin Islands – British, Virgin Islands- US, Wallis and Futuna, Mayotte.

ANNEX III

Partners which have another market access arrangement (34):

The following partners (which belong to the 176 beneficiaries of the current scheme) would no longer be in the beneficiary list:

-"Euromed" (6): Algeria, Egypt, Jordan, Lebanon, Morocco, Tunisia
-Cariforum (14): Belize, St. Kitts and Nevis, Bahamas, Dominican Republic, Antigua and Barbuda, Dominica, Jamaica, Saint Lucia, Saint-Vincent and the Grenadines, Barbados , Trinidad and Tobago, Grenada, Guyana, Surinam
-Economic Partnership Agreement Market Access Regulation (12): Côte d'Ivoire, Ghana, Cameroon, Kenya, Seychelles, Mauritius, Zimbabwe, Namibia, Botswana, Swaziland, Papua New Guinea , Fiji
-Other (2): Mexico, South Africa

ANNEX IV

High-income countries (7) and territory (1) according to the World Bank
The following partners (which belong to the 176 beneficiaries of the current scheme) are no longer in the beneficiary list:

-Countries: Saudi Arabia, Kuwait, Bahrein, Qatar, United Arab Emirates, Oman, Brunei Darussalam
-Territory: Macao

Upper-middle income countries (12) according to the World Bank

The following partners (which belong to the 176 beneficiaries of the current scheme) no longer are in the beneficiary list:

-Latin America (5): Argentina, Brazil, Cuba, Uruguay, Venezuela
- ex-USSR (3): Bélarus, Russia , Kazakhstan
-other (4): Gabon, Libya, Malaysia, Palau.

ANNEX V

<u>List of beneficiaries under the new GSP</u>

1. **EBA (49 partners):** Forty-nine countries continue to receive Everything But Arms (EBA) treatment (duty free quota free access except for arms). These are LDCs (see note below).

<u>Africa:</u>

1. Angola
2. Benin
3. Burkina Faso
4. Burundi
5. Central African Republic
6. Chad
7. Comoros
8. Congo, Dem. Rep. of the
9. Djibouti
10. Equatorial Guinea
11. Eritrea
12. Ethiopia
13. Gambia
14. Guinea
15. Guinea-Bissau
16. Lesotho
17. Liberia
18. Madagascar
19. Malawi
20. Mali
21. Mauritania
22. Mozambique
23. Niger
24. Rwanda
25. Sao Tome and Principe
26. Senegal
27. Sierra Leone
28. Somalia
29. Sudan
30. Tanzania
31. Togo
32. Uganda
33. Zambia

Asia:

34. Afghanistan
35. Bangladesh
36. Bhutan
37. Cambodia
38. Lao PDR
39. Maldives
40. Myanmar/Burma
41. Nepal
42. Timor-Leste
43. Yemen

Australia and Pacific:

44. Kiribati
45. Samoa
46. Solomon Islands
47. Tuvalu
48. Vanuatu

Caribbean:

49. Haiti

Notes:

Myanmar/Burma's preferences are withdrawn since 1997 due to serious and systematic violations of principles of core international labour conventions. The Commission proposed in September 2012 its reinstatement into EBA. At the time of release of this document, the European Parliament and Council were considering the Commission proposal. The Maldives has ceased to be an LDC and has a transitional period where it can benefit from EBA until end 2013.

2. **GSP** beneficiaries **(40)**: Armenia, Azerbaijan, Bolivia, China (people's Republic of), Cape Verde, Colombia, Congo (Republic of) Cook Islands, Costa Rica, Ecuador, Georgia, Guatemala, Honduras, India, Indonesia, Iran (Islamic Republic of), Iraq, Kirghizia, Marshall (islands), Micronesia (federate States of), Mongolia, Nauru, Nicaragua, Nigeria, Niue, Pakistan, Panama, Paraguay, Peru, the Philippines, El Salvador, Sri Lanka, Syrian (Arab Republic), Tajikistan, Thailand, Tonga, Turkmenistan, the Ukraine, Uzbekistan, Vietnam.

