

## APPLICATION OF TARIFF PREFERENCES IN DEVELOPED COUNTRIES THAT ARE MEMBERS OF THE WORLD TRADE ORGANIZATION

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**Annotation.** This article is devoted to revealing the importance of tariff preferences applied in accordance with the customs legislation of the two developed countries the United States, Japan and the European Union that are members of the World Trade Organization.

**Keywords:** World Trade Organization (WTO), United Nations Conference on Trade and Development (UNCTAD), General system of preferences (GSP), tariff preferences, beneficiary countries, TARIC (TARif Intégré Communautaire)

As is known, one of the instruments of customs tariff regulation of foreign trade in most countries of the world are tariff preferences. In 1968, UNCTAD approved the General system of preferences (GSP) which provided for the provision by developed countries of preferences for developing and least developed countries or zero rates of customs duties on a number of goods. Within the framework of GATT-1947 and subsequently in the legal system In the WTO system, a “permissive clause” began to operate, granting on an indefinite basis an exemption to most favored nation treatment for the application of preference schemes.

There are currently 13 national GSP modes in the following countries and unions: Australia, Belarus, Bulgaria, Canada, Estonia, EU European Union, Japan, New Zealand, Norway, Russia, Switzerland, Turkey, USA.

It is worth noting that, in relation to the GSP, each Any member of the WTO that grants preferences can set its own criteria by which should match the beneficiary countries. This scheme is advantageous for both developed and beneficiary countries. For example, most States exclude from the scope of the GSP those developing countries that conclude other trade agreements (for example, on a free trade zone) with another country providing preferences under the GSP

Each country sets the criteria for development and the threshold at which the beneficiary country is no longer recognized as such, since it has reached a sufficient level of economic development (*most often in terms of per capita income according to the World Bank*).<sup>1</sup>

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<sup>1</sup> Применение тарифных преференций во внешне-Торговой практике европейского союза. Мария Потапенко

Let us take a closer look at the tariff preference systems of the European Union (EU), Japan and United states (US).

### 1. EU system of tariff preferences

The EU is a customs union. This means that no customs duties are paid on goods moving between EU member states, and that all member states apply a common customs tariff for goods imported from third countries. Once cleared by customs in one member state, goods can move freely within the EU. The rules covering customs matters in trade with third countries are set in Regulation (EU) 952/2013 laying down the Union Customs Code (Union Customs Code). The Directorate General for Taxation and Customs (DG TAXUD) of the European Commission manages and monitors the Customs Union. The Commission develops a common strategy and common customs rules and procedures with member states. National customs authorities implement EU rules, administer customs procedures, and collect customs duties and indirect taxes on import. They are also in charge of enforcing EU customs legislation and imposing sanctions in cases of infringements.

The common customs tariff applies to imports of goods across external borders of the EU. All products are classified under a tariff code, which carries information on duty rates and other levies, various agricultural measures, trade defence measures, prohibitions, restrictions and formalities relating to import and export. EU customs tariffs are set out on the basis of Regulation (EEC) 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff. Annex I to this Regulation establishes a goods nomenclature (the combined nomenclature or CN), including a schedule of customs duties. This Annex is updated annually with effect from 1 January. Information on tariffs and other import measures applied to products imported into the EU can be found in the Market Access Database.

**Access2Markets** is the new portal for EU exporters and importers to find detailed information on

- **tariffs**
- **rules of origin**
- **taxes and additional duties**
- import procedures and formalities
- product requirements
- trade barriers
- trade flow statistics

Reporters	Import value 2021 ↕	Export value 2021 ↕
France	86,903,547 €	207,557,999 €
Poland	74,679,290 €	168,819,316 €
Lithuania	66,459,254 €	155,495,277 €
Latvia	51,030,240 €	63,632,904 €
Germany	43,399,868 €	571,473,648 €

*(EU countries with the highest foreign trade turnover with Uzbekistan in 2022, official information from acces2markets)*

The TARIC database integrates all measures relating to EU customs tariff, commercial and agricultural legislation.

