

## Position Paper

# The reform of the EU's Generalised Scheme of Preferences



AmCham EU speaks for American companies committed to Europe on trade, investment and competitiveness issues. It aims to ensure a growth-orientated business and investment climate in Europe. AmCham EU facilitates the resolution of transatlantic issues that impact business and plays a role in creating better understanding of EU and US positions on business matters. Aggregate US investment in Europe totalled more than €3 trillion in 2020, directly supports more than 4.8 million jobs in Europe, and generates billions of euros annually in income, trade and research and development.

## Executive summary

The EU's Generalised Scheme of Preferences (GSP) is a system that removes import duties from products coming into the EU market from developing countries. The GSP aims to help those countries alleviate poverty, create jobs based on international values and principles and contribute to the competitiveness of their products. It has a positive effect on their economic development through employment, sustainable development and general wealth creation. This paper outlines our position on the product scope and rules of origin, trade and sustainable development as well as the withdrawal of preferences. AmCham EU welcomes the proposed changes to the EU's GSP and lauds it as an open, rules-based and purpose-driven scheme.

## Introduction

The American Chamber of Commerce to the EU (AmCham EU) is a strong supporter of the EU's Generalised Scheme of Preferences (GSP). Many member companies are heavily involved in the utilisation of unilateral trade preferences granted to developing countries around the world.

The GSP, especially the GSP Plus and Everything But Arms (EBA) regimes, contribute to the competitiveness of products from developing countries. It has a positive effect on their economic development through employment, sustainable development and general wealth creation. Fair and free trade, as well as open markets, provide the best conditions for sustainable economic growth and decreasing levels of poverty in developing countries.

The EU has a continued obligation to support developing countries through trade, particularly with the GSP, as it acts as a stepping stone for the negotiation of free trade agreements (FTAs) with the beneficiary countries. As such, the GSP should continue to be a key priority for the EU's trade policy, remaining open, rules-based and purpose-driven.

## Product scope and rules of origin

The EU's GSP regime is the crown jewel of EU trade policy. We are pleased to see that the European Commission has maintained the overall structure and the three pillars of the GSP: the Standard GSP, the GSP Plus and the Everything But Arms (EBA). As with every successful policy, making gradual adjustments while maintaining the current framework to ensure that the scheme remains relevant for the next decade, is highly welcome. We value the legal, objective and predictable nature of the instrument, based on the United Nations (UN) income classifications.

However, the 'sensitive list' should have been reviewed. In order for the GSP to bring maximum value and growth to developing countries, it needs to include the products that companies produce in GSP beneficiary countries. While there should be a clear advantage given to EBA and GSP Plus countries, a more harmonised way of treating sensitive products would be advantageous. For example, ensuring that all sensitive products can be granted at least a 50% duty reduction would still allow for EBA and GSP Plus to keep their competitive advantage, while providing meaningful benefits for standard GSP beneficiaries.

The Commission's inclusion of revised cumulation application procedures to maximise the benefits for GSP beneficiaries and companies using the scheme, in particular small and medium-sized enterprises (SMEs), is highly beneficial. The EU's GSP scheme has facilitated the growth of sustainable value chains in GSP countries and has promoted regional integration, as well as integration into the global economy. However, the cumulation rules are unnecessarily strict. While we would have supported the removal of the regional groups in which countries can cumulate, and instead allow for cumulation across all GSP beneficiaries, we welcome the simplification proposed. GSP beneficiaries may now apply for cumulation with countries that are not within their regional groups. The application will be assessed on the basis of development, financing or trade needs. As the

supply chains of the manufacturing of many products become more technologically advanced, it is increasingly difficult to establish the complete production infrastructure in a single GSP beneficiary country. The rules of origin for GSP have been a significant obstacle at times; the clarification of the cumulation application process is therefore welcome.

