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**Effects of EU's Generalized Scheme of Preferences on
Developing Countries; the Case of Sri Lanka**

Master's Thesis

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Declaration of Authenticity

I, Ovida Dias Abhayawicrama Gunasekara declare that this thesis and the work presented in it are my own and have been generated by me as the result of my own original research. I confirm that I have always clearly attributed whenever I have consulted and quoted from the published work of others. I have acknowledged all sources of help in bibliography.

Signature:

Date:

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List of Abbreviations

- AGOA - African Growth and Opportunity Act
- CAT - Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
- CBTPA - Caribbean Basin Trade Partnership Act
- CFSP - Common Foreign and Security Policy
- CRC - Convention on the Rights of the Child
- EBA - Everything but Arms
- ECSC - European Coal and Steel Community
- EEC – European Economic Community
- EU – European Union
- GATT - General Agreement on Tariffs and Trade
- GSP – Generalized Scheme of Preference
- HRCSL - Human Rights Commission of Sri Lanka
- ICCPR - International Covenant on Civil and Political Rights.
- ILO - International Labour Organization
- ITO - International Trade organization
- LDC - Least Developed Countries
- MFN - Most Favored Nation
- NIEO - New International Economic order
- OPCAT - Optional Protocol to the Convention Against Torture
- PTA - Preferential Trade Agreements
- PTA - Prevention of Terrorism Act
- RTI - Right to Information
- UNCTAD - United Nation’s Conference on Trade and Development
- UNHCR - United Nation’s Human Rights Council
- WTO - World Trade Organization

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EU:

- Council Regulation (EC) No 2501/2001 (as last amended by Council Regulation No 2211/2003)
- Council Regulation (EC) No. 980/2005
- Council Regulation (EC) No 732/2008
- Council Regulation (EU) No 978/2012 (GSP Regulation)
- Commission Delegated Regulation (EU) 2017/836

Sri Lanka:

- Prevention of Terrorism Act (PTA) 1978
- Treatment or Punishment Act 1994
- Cooperation Agreement on Partnership and Development 1995
- Emergency (Miscellaneous Provisions and Powers) Regulation 2005
- Emergency (Prevention and Prohibition of Terrorism and Specified Terrorist Activities) Regulation 2006
- ICCPR Act 2007
- Right to Information Act 2016
- The Office on Missing Persons (OMP) Act 2017
- Enforced Disappearances Act 2018

1. Introduction

Trade policy plays a key role in the European Union (EU)'s relations with the rest of the world and the EU is one of the most important actors in international trade, accounting for a fifth of all world trade. Since the formulation of the common market, the EU has been an active contributor especially in expanding international trade norms and practices, most notably, with the developing world. Furthermore, it has also succeeded in using trade as an effective means of promoting many of the EU's core values in a bid to becoming a role model in global development. Among its trade arsenal, are the non-reciprocal preferential trade agreements (PTA), that are aimed at providing incentives towards developing countries in both securing a fair status in competitive global market as well as rendering much focus on other aspects of a sustainable development. One of the main types of PTA that are exercised by the EU is Generalized Scheme of Preferences (GSP).

The term “Generalized Scheme of Preferences” is not unique to the EU. As a matter of fact, it is currently being exercised by several key players in the global economy. However, the EU's scheme of preferences has become much popular in recent times due to its structure as well as the lucrative benefits it offers by paving easy access to the second largest economy in the world.

Trade has proved to be one of the most effective tools to foster development. Increased trade with developing countries enhances their export earnings, promote industrialization, encourage the diversification of their economies and accelerate their economic growth. The classical instrument for achieving these objectives is tariff preferences, which provide an incentive to traders to import products from developing countries and thus help them to compete on international markets. Such tariff preferences should be sufficiently attractive in order to motivate traders to use the opportunities offered by the scheme.

In 1968, the United Nation's Conference on Trade and Development (UNCTAD) recommended the creation of a ‘Generalized System of Preferences’ under which industrialized countries would grant autonomous trade preferences to all developing countries. Accordingly, in 1971, Contracting parties to the General Agreement on Tariffs and Trade (GATT) approved a waiver to the most-favored-nation clause of the Agreement and in 1979 adopted the so-called ‘enabling clause’, creating the legal framework for the Generalized System of Preferences, and authorizing

developed countries to establish individual GSP schemes. The European Community was one of the forerunners in such implementations as in the same year, the European Community implemented its first GSP scheme, which was applied in the framework of 10-year programs, through different regulations for industrialized products, textile products, agricultural products and those covered by the European Coal and Steel Community (ECSC) Treaty, adopted on a yearly basis.

1.1 Purpose

The European Union's Generalized System of Preferences (GSP) has existed for over 40 years and it has aimed to promote the export growth among developing countries. The purpose of the thesis is to highlight the evolution and characteristics of the EU's GSP regime and examine the effectiveness of the EU's GSP in promoting the export growth of Sri Lanka, which has become an interesting example to analyze the effects of the different GSP regimes upon transitioning economies as well as the adverse effects of withdrawing from such schemes. The thesis also aims to analyze the structure and objectives of the scheme with a practical point of view in order to review the true burden of the conditions it has imposed upon developing countries and to inspect whether the expected outcomes of granting such tariff concessions have made any real impact on the a developing country such as Sri Lanka apart from the economic growth. While supporting the economic development of Sri Lanka, the GSP Plus program of the EU has also added the conditionality of sustainable and good governance in return of receiving tariff benefits. This is in fact an important factor to analyze as the conditionality of good governance does not seem to be directly imposed upon the private economic players such as exporters, but on the government of the beneficiary state, which could give rise to the concern as to whether the economic actor would have to reply on the state's commitment to GSP Plus obligations in order to reap benefits from the tariff cuts. Furthermore, the thesis also intends to look into potential changes in the current mechanism in order to make it more effective and mutually beneficial for both parties. Therefore a good study on the actual effect on GSP programs on developing countries is vital.