3. **GSP+**

Initially, the GSP+ beneficiary list is empty, as all eligible countries must apply for new GSP+ benefits, including those countries which benefit from GSP+ today. All GSP beneficiaries with the exception of China, Colombia India, Indonesia, Thailand and Vietnam are considered vulnerable and thus are eligible to apply for GSP+.

ANNEX VI

Products which have been incorporated into the new GSP; products with higher preferences under the new GSP

GSP: New tariff lines benefiting from preferences as non-sensitive products

CN code	*Description*
280519	Alkali/alkaline-earth metals other than sodium & calcium
280530	Rare-earth metals, scandium & yttrium, whether/not intermixed/interalloyed
281820	Aluminium oxide (excl. artificial corundum)
310221	Ammonium sulphate
310240	Mixtures of ammonium nitrate with calcium carbonate/other inorganic non-fertilising substance
310250	Sodium nitrate
310260	Double salts & mixtures of calcium nitrate & ammonium nitrate
320120	Wattle extract
780199	Unwrought lead other than refined, n.e.s. in 78.01
810194	Unwrought tungsten (wolfram), incl. bars & rods obt. simply by sintering
810411	Unwrought magnesium, containing at least 99.8% by weight of magnesium
810419	Unwrought magnesium (excl. of 8104.11)
810720	Unwrought cadmium; powders
810820	Unwrought titanium; powders
810830	Titanium waste & scrap

GSP: Tariff lines which were sensitive and will now be non-sensitive

CN code	*Description*
06031200	Fresh Cut Carnations And Buds, Of A Kind Suitable For Bouquets Or For Ornamental Purposes
24011060	Sun-Cured Oriental Type Tobacco, Unstemmed Or Unstripped
39076020	Poly "Ethylene Terephthalate", In Primary Forms, Having A Viscosity Number Of >= 78 Ml/G")
85219000	Video Recording Or Reproducing Apparatus (Excl. Magnetic Tape-Type);Video Recording Or Reproducing Apparatus, Whether Or Not Incorporating A Video Tuner (Excl. Magnetic Tape-Type And Video Camera Recorders)