## Trade and sustainable development

The GSP has helped bring sustainable business practices to poverty-stricken countries, such as high social and labour standards as well as environmental protection. It also further drives development and poverty eradication. Including the Paris Climate Agreement in the new GSP regime will foster further climate-related dialogue between the parties. The Commission's proposal to equalise the importance of the various conventions for standard GSP and EBA beneficiaries, while taking into account the necessary threshold of 'serious and systematic violations' for initiating a withdrawal procedure, is also welcome.

At the same time, the GSP should not be used to seek instant solutions to complex issues linked to sustainable development. The GSP should be used to offer incentives to and support developing countries rather than being seen as a punitive leverage. Fostering continued dialogue and cooperation with partner countries to support their development and the implementation of international human and labour rights, as well as environmental standards, should remain a priority. State-to-state engagement and development aid programmes are equally important for this purpose. The EU and its Member States should offer assistance (including financial) to developing countries with the aim of helping them reach the objectives of the Paris Agreement.

## Withdrawal of preferences

The EU's GSP scheme is highly regarded for its transparency and legal predictability, including the basis on which a withdrawal procedure can be launched. A withdrawal of preferences ought to be seen as a last resort, only after the parties have spent considerable effort and time trying to address the shortcomings through dialogue and cooperation. A withdrawal will ultimately have severe negative consequences on the most vulnerable people in the beneficiary country.

The recently established possibility of considering the socio-economic effects of temporary withdrawals when adopting such a measure, is highly necessary. The co-legislators should reinforce such provision and require the Commission to consider these effects whenever a temporary withdrawal is considered.

However, the experience over the last years has shown that there are learnings that can be incorporated in the new system. A withdrawal of GSP benefits targets businesses in all sectors, and not necessarily the actors violating human rights, or those allowing violations to take place. A withdrawal may ultimately harm the most vulnerable groups in society, often women, and/or those who are already suffering from human rights violations.

Another lesson that can be drawn is the need for flexibility when unforeseen events arise, such as pandemics or natural disasters. The Commission's introduction of the possibility to review the scope, postpone or suspend the application of the temporary withdrawal in case of exceptional circumstances, is welcome. The consequences of health or sanitary emergencies, natural disasters or other unforeseen events would add to the ones of the temporary withdrawal. In such cases, it is very important that the Commission legally has the time and the means to re-evaluate the impacts of the withdrawal on the most vulnerable. Developing countries are indeed affected significantly more by sanitary emergencies and natural disasters than developed countries. This disparity needs to be taken into account.

The procedure for the urgent withdrawal of preferences is also concerning. If there is sufficient information indicating that a beneficiary country is violating the principles outlined in the conventions of the GSP regulation – in both a serious and systematic way –, the EU should immediately engage with the country. However, withdrawing GSP preferences should already be seen as the very last resort, in case of serious and systemic violations of the GSP conventions. The withdrawal should only follow extensive warnings, appropriate

consultation with stakeholders, and a socio-economic impact assessment. It should also follow cooperation and assistance to allow for constructive engagement and address the shortcomings. Moreover, it is unclear what is meant by 'grave violations' and how this would differ significantly from 'serious and systematic violations'. There is significant risk that the distinction becomes arbitrary and open for political deliberations. In other words, this urgent withdrawal mechanism increases the risk of politicising the instrument. It is concerning that the urgent withdrawal procedure could become the main tool to respond to grievances, rather than an exception. In addition, companies will have significant challenges in adjusting their sourcing plans within the time span suggested by the Commission.

## Conclusion

Overall, the proposed changes to the EU's GSP are welcome. They uphold the features that make the EU's scheme the most respected globally. It will continue to contribute to sustainable development and meaningful market access for developing countries, while making many necessary adjustments. Fair and free trade and open markets provide the best conditions for sustainable economic growth and reduced poverty levels in developing countries. The EU has a continued obligation to support developing countries through trade, and especially the EU's GSP, as it acts as a stepping stone to negotiating FTAs with the beneficiary countries. The EU's GSP should therefore continue to be the crown jewel of the EU trade policy, remaining open, rules-based and purpose-driven. As many member companies rely heavily on the trade preferences granted through the GSP, AmCham EU will continue to contribute to the discussion.