### **Preferential Tariffs**

The EU applies preferential tariffs to developing countries through a generalised scheme of preferences (GSP) under Regulation (EU) 978/2012. The Regulation establishes a sliding scale of preferences within three preferential schemes.

**GSP Scheme.** The GSP scheme applies to low and lower-middle income countries. It reduces EU import duties on about 66% of all product tariff lines. Any developing country can benefit from this scheme, unless it benefits from the same or better tariff preferences, for substantially all trade, under another type of special trade access to the EU. Currently, the scheme has **15 beneficiary countries**. When a beneficiary country exports highly competitive products, the GSP is withdrawn from these product sectors through a graduation mechanism. The EU reviews the list of graduated products every three years.

**GSP+ Scheme.** GSP+ is a special incentive scheme for vulnerable low and lower-middle income countries. It allows for zero duties for essentially the same 66% tariff lines. To qualify for this scheme, a beneficiary country must both:

- ✓ Fulfil a set of vulnerability criteria.
- ✓ Implement core conventions on human rights, labour rights, environmental protection, and good governance.

The EU continuously monitors that these conditions are fulfilled on the basis of a list of issues (scorecard) specific for each GSP+ beneficiary country. The GSP+ scheme currently has **eight beneficiary countries (Armenia, Bolivia, Cape Verde, Kyrgyzstan, Mongolia, Pakistan, the Philippines, and Sri Lanka)** The EU can withdraw preferences in exceptional circumstances, in particular in cases of serious and systematic violation of fundamental human rights and labour rights conventions.

**Everything but Arms (EBA) Scheme.** The EBA scheme applies to least developed countries, as listed by the UN Committee for Development Policy. The scheme provides for duty free, quota free access for all products, **except arms**. The scheme has **48 beneficiary countries**.

**Countries falling under the Everything But Arms (EBA) arrangement, 2017**

Afghanistan	Guinea-Bissau	Sao Tome and Principe
Angola	Haiti	Senegal
Bangladesh	Kiribati	Sierra Leone
Benin	Laos	Solomon Islands
Bhutan	Lesotho	Somalia
Burkina Faso	Liberia	South Sudan
Burundi	Madagascar	Sudan
Cambodia	Malawi	Tanzania
Central African Republic	Mali	the Gambia
Chad	Mauritania	Timor-Leste
Comoros	Mozambique	Togo
Dem. Rep. of Congo	Myanmar	Tuvalu
Djibouti	Nepal	Uganda
Equatorial Guinea	Niger	Vanuatu
Eritrea	Rwanda	Yemen
Ethiopia	Samoa	Zambia
Guinea		

Source: European Commission - DG Trade



#### *48 Beneficiary countries of the EBA scheme*

Beneficiary countries do not lose EBA status by entering into a preferential trade agreement with the EU. Currently, three beneficiaries of the EBA, Bangladesh, Cambodia and Myanmar, are under enhanced engagement with the EU. The aim of enhanced engagement is to facilitate and incentivise partner countries to make progress on critical areas covered by the core conventions related to the GSP+ scheme. Through enhanced engagement, the EU asks for concrete actions and sustainable solutions to identified serious and systematic shortcomings in respect of fundamental human rights and labour rights.<sup>2</sup>

**Rules of Origin To apply preferential schemes** (and any FTA), products are considered to originate in a particular beneficiary country if they either: Are wholly obtained in that country (that is, if only that country has been involved in their production). Have been sufficiently worked or processed there (that is, if the non-originating materials used have undergone sufficient working or processing). What is considered sufficient working or processing depends on the product. An Annex to Regulation (EU) 978/1012 sets out a list of products and the conditions to be fulfilled for each of them.