1.2 Methodology

The thesis shall be mainly focused on both primary and secondary sources due to the fact that some parts of the dissertation shall be focused on the future economic growth patterns, potential adverse effects and performance of both the EU and Sri Lanka, which would be extracted from opinions and forecasts. Research sources shall mainly comprise of EU regulations, documents published by the European Commission, European Parliament, and World Trade Organization etc. Secondary sources shall mainly be comprised of research articles and newspaper articles that portray the opinions of experts in the field.

In terms of Data collection, primary data has been obtained from the trade data that have been released by both the European Commission and the United Nations. During the analysis of Sri Lanka's trade during the timeline of GSP Plus grant, its withdrawal and then re-admission, attention has been given to both EU and local exporters. The results are thus based on the trade output.

In terms of secondary sources, there are two main sources. They are the annual reports provided by the European Commission and the information provided in various other literature that has been done on the subject.

The timeline has been defined in two sections of the thesis. The first one is the timeline of GSP programs of the European Union in General. Therefore, information from 1971 to 2020 has been taken into consideration. Second time line has been defined for the case of Sri Lanka, which comes in four stages, the initial entry into GSP plus (1995 – 2005), the GSP plus time period (2005-2009), The GSP Plus withdrawal period (2010 – 2017) and the re-admission period (2017 – 2020).

This methodology towards the topic could be justified due to the fact that much of the trade data used here could be interpreted differently based on different circumstances. Therefore, the best approach would be to carefully evaluate different interpretations of data and to arrive at a conclusion that could be effective for future betterment of both the GSP donor and the recipient.

1.3 Research Questions

In this thesis, there are three main research questions raised and gradually analyzed under each part of the body of the thesis.

1. What is the purpose of having a Generalized Scheme of Preferences implemented by developed countries upon developing countries?
2. How the GSP program (Specifically the GSP Plus scheme) of the European Union been implemented in Sri Lanka and how its withdrawal and subsequent re-implementation has impacted the country?
3. Has the GSP program of the EU made any effect on developing countries that would be in line with its original objectives and has its evolution over the years made any difference to its cause?

1.4 Literature Review

The required literature that has been taken into consideration are both in positive and negative form towards the GSP program. The literature on this subject can be obtained from both international sources and local sources within Sri Lanka. The general opinion towards the effectiveness of the GSP program in developing countries seem to be clearly divided, and with a slight negative opinion towards its current standards.

International Sources such as Baldwin and Murray (1977), Promfret (1986), Kungpanidchakul (2007) have expressed positive views towards the GSP program by pointing out the significant influence of GSP programs in the national economies of the beneficiary states. Baldwin and Murray (1977), whose views on GSP programs can be considered as one of the earlier scholarly work on the subject, focus on the trade benefits for developing countries that could come from taking part in GSP programs, without being hindered by earlier GATT principles such as the MFN rule. A similar view is shared by Promfret (1986) who also focuses on the economic gains of GSP beneficiaries over having to trade under reciprocal conditions. However, it is interesting to note that in both this scholarly work, the negative effects of GSP programs on beneficiary states are,

for a considerable extent, is less discussed. But in all fairness, considering the time period of these views, the GSP programs had still been in its' infancy.

In a much later commentary on the issue, Kungpanidchakul (2007), analyses the conditions within which a beneficiary country could actually gain benefits from GSP programs. According to him, the domestic and international political pressure plays a key factor in such positive outcomes. He also points out that the GSP programs are in fact reciprocal in nature as both the GSP provider and the recipient could gain significant benefits by participating in a GSP scheme.

In another positive view towards GSP programs, Aiello and Demaria (2010) have looked into the impact of GSP programs on different sectors of economy in developing countries. According to their findings, the agriculture sector tends to enjoy rather positive benefits under the GSP programs. Especially with regards to the EU GSP program, the writers point out that despite noticeable differences over the positive gains incurred under GSP programs, in terms of overall benefits, the beneficiaries of GSP programs are fair much better than their non-beneficiary counterparts.

In an empirical study, Klasen (2016) compares least developed countries who rely on GSP benefits with "off list country in the underdeveloped world. According to his conclusions there is a noticeable advantage for countries with preferential trade agreements in their trade, thus supporting the arguments that trade preferences has a considerable effect on developing countries.

However, there are many scholarly works, most of them published in recent times, that points out to the negative aspects of GSP programs, especially on developing countries. One of the important issues raised by Ozden and Reinhardt (2003) is the adverse effects that are made onto the economic liberalization of GSP beneficiary countries due to being over-dependent on GSP covered concessionary products. Their research clearly points out that over time, many beneficiary states have in fact focused only on GSP covered products in their economy, making them ever more dependent on retaining GSP benefits from developed countries, which is the stark opposite of the GSP policy objective of sustainable economic development.