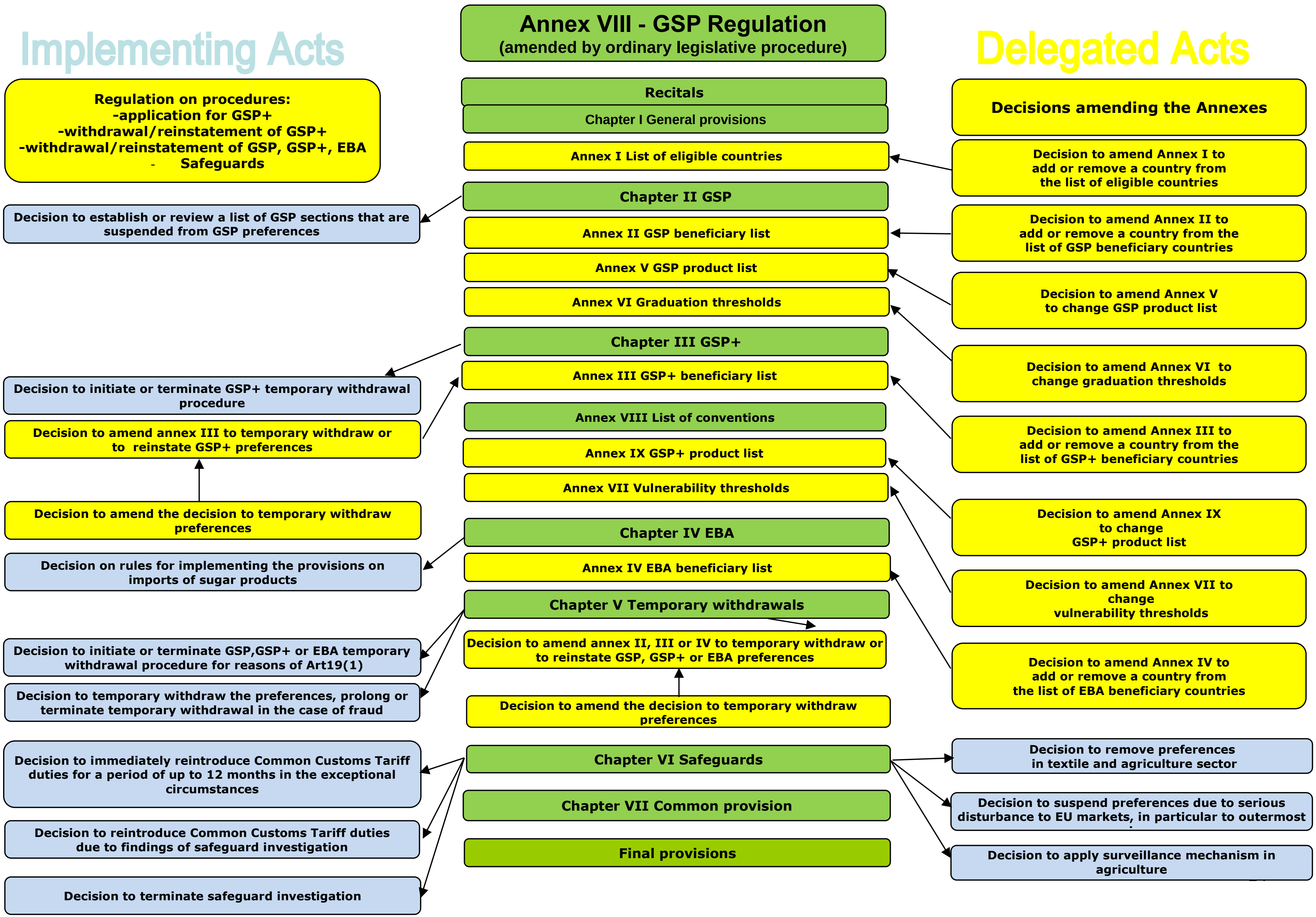
GSP+: New tariff lines benefiting from preferences

CN code	***Description***
280519	Alkali/alkaline-earth metals other than sodium & calcium
280530	Rare-earth metals, scandium & yttrium, whether/not intermixed/interalloyed
281820	Aluminium oxide (excl. artificial corundum)
780199	Unwrought lead other than refined, n.e.s. in 78.01

ANNEX VII
List of graduated sectors for the period 1 January 2014 – 31 December 2016