The list uses one of the following three main methods, or a combination of them:

- change of tariff heading criterion;
- value or ad valorem criterion;
- specific process criterion.<sup>3</sup>

#### **Conditions for making out an origin declaration**

<sup>2</sup> EU Generalized system of preferences (GSP). European commission

<sup>3</sup> Preferential rule of origin - : <http://rtais.wto.org>

An origin declaration must be made out by any exporter operating in a beneficiary country for any consignment provided that the exporter making out the origin declaration:

- maintains appropriate commercial accounting records concerning the production and supply of goods qualifying for preferential tariff treatment
- shall be prepared to provide at any time, at the request of the customs or other competent governmental authorities of the exporting country, all supporting documents or written statements from producers and suppliers which evidence a claim that the goods are originating.

An origin declaration:

- must be made out in English and, if handwritten, completed in ink
- must bear the signature of the exporter
- may be sent electronically from the exporter to the importer

MOVEMENT CERTIFICATE									
1. Exporter (name, full address, country)		<b>EUR.1</b> No A 000.000 See notes overleaf before completing this form							
3. Consignee (name, full address, country) (optional)		2. Certificate used in preferential trade between _____ and _____ (insert appropriate countries, groups of countries or territories)							
6. Transport details (optional)		4. Country, group of countries or territory in which the products are considered as originating		5. Country, group of countries or territory of destination					
8. Item number; Marks and numbers; Number and kind of packages (*); Description of goods (*)		7. Remarks		9. Gross mass (kg) or other measure (litres, m <sup>3</sup> , etc.)		10. Invoices (optional)			
11. CUSTOMS OR COMPETENT GOVERNMENTAL AUTHORITY ENDORSEMENT				12. DECLARATION BY THE EXPORTER					
Declaration certified Export document (*): No _____ Form _____ Customs or competent governmental office: _____ Issuing country or territory: _____ Place and date: _____ (Signature) _____				I, the undersigned, declare that the goods described above meet the conditions required for the issue of this certificate. Place and date: _____ (Signature) _____					
13. REQUEST FOR VERIFICATION, to:				14. RESULT OF VERIFICATION					
Verification of the authenticity and accuracy of this certificate is requested. (Place and date) _____ (Signature) _____				Verification carried out shows that this certificate (*) <input type="checkbox"/> was issued by the customs office or the competent governmental authority indicated and that the information contained therein is accurate. <input type="checkbox"/> does not meet the requirements as to authenticity and accuracy (see remarks appended). (Place and date) _____ (Signature) _____ (*) Insert X in the appropriate box.					
NOTES									
1. The certificate must not contain erasures or words written over one another. Any alterations must be made by deleting the incorrect particulars and adding any necessary corrections. Any such alteration must be initialed by the person who completed the certificate and endorsed by the customs authorities or the competent governmental authority of the issuing country or territory. 2. No spaces must be left between the items entered on the certificate and each item must be preceded by an item number. A horizontal line must be drawn immediately below the last item. Any unused space must be struck through in such a manner as to make any later additions impossible. 3. Goods must be described in accordance with commercial practice and with sufficient detail to enable them to be identified.									

*The official sample of certificate of preferential origin*

### The preferential tariff system of the USA

Other developed countries besides the United States that implement GSP programs include Australia, Canada, the EU, Iceland, Japan, New Zealand, Norway, the Russian Federation, Switzerland, and Turkey.

One economist has referred to these programs as a nonhomogeneous set of national schemes sharing certain common characteristics.