According to Panagariya (2002), the negative effects of GSP systems take place due to the difference between their policy objectives and practical applications. As he points out, the original concept of having a non-discriminatory, non-reciprocal and generalized system of trade

concessions, is not depicted well in the current GSP programs where, the focus is only on selected products and are granted depending on the fulfilment of certain conditions. Especially, as he argues, having trade concessions given to selected goods to which the developing countries already have market capability, prevents them from formulating economic strategies in a liberal mindset. Furthermore, he also criticizes the GSP Plus program by pointing out the uncertainty that is created among economic actors in beneficiary states, when the continuation of GSP benefits are tied to other conditions such as good governance, which are largely beyond the control of individual exporters.

By comparing both the EU and US GSP systems in terms of their effect on developing countries, Christie (2015) claims that there is a disparity among the GSP schemes in different countries in terms of their effectiveness. According to him the EU GSP systems is considerably more effective on developing countries than the US system. This is an important point as he suggests that there is more room within the EU's GSP program for positive evolution.

A more balanced approach with regards to the effect of GSP programs towards developing countries has been taken by Cooper (2002) who, while pointing out that GSP schemes directly assist in the economic development in beneficiary countries by stimulating trade with tariff concessions that are empirically backed up in terms of exports, also argues that factors such as Rule of Origin (ROO) could become a considerable obstacle for producers in beneficiary countries. Furthermore, he too points out that by focusing only on selected goods, the GSP programs, in the long run, could create undue imbalances in the overall trade in beneficiary countries.

Since this thesis is mainly focused on the effects of the EU GSP program on Sri Lanka, it is important to consider the literature that has been produced by Sri Lankan scholars on the subject. Like international sources, opinion is divided in Sri Lanka regarding the positive effect of GSP programs on the country. According to Weeraratne (2005), special schemes such as GSP Plus have more benefits for Sri Lanka. According to her, the additional conditions imposed by GSP Plus program has helped Sri Lanka to form its labour practices in coherent with international labour laws and standard as well as generating a boost to skilled labour in certain sectors of the local economy. She also considers the GSP program as a crucial link between local producers and a reputed international customer base. However, she also criticizes the lack of diversity, innovation

and competitive edge in Sri Lankan export trade that have been mainly caused by over-reliance on GSP benefits.

According to Kelegama (2010), Sri Lanka has faced a significant shock at the outset of the withdrawal of GSP Plus benefits in 2009. As he points out, it has become an eye-opener to recognize the over-reliance of trade concessions that had pushed certain sectors in the export trade such as textiles to become major players in the overall economy of the country. However, he is optimistic about Sri Lanka's survival in the export trade even without trade concessions as he points out that the clientele in European Countries are more interested in the reliability of supply and the personal rapport with seller without solely depending on the prices.

According to Jayarathne (2009), the Sri Lankan textile industry has not yet made any considerable improvement towards achieving a sustainable level of competitiveness, despite being the main beneficiary of GSP concessions in the country. As he points out, factors such as low profitability and the higher underlying costs when met with competition from other developing countries, have pushed Sri Lanka only to rely on GSP concessions as a means of survival rather than innovation. This is a clear failure in terms of the objectives of the GSP programs.

In summary, it can be concluded from the existing literature, that the effectiveness of the Generalized Schemes of Preferences, especially in the case of EU, on developing countries such as Sri Lanka, have become subjected to negative reviews over the course of its evolution. However, it is also evident that the initial objectives of the scheme are still valid and have the potential of being realized with appropriate adjustment of the execution of the GSP programs. In the course of this thesis, this evolution of EUs GSP program would be more carefully analysed in the context of Sri Lanka's case in order to come up with such possible suggestions for improvement.

2. Part one – The GSP

- History and Evolution of Preferential Trade Agreements
- GSP in developing world
- The Generalized Scheme of Preferences of the EU
 - General Agreement
 - Everything but Arms (EBA)
 - GSP Plus

2.1 History and Evolution of Preferential Trade Agreements

The term Preferential Trade Agreement has, within itself, a sense of uniqueness added into it. As with all aspects of relationships among nations what are within the stipulated bounds of international law, trade too, is an undertaking that is being carried out between states on a base of mutual agreement. By being one of the most crucial factors that had significantly influenced the formulation of all human civilizations, external trade had always been known and handled by nations with some degree of regulation. Throughout known human history, examples of external trade being used in international relationships are widely abundant. Even after the emergence of *Laissez-faire* free market economic practices at the dawn of 18th century, external trade had still widely remained under considerable scrutiny by states, either in form of tariffs or in form of sanctions, to be used as instruments of political pressure (DeLong, 2000). The flourishing of international commerce indeed has paved a way for states in using it as a bargaining tool, which indeed, for a state with a strong internal economy, is a valuable addition in its arsenal. Time and time again, in the past two centuries, examples of such Trade Agreements being utilized for the purposes of political gain can be seen.