NB: for countries which will be granted GSP+, graduation will not apply

Country	GSP Section	Description
China P.R.	S-1a	Live animals and animal products excluded fish
	S-1b	Fish, crustaceans, molluscs and aquatic invertebrates
	S-2b	Vegetables and fruit
	S-2c	Coffee, tea, maté and spices
	S-2d	Cereals, flour, nuts, resins and vegetable plaiting
	S-4b	Prepared foodstuffs (excl. meat and fish), beverages, spirits and vinegar
	S-6a	Inorganic and organic chemicals
	S-6b	Chemicals, other than organic and inorganic chemicals
	S-7a	Plastics
	S-7b	Rubber
	S-8a	Raw hides and skins and leather
	S-8b	Articles of leather and fur skins
	S-9a	Wood and wood charcoal
	S-9b	Cork, straw and plaiting
	S-11a	Textiles
	S-11b	Apparels and clothing
	S-12a	Footwear
	S-12b	Headgear, umbrellas, sun umbrellas, sticks, whips, feathers and down
	S-13	Articles of stone, ceramic products and glass
	S-14	Pearls and precious metals
	S-15a	Iron, steel and articles of iron and steel
	S-15b	Base metals (excl. iron and steel), articles of base metals (excl. articles of iron and steel)
	S-16	Machinery and equipment
	S-17a	Railway and tramway vehicles and products
	S-17b	Road vehicles, bicycles, aviation and space, boats and parts thereof
	S-18	Optical, clocks and watches, musical equipment
	S-20	Miscellaneous
Costa Rica	S-2b	Vegetables and fruit
Ecuador	S-2a	Live plants and floricultural products
	S-4a	Preparations of meat and fish
India	S-5	Mineral products
	S-6a	Inorganic and organic chemicals
	S-6b	Chemicals, other than organic and inorganic chemicals
	S-8a	Raw hides and skins and leather
	S-11a	Textiles
	S-17b	Road vehicles, bicycles, aviation and space, boats and parts thereof
Indonesia	S-1a	Live animals and animal products excluded fish
	S-3	Animal or vegetable oils, fats and waxes
	S-6b	Chemicals, other than organic and inorganic chemicals
Nigeria	S-8a	Raw hides and skins and leather
Ukraine	S-17a	Railway and tramway vehicles and products
Thailand	S-4a	Preparations of meat and fish
	S-4b	Prepared foodstuffs (excl. meat and fish), beverages, spirits and vinegar
	S-14	Pearls and precious metals



Implementing Acts
Annex VIII - GSP Regulation
(amended by ordinary legislative procedure)
Delegated Acts
Regulation on procedures:
-application for GSP+
-withdrawal/reinstatement of GSP+
-withdrawal/reinstatement of GSP, GSP+, EBA
- Safeguards
Recitals
Chapter I General provisions
Decisions amending the Annexes
Annex I List of eligible countries
Decision to amend Annex I to add or remove a country from the list of eligible countries
Chapter II GSP
Decision to establish or review a list of GSP sections that are suspended from GSP preferences
Annex II GSP beneficiary list
Decision to amend Annex II to add or remove a country from the list of GSP beneficiary countries
Annex V GSP product list
Annex VI Graduation thresholds
Decision to amend Annex V to change GSP product list
Chapter III GSP+
Decision to amend Annex VI to change graduation thresholds
Decision to initiate or terminate GSP+ temporary withdrawal procedure
Annex III GSP+ beneficiary list
Decision to amend annex III to temporary withdraw or to reinstate GSP+ preferences
Annex VIII List of conventions
Decision to amend Annex III to add or remove a country from the list of GSP+ beneficiary countries
Annex IX GSP+ product list
Annex VII Vulnerability thresholds
Decision to amend the decision to temporary withdraw preferences
Decision to amend Annex IX to change GSP+ product list
Chapter IV EBA
Decision on rules for implementing the provisions on imports of sugar products
Annex IV EBA beneficiary list
Decision to amend Annex VII to change vulnerability thresholds
Chapter V Temporary withdrawals
Decision to initiate or terminate GSP,GSP+ or EBA temporary withdrawal procedure for reasons of Art19(1)
Decision to amend annex II, III or IV to temporary withdraw or to reinstate GSP, GSP+ or EBA preferences
Decision to amend Annex IV to add or remove a country from the list of EBA beneficiary countries
Decision to temporary withdraw the preferences, prolong or terminate temporary withdrawal in the case of fraud
Decision to amend the decision to temporary withdraw preferences
Decision to immediately reintroduce Common Customs Tariff duties for a period of up to 12 months in the exceptional circumstances
Chapter VI Safeguards
Decision to remove preferences in textile and agriculture sector
Chapter VII Common provision
Decision to suspend preferences due to serious disturbance to EU markets, in particular to outermost
Decision to reintroduce Common Customs Tariff duties due to findings of safeguard investigation
Final provisions
Decision to apply surveillance mechanism in agriculture
Decision to terminate safeguard investigation