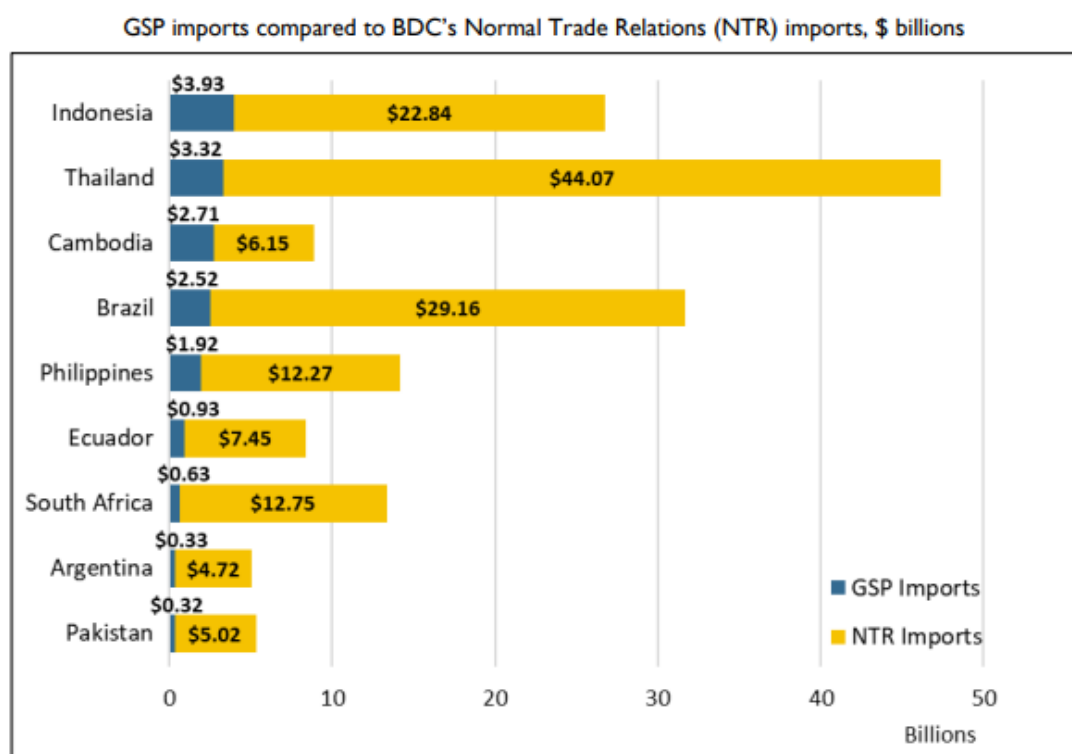
Generally, each preference-granting country extends to qualifying developing countries (as determined by each benefactor) an exemption from duties (reduced

tariffs or duty-free access) on most manufactured products and certain “non-sensitive” agricultural products. Product coverage and the type of preferential treatment offered varies widely. In the WTO, the developing country status of members is generally based on self-determination. For GSP, however, each preference-granting country establishes particular criteria and conditions for defining and identifying developing country beneficiaries. Consequently, the list of beneficiaries and exceptions may vary greatly among countries. If political or economic changes have taken place in a beneficiary country, it might be excluded from GSP programs in some countries but not in others. For example, in 2020 the EU suspended Cambodia’s GSP membership due to concerns over human rights abuses, while it remains a GSP beneficiary in the U.S. program

The President has the authority to waive certain mandatory criteria if he determines that GSP designation of any country is in the national economic interest of the United States and reports this determination to Congress.

The President is also directed to consider certain discretionary criteria, or “factors affecting country designation”:

- ❖ a country’s expressed desire to be designated a beneficiary developing country for purposes of the U.S. program;
- ❖ the level of economic development of a country;<sup>4</sup>