The concept of trade agreements, however, did take a more unique turn in the latter part of the 20th century. With the gradual decline of the age of empire building by Western powers in the preceding two centuries, and the period of two World Wars, had in fact drastically changed the geopolitical map and rulebook as the world had known before. The end of World Wars had triggered a surge of new smaller nations appearing on the world map, which had previously been parts of larger empires. This did certainly intensify the cry of many colonial subjects for political independence

from their former imperial overlords. Nothing better backs up this argument than the quantitative evolution of memberships in the United Nations, the international organization that was formed in 1949, in the aftermath of the Second World War, as a platform for international relations (Sankey, 1990). This increase of the headcount of member states when compared to its predecessor, the League of Nations, is a clear example of how drastically the actors in the international arena had changed.

But of course, on the other hand, it is equally evident, that the emergence of new states is not just a matter of simple demarcation of borders upon the world map. The race of for Empire building that had prevailed for over several centuries had, without a doubt, made considerable re-allocations of resources, both materiel (in the form of objects such as precious metals, minerals etc. and human Labour in the form of slavery) and technology (in the form of know-how and inventions) from their original possessors to the respective capital and major cities of such empires, leaving behind an unequal and often unfair playing field for new states in its aftermath. This had ultimately created a Third World, splitting nations on the basis of development, with a minority of developed nations and a majority of developing states (Dirlik, 2018). Trade in such a global environment to be carried out on the basis of classical *Laissez-faire* norms would indeed have been proven unfair and also counter intuitive. It would have, without a doubt, created another path of a quick return to the formation of empires where the richer and stronger players gulping in the weaker. In this case, unlike in the past, Trade would have become the ultimate weapon of choice for the economically strong, in subjugating the weak.

This was the global economic and political environment that had existed at the outset of the late 1940s throughout 1950s. This period of uncertainty, it was crucial for the international community as a whole, in coming up with a novel approach to world affairs, than the ways of the past. Followed by the failure of initial proposals such as the creation of an “International Trade Organization (ITO), that could have been utilized as an international platform for trade related activities such as mutual tariff reductions and trade dispute resolution alongside contemporary international organizations in complementary fields such as the International Monetary Fund (IMF) and the World Bank, which in fact failed due to the withdrawal of the United States from the negotiations caused by internal pressures, there was a need for a sound mechanism that could

achieve such a higher purpose¹. This need was, up to a considerable extent, achieved in 1947 in Geneva, with the emergence of the General Agreement on Tariffs and Trade (GATT), with 23 state signatories. As its preamble had stated, GATT was an instrument that had been designed in order to achieve the ultimate purpose of abolishing barriers to international trade, mainly in the form of tariffs and Quotas. This would in fact on one hand, remove the states from using discriminatory trade practices both negative in terms of application of undue political pressure and also positive in terms of trade preferences over others. However, in the absence of its guise as a more authoritative mechanism as opposed to ITO, GATT, at the time of its creation, was more of a General Agreement based on classical Liberal Market economy principles and also more lenient on states in drawing individual trade agreements in depth within a general framework (Diebold, 1996). However, this flexibility also paved way for the international community to negotiate further on the matter of trade liberalization that could match the changing socio-political and economic situations of the World. Hence, by the year 1994 in Uruguay round, after 7 consecutive rounds of discussion, the process was re-formulated into the “World Trade Organization (WTO)”, which remains to this day, the most effective international mechanism for trade that balances global economic liberalization for states in ensuring a level playing field².

It is however, within this time period 1948-1995, the concept of trade liberalization on a level playing field, instead of an outright free-market global economy, really took hold. This was mainly due to the influence of United Nations Conference on Trade and Development (UNCTAD), which was established in 1964, as a forum especially for developing countries, to raise their concerns with regards to the then existing international trade mechanisms such as the GATT, in terms of competition and fair play³. These concerns and demands had a noticeable impact on the GATT negotiation rounds such as the 1964 Kennedy Round, and in the subsequent introduction of New International Economic Order (NIEO) in the 1970s. The main focus point of these arguments was the fact that neo-liberal global economic policies should adhere to the undeniable fact of the

¹ Van den Bossche, P. (2008). *The law and policy of the World Trade Organization: text, cases and materials*. Cambridge University Press.

² World Trade Organization. (1999). *The legal texts: the results of the Uruguay Round of multilateral trade negotiations*. Cambridge University Press.

³ Robertson, C. L. (1969). The creation of UNCTAD. In *International Organisation: World Politics* (pp. 258-274). Palgrave Macmillan, London.

existence of an unequally levelled playing field. Thus, measures of trade expansion in such instances, where certain state parties (especially developing countries) who lack equal footing opposed to their more developed counterparts, some level of positive discrimination should be made available, in order to achieve the greater overall success of global trade development. Since, most of such trade relationships that could occur between Developed and Developing states would consist of primary goods, such as raw material, agricultural or less complex finished products such as apparels, providing a preferential treatment would, in the long run, assist the economic development and the trade expansion of developing countries, ideally removing the economic barrier between the first and third world at the end.

One of the best achievements of UNCTAD in this regard was the adoption of Part IV of the GATT, followed by the Kennedy Round⁴. The new addition provided developing countries a way to engage in trade with developed countries without the necessity of conceding to reciprocity. This was a major breakthrough as reciprocity in trade concessions was one of the fundamental pillars of GATT, where nation states were supposed to treat equally each other, whereas removing tariffs and trade barriers. In a case of a state with an unequal economic footing, this could have resulted in drastically unfavourable outcomes in terms of protection of local production in increasing economic development, if such a state would have been forced to implement reciprocity for free or concessionary trade with a more developed counterpart. Part IV of GATT negated such outcomes by giving more say for developing countries in trade agreements in terms of negotiating a preferential treatment based on their footing⁵. This was further complemented by the introduction of Anti-Dumping rules under Article VI of GATT, which provided more protection for developing countries against unfavourable competition from Developed nations⁶. Though, mainly symbolic at the beginning, these changes, paved way for a series of Preferential Trade Agreements (PTA), with the most noticeable “Generalized Scheme of Preferences (GSP) proposed by UNCTAD in 1968, under which, more developed and industrialized states could provide autonomous trade concessions to any developing country in the form of a preferred tariff regime based on an

⁴ Greenwald, J. A. (1967). UNCTAD and GATT as Instruments for the Development of Trade Policy. In Proceedings of the American Society of International Law at its annual meeting (Vol. 61, pp. 155-163). Cambridge University Press.

⁵ GATT Part 4, Final discussion at the Second Special Session of the CONTRACTING PARTIES of the reports and draft texts to be adopted: 2SS/SR.2, 4, 5

⁶ Raju, K. D. (2008). World Trade Organization Agreement on Anti-dumping: A GATT/WTO and Indian Jurisprudence (Vol. 15). Kluwer Law International BV.

established selection criteria. And since its creation in 1971, these Generalized Schemes of Preferences have been adopted by 13 state parties including Australia, Belarus, Canada, the European Union, Iceland, Japan, Kazakhstan, New Zealand, Norway, the Russian Federation, Switzerland, Turkey and the United States of America⁷. These GSPs have undoubtedly provided a much-needed incentive for the developing world in actively participating in the global economic drive, which is evident from the high enthusiasm among developing countries in securing GSP agreements.

2.2 GSP and the developing world

The system of preferential treatment under a generalized scheme has come a long way since its original introduction in 1968. During this time period, the gradual expansion of the concept, has paved way to the well establishment of GSP programs under the WTO. Under the UNCTAD Resolution 21 (ii) taken at the UNCTAD II Conference in New Delhi in 1968, the aim was to create a generalized, non-reciprocal and non-discriminatory system of preferences in favour of developing countries with the objective of increasing their export earnings, promoting their industrialization and accelerating their economic growth rate⁸. This would allow GSP providers, to grant tariff concessions or waivers to selected goods originating from GSP recipient states. In case of Least Developed Countries (LDC) these concessions were to be even broader and deeper.

These preferred treatments however, would *prima facie* be in contradiction with the Article 1 of the then active General Agreement on Trade and Tariffs (GATT), which had prohibited the grant of “Most Favoured Nation” clauses by any of its members upon any other specific member, without granting the same preference towards like products of all other GATT members. The fundamental idea behind this would be to eradicate any such preferential treatments, thereby ensuring fair play in competition among members of international trade. In order to avoid such a conflict of objectives, in 1971, the GATT members agreed to implement a waiver to Article 1 of GATT for a time period of 10 years, in order to accommodate the UNCTAD resolution on GSP. And in 1971, the move was solidified when the Contracting Parties decided to adopt the 1979

⁷ About GSP. (n.d.). Retrieved from <https://unctad.org/en/Pages/DITC/GSP/About-GSP.aspx>

⁸ ‘Generalized Scheme of Preferences’, 1985 (1989) 39 United Nations Disarmament Yearbook, 558

Enabling Clause, Decision of the Contracting Parties of 28 November 1979 (26S/203) entitled "Differential and more favourable treatment, reciprocity and fuller participation of developing countries", creating a permanent waiver to the most-favoured-nation (MFN) clause to allow preference-giving countries to grant preferential tariff treatment under their respective GSP schemes.

However, Despite the effort by UNCTAD in achieving a uniform and global Generalized Scheme of Preferences for all providers by early 1970, various political pressures resulted in the system being rolled out on an individual basis, the European Union (then European Economic Community (EEC)) being the first ever provider of a Generalized Scheme of Preference for developing countries in terms of trade. This was mainly owed to the fact that the 1979 *Enabling clause* had lacked effective guidelines on GSP implementation, allowing donors to design their schemes “as they see fit”⁹. The EEC GSP system, which was based on stimulating exports under two economic mechanisms, namely “trade creation”, whereas the beneficiary state would be granted tariff cuts to export certain goods into the EEC, and secondly “trade diversion”, where the preferential tariff access would be help the beneficiary state to better compete with like products within the EEC, was a considerable success and a modal scheme for other countries such as Japan, Norway, Sweden, Denmark, Finland, Ireland, New Zealand, the United Kingdom, Switzerland, Austria, Australia and Canada who implemented their GSP programs within the next 3 years.¹⁰ Whilst the expansion of the EEC had strengthened by 1974, in 1976 United States too introduced its GSP system.

At present The Generalized Schemes of Preferences (GSP) fall under the purview of the GATT successor, World Trade Organization (WTO), which is taken under the oversight of its Trade and Development Committee. Under WTO rules, schemes that would grant special rights to developing countries are agreed under “special and differential treatment” provisions.¹¹ Under these provisions, the WTO has stipulated rules and regulations, along with monitoring mechanisms on both GSP recipients and providers, in order to ensure that such preferred treatments are properly

⁹ Hudec, R. E. (2010). *Developing countries in the GATT legal system*. Cambridge University Press.

¹⁰ Weston, A., Cable, V., & Hewitt, A. (1980). *The Eec's Generalised System of Preferences— Evaluation and Recommendations for Change*. Overseas Development Institute. doi: <https://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/8050.pdf>

¹¹ WORLD TRADE ORGANIZATION. (n.d.). Retrieved from https://www.wto.org/english/tratop_e/dda_e/status_e/sdt_e.htm

generalized by their providers devoid of unfair selections, and also not exploited by their beneficiaries.

In comparison with GATT, the WTO special provisions on Generalized Schemes of Preference have longer time periods for GSP providers to implement agreements and the beneficiaries to implement their commitments. Furthermore, WTO special provisions have directed GSPs more towards increasing trading opportunities for developing countries. This would both allow WTO members to safeguard trade interests of developing countries, and also help developing countries to actively engage in WTO platforms in areas such as trade dispute resolution and adhering to technical standard. The position of LDCs within GSP systems has also become strengthened under the special provisions of the WTO¹².

Under the 4th WTO summit Declaration that took place in Doha 2001, it was established that all special and differential treatment provisions are an integral part of the WTO agreements, and that these provisions should be reviewed with a view to strengthening them and making them more effective and operational. This mandates the Trade and Development Committee (TDC) of the WTO to consider all non-binding obligations related to GSP contracting parties mandatory under WTO rules¹³. This is a significant improvement from the GSP environment that had existed since 1971 under GATT, where in contrast to regular GATT concessions the GSP concessions were prone to a higher degree of discretion from the side of the provider, similar to a situation of *“he who giveth, may taketh away.”*¹⁴ The Bali Conference in 2013 has further strengthened the position of the WTO in terms of establishing a monitoring mechanism for WTO agreements. This also allows the TDC to consider GSP agreements under the overall WTO agreements and to analyse the implementation of Special and Differential provisions in all WTO agreements, thereby giving the WTO more opportunities in improving the implementation of GSP programs and recommend re-negotiation upon necessity¹⁵.

¹² Ibid

¹³ WORLD TRADE ORGANIZATION: Doha Declaration explained. (n.d.). Retrieved from https://www.wto.org/english/tratop_e/dda_e/dohaexplained_e.htm#s_and_d

¹⁴ Özden, Ç., & Reinhardt, E. (2005). The perversity of preferences: GSP and developing country trade policies, 1976–2000. *Journal of Development Economics*, 78(1), 1-21.

¹⁵ WORLD TRADE ORGANIZATION: Doha Declaration explained. (n.d.). Retrieved from https://www.wto.org/english/tratop_e/dda_e/dohaexplained_e.htm#s_and_d

The improving confidence of both developed and developing countries towards GSP programs has become quite noticeable over the past few decades. This is greatly due to the further involvement of the WTO in strengthening the basis of GSP by ensuring more uniformity. At present in WTO database, there are 35 registers Preferential Trade Agreements (PTA), out of which 14 are directly related to GSP. There are also 10 LDC-Specific trade agreements¹⁶. In terms of GSP providers, The European Union and the United States are currently the largest providers of GSP preferences, which in turn provide the GSP beneficiaries preferential access to the World's first and Second Largest Economies.

Form the beneficiaries' point of view of the, it is evident that the GSP systems have also become more useful. At present there are 120 developing countries benefiting under the US GSP program, whilst 71 developing countries are benefiting from the EU GSP program. There is also a further inclusion of 9 developing countries that are benefiting from the extended GSP Plus scheme, whilst 25 Least Developed Countries have signed up under the EU's everything but Arms (EBA) agreement. At the same time under the US GSP system, schemes such as African Growth and Opportunity Act (AGOA), the Caribbean Basin Trade Partnership Act (CBTPA) and the Andean Trade Preferences Act, that are functioning addition to the general GSP and LDC sub-scheme have also opened up avenues for more developing countries to reap benefits¹⁷.

However, despite the fact that the WTO is continuously engaged in the process of striving to achieve a uniform Generalized Scheme of Preference on a global scale, unfortunately there are still numerous noticeable differences among the various GSP programs implemented by contracting parties. These differences range from selection criteria to the benefits granted, thereby casting doubt as to whether such individual approaches could amount to successfully achieving the collective purpose of having special and differential provisions over preferred treatment of trading partners in creating a level playing field in the long run, is actually possible.

In terms of selection criteria, the US GSP program, places a considerable weight on political aspects in terms of security such as terrorism, American interests both in terms of economic such

¹⁶ WORLD TRADE ORGANIZATION: Database on Preferential Trade Arrangements. (n.d.). Retrieved from <http://ptadb.wto.org/>

¹⁷ Christie, D., & Breinlich, H. (2015). US and EU trade preferences towards the developing countries. A comparison. *Economics of the EU*, 1-15.

as natural gases and also ideological such as communist states¹⁸, Whereas the selection criteria of the EU GSP system is more based in international conventions and standards. With regards to terms and conditions too there are considerable differences as for an example the US GSP conditions stipulates rigid requirements such as the limitation of import of certain apparel products from the Caribbean nations only if garments are made from yarn sourced from the US¹⁹. Furthermore, there are also considerable differences among various GSP programs in terms of benefits given as the EU provides more duty-free tariffs for products over the US and in the case of Japan's GSP program, there is a zero-tariff quota free concession for textile and agricultural products from LDCs²⁰.

These different characteristics across various different GSP programs have imposed additional stress and concern upon developing states who intend to take part in such schemes. This in turn has resulted in different developing countries adhering to different standards when entering into different GSP agreements. And in an environment where the competition is high to reap more benefits, such practices would negate the ultimate goal of GSP programs in enhancing a uniform economic growth among WTO members. In that regards, the GSP program implemented by the European Union could be considered as a favourable model in terms of achieving such goals.

¹⁸ International business Publications. (2010). United States Generalized System of Preferences - Business Law Handbook (Vol. 1). Washington, USA. doi:
[https://books.google.cz/books?id=Sy6yDwAAQBAJ&pg=PA19&lpg=PA19&dq=US GSP terrorism communist states vietnam&source=bl&ots=KrOAvsvSMG&sig=ACfU3U0YWAnWXXvmJK8c3yiTnR8d2J2Sbw&hl=cs&sa=X&ved=2ahUKEwihqM3p6NLpAhWFSxUIHRSbCzwQ6AEwAHoECAkQAQ#v=onepage&q=US GSP terrorism communist states vietnam&f=false](https://books.google.cz/books?id=Sy6yDwAAQBAJ&pg=PA19&lpg=PA19&dq=US+GSP+terrorism+communist+states+vietnam&source=bl&ots=KrOAvsvSMG&sig=ACfU3U0YWAnWXXvmJK8c3yiTnR8d2J2Sbw&hl=cs&sa=X&ved=2ahUKEwihqM3p6NLpAhWFSxUIHRSbCzwQ6AEwAHoECAkQAQ#v=onepage&q=US+GSP+terrorism+communist+states+vietnam&f=false)

¹⁹ Jones, V. C., Hornbeck, J. F., & Villareal, M. (2010). Trade Preferences: Economic Issues and Policy Options.

²⁰ Klasen, S., Martínez-Zarzoso, I., Nowak-Lehmann, F., & Bruckner, N. (2016). Trade preferences for least developed countries. Are they effective? Preliminary Econometric Evidence. Policy Review, (4).

2.3 The Generalized Scheme of Preferences of the EU

The Generalized Scheme of Preferences introduced by the European Union can be considered as one of the earliest examples of non-reciprocal and non-discriminatory Preferential Trade Agreements that was based on a generalized level of access to all developing countries. At the aftermath of UNCTAD Declaration in 1968 on the creation of a “Generalized System of Preferences” under which industrialized countries would grant trade preferences to all developing countries, the then European Economic Community (EEC) was the first to introduce its GSP program to be applied in the framework of 10-year programs, through different regulations for industrialized products, textile products, agricultural products and those covered by the European Coal and Steel Community (ECSC) Treaty, adopted on a yearly basis²¹. The original GSP program of the EEC was focused on adhering to the UNCTAD declaration and NIEO principles, where the key intention was to develop economic growth of beneficiary states, so that they could have a fairly equal footing in economic competition with the rest of the developed world in the long run. This was to be achieved by both Trade Creation and Trade Diversion based on the grant of tariff concessions on specific products. However, the initial EEC GSP scheme was also keen on having reliable safeguard clauses to protect its own member state interests, especially in the Agricultural sector, and the scheme was to be carried out not based on any *bona fide* norms, but as an ordinary trade agreement based on documentation²².

However, at the aftermath of its initial 10-year period, the second round of GSP program that was laid down in 1981 had made significant developments to its predecessor. As by 1981, the EEC has expanded considerably in terms of membership, it had absorbed the previous GSP commitments of new member states such as the UK, Ireland and Denmark²³. Furthermore, the lucrateness of the GSP program was increased with the reduction of sensitive goods (to which the concessions were either not granted or the grant was minimal) and the broadening of the access of Agricultural products did indeed increased the EEC GSP program both qualitatively and quantitatively. The reduction of *priori* restrictions to beneficiaries and the abolition of reverse preference under the

²¹ Yusuf, A. (1982). Legal aspects of trade preferences for developing states: A study in the influence of development needs on the evolution of international law. Brill.

²² Davenport, M. (2017). Trade Policy, Protectionism and the Third World (Vol. 28). Routledge.

²³ Weston, A., Cable, V., & Hewitt, A. (1980). The Eec's Generalised System of Preferences— Evaluation and Recommendations for Change. Overseas Development Institute. doi: <https://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/8050.pdf>

Yaounde Convention could also be considered as significant developments. During this time period the GSP program was reviewed annually and hence was subject to frequent upgrades in product coverage, quotas, ceilings and their administration, beneficiaries and depth of tariff cuts. In 1991 the program was further extended till 1994, then until 2005.²⁴

The next important milestone of the EU's GSP program was reached on 2002, under the Council Regulation (EC) No 2501/2001 (as last amended by Council Regulation No 2211/2003). This was the first time the European Community implemented a diversified approach to GSP agreements. The initial scheme was consisted of five separate agreements, to which the beneficiary states could sign on to.

- a) General arrangements;
- b) Special incentive arrangements for the protection of labour rights;
- c) Special incentive arrangements for the protection of the environment;
- d) Special arrangements to combat drug production and trafficking;
- e) Special arrangements for the least developed countries (LDCs): Everything but Arms (EBA) initiative.

However, followed by a WTO dispute lodged by India in 2004 related to concerning special arrangements to combat drug production and trafficking²⁵, in 2006, the European Community adopted on 27 June 2005 Council Regulation (EC) No. 980/2005, which simplified the EU GSP program to 3 separate agreements.

- a) General arrangement
- b) Special incentive arrangements for sustainable development and good governance – “GSP Plus”
- c) Special arrangements for LDCs – “EBA”.

This three-tier basic structure remains effective in the EU GSP program to this date. However, subsequent changes introduced in 2009, 2011 and 2014 have further broadened these agreements

²⁴ *ibid*

²⁵ Dhar, B., & Majumdar, A. (2006). *The India-EC GSP Dispute: The Issues and the Process*. ICTSD Asia Dialogue on WTO Dispute Settlement and Sustainable Development.

in terms of Accepted products, Monitoring mechanism, rules of origin for the products, tariff concessions, period of applicability including product and country graduation etc.

2.3.1 General agreement

The General agreement or the standard GSP is applicable to all developing countries unless the country is classified by the World Bank as an high-income or upper-middle-income country for three consecutive years or it has another type of special trade access to the EU in the form of a preferential market access arrangement that provides the same tariff preferences as the scheme, or better, for substantially all trade. The standard GSP recipients are granted market access and tariff concessions over 6250 products with duty free access for non-sensitive products and 3.5% reduction of *Ad Valorem* or Specific Duty for sensitive products. The standard GSP program applies automatically for all eligible states and they have the option of both product and country graduation depending on their performance. At present there are 15 countries covered under the standard GSP program²⁶.

2.3.2 Special arrangements for LDCs – “EBA

The “Everything but Arms (EBA)” initiative provides Least Developed Countries (LDC) Duty and Quota Free access to all their products (except arms and ammunition) into the EU Market. Unlike the standard GSP arrangements, the EBA is a relatively fixed arrangement with rather relaxed standards (especially with regards to conditions such as state of origin and culmination), in order to be more favorable to the recipient states. To be qualified for the EBA program, a state has to be considered as a Least Developed Country (LDC) by the UN Committee for Development Policy. The EBA concessions are granted automatically for the states for the duration of it being an LDC without expiry nor graduation²⁷.

2.3.3 Special arrangements for sustainable development and good governance – “GSP Plus”

The 2006 introduction of the GSP plus scheme can be considered as an example of EU’s objective in influencing European Values on sustainable development and good governance throughout the world. The GSP Plus scheme allows developing states that are of certain criteria, to benefit further from the standard GSP agreements, in return of their commitment to protecting labour rights and

²⁶ Standard GSP. (2019, March 27). Retrieved from <https://trade.ec.europa.eu/tradehelp/standard-gsp>

²⁷ Everything But Arms. (2019, March 27). Retrieved from <https://trade.ec.europa.eu/tradehelp/everything-arms>

the environment and combating drug production and trafficking. It is a culmination of the three separate agreements in the related 2002 initial structure. The recipients of GSP Plus benefits must ratify and comply with 27 international conventions on human and labour rights, environmental protection and good governance, which would be monitored by the EU for effective implementation and compliance²⁸.

Unlike the two pre-2002 schemes, to be eligible for GSP Plus, a candidate must lodge an application whilst fulfilling the existing GSP requirements. There are two additional criteria.

1) Vulnerability

This would mean that the recipient state would have a non-diversified economy with as measured by the fact that its seven largest sections of GSP-covered imports represent more than 75% in value of its total GSP-covered imports to the European Union as an average during the past three consecutive years, along with the fact that there is a less than 6.5% of the import share is the three-year average share of GSP-covered imports of the specific beneficiary country, relative to the GSP-covered imports of all GSP countries

2) Sustainable Development

The country must have ratified the 27 core international conventions on human and labour rights, environmental protection and good governance without reservations. Furthermore, the most recent conclusions of the monitoring bodies under those conventions must not identify any serious failure to effectively implement them.

The 27 international conventions that are related to GSP Plus scheme are as follows...

a) Fifteen conventions relating to core human and labour rights

- i) Convention on the Prevention and Punishment of the Crime of Genocide (1948)
- ii) International Convention on the Elimination of All Forms of Racial Discrimination (1965)
- iii) International Covenant on Civil and Political Rights (1966)
- iv) International Covenant on Economic Social and Cultural Rights (1966)
- v) Convention on the Elimination of All Forms of Discrimination Against Women (1979)

²⁸ GSP. (2019, March 27). Retrieved from <https://trade.ec.europa.eu/tradehelp/gsp>

- vi) Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (1984)
 - vii) Convention on the Rights of the Child (1989)
 - viii) Convention concerning Forced or Compulsory Labour, No. 29 (1930)
 - ix) Convention concerning Freedom of Association and Protection of the Right to Organize, No. 87 (1948)
 - x) Convention concerning the Application of the Principles of the Right to Organize and to Bargain Collectively, No. 98 (1949)
 - xi) Convention concerning Equal Remuneration of Men and Women Workers for Work of Equal Value, No. 100 (1951)
 - xii) Convention concerning the Abolition of Forced Labour, No. 105 (1957)
 - xiii) Convention concerning Discrimination in Respect of Employment and Occupation, No. 111 (1958)
 - xiv) Convention concerning Minimum Age for Admission to Employment, No. 138 