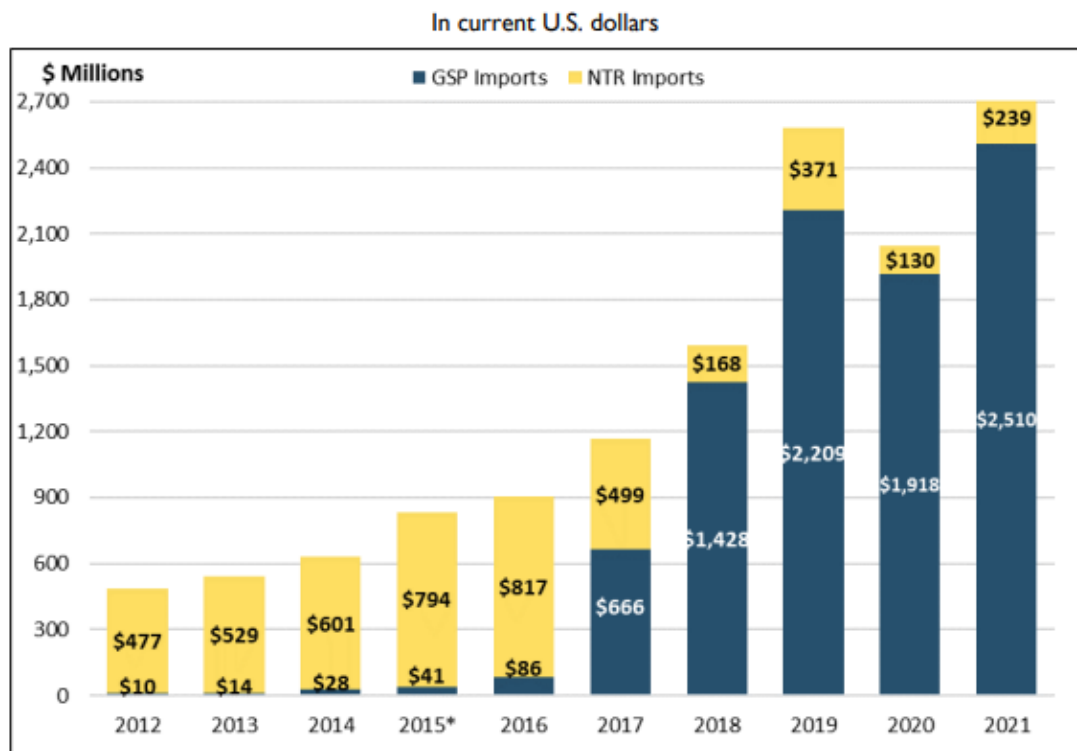


Source: CRS analysis of data from U.S. International Trade Commission (ITC) Dataweb.

### *Top 10 U.S. GSP Beneficiary Countries, 2021*

<sup>4</sup> Generalized System of Preferences (GSP): Overview and Issues for Congress Updated July 20, 2022

The Trade Act of 1974 authorizes the President to designate certain imports as eligible for duty-free treatment under GSP after receiving advice from the ITC. “Import-sensitive” products specifically excluded from preferential treatment include most textiles and apparel goods; **watches; footwear and other accessories; most electronics, steel, and glass products; and certain agricultural products** that are subject to tariff-rate quotas. The value of travel goods imported under the GSP program substantially increased beginning in 2017, contributing to the increase in total U.S. imports of such products:



Source: CRS analysis of data from ITC Trade Dataweb.

### *Imports of Travel Goods, Handbags, and Wallets*

More than 3,500 products are currently eligible for duty-free treatment, and about 1,500 additional products originating in LDBDCs may receive similar preferential treatment.

The statutory goals of the U.S. GSP program are to:

- 1) promote the development of developing countries;
- 2) promote trade, rather than aid, as a more efficient way of promoting economic development;
- 3) stimulate U.S. exports in developing country markets; and
- 4) promote trade liberalization in developing countries.

U.S. preferential rules of origin schemes are used for several special tariff programs:

- African Growth and Opportunity Act
- Andean Trade Preference Act

- Andean Trade Promotion and Drug Eradication Act
- Automotive Products Trade Act
- Caribbean Basin Economic Recovery Act
- Compact of Free Association Act
- Generalized System of Preferences
- Insular Possessions of the United States
- North American Free Trade Agreement Implementation Act
- Products of the West Bank, the Gaza Strip or a Qualifying Industrial Zone
- United States-Caribbean Basin Trade Partnership Act
- United States-Chile Free Trade Agreement Implementation Act
- United States-Israel Free-Trade Area Implementation Act
- United States-Jordan Free Trade Area Implementation Act
- United States-Singapore Free Trade Agreement Implementation Act

**The preferential tariff system of Japan.** Under its GSP (Generalized System of Preferences) scheme, Japan applies reduced tariffs to designated import products originating from developing countries/territories, aiming to help them increase export income, advance industrialization and promote economic development. Japan's GSP scheme, which started in August 1971, designates beneficiary countries/territories, beneficiary products, and their respective duty rates under the Temporary Tariff Measures Law and the Cabinet Order for Enforcement of the Temporary Tariff Measures Law.

Beneficiaries are designated by Cabinet Orders from countries/territories requesting for preferential treatment, subject to meeting the following criteria:

(1) Economy of the country or the territory must be in the stage of development.

(2) The territory must have its own tariff and trade system.

(3) The country or the territory desires to receive preferential tariff treatment under the GSP scheme.

(4) The beneficiaries must be prescribed by a Cabinet Order as a country or a territory to which such preferences may appropriately be extended.

(5) Only beneficiary countries determined as least developed countries (LDCs) in the General Assembly of the United Nations are eligible for Special preferential treatment for LDCs.

Products on GSP are divided into agricultural/fishery products and industrial products. As for agricultural/fishery products, specific items and respective preferential duty rates have been designated in the Temporary Tariff Measures Law. As for industrial products, in principle all products except some products (leather clothing, footwear, etc.) are given duty-free treatment while some sensitive products are dutiable. Products originating from least developed countries (LDCs) are given special preferential treatment. They are basically given the duty-free, quota-free (DFQF) market access. Where increased preferential imports of a product cause, or threaten to cause, injury to domestic industry in Japan that produces like or directly competitive goods, and if it is deemed urgently necessary

in order to protect the industry, the application of the preferential duty rates may be suspended temporarily by the Cabinet Order. This is called as Escape Clause. In order for any products to be eligible for the preferential tariff treatment, in principle a “Combined Declaration and Certificate of Origin (Form A)” issued by the beneficiary should be needed.<sup>5</sup>

In order for goods to be imported to receive the preferential tariff treatment under GSP scheme, it is necessary for importers to submit, in principle at the time of import declaration, a certificate of origin which proves that the goods originate from a GSP-designated beneficiary. This certificate of origin is called the “Combined Declaration and Certificate of Origin: Form A,” or for short, “GSP (Generalized System of Preferences): Form A”.



*Combined Declaration and Certificate of Origin: Form A*

The certificate has to be issued, at the time of exportation, by customs authorities or any other officially-authorized entities or bodies such as the Chamber of Commerce and Industry of the country of origin, based on the declaration made by the exporter who exports the goods concerned. Such a certificate is to be valid for one year from the date of issuance. In order to receive the preferential tariff treatment, the goods to be imported have to be directly consigned to Japan in principle. Where the goods are transshipped in a third country on the way to Japan, a through bill of lading or other relevant documents are necessary to obtain the preferential tariff treatment. As mentioned above, a certificate of origin should be submitted, in principle, at the time of import declaration. Importers are, however, allowed to defer to submit a certificate of origin when they have unavoidable reasons for deferring approved by the Director-General of regional customs, such as disaster, or when the Director-General of regional customs approves to release the goods prior to import permission in exchange for security submission.. Importers are not required to submit a certificate of origin in relation to an importation of a consignment of a good whose aggregate customs value does not exceed 200,000 yen. It is also not necessary for importers to submit a certificate of origin for the specific items which the Director-General of regional customs waives the submission thereof., with some exceptions

<sup>5</sup> Chapter 4. Japan's Generalized System of Preferences. Norio KOMURO

For information on beneficiaries for GSP treatment and those for special preferential tariff to LDCs, please see the list of beneficiaries. An economic advanced beneficiary at developed countries level is to be excluded from the list of GSP beneficiaries. In addition, a certain product, highly competitive in the market, of a certain beneficiary is to be excluded from the GSP treatment product coverage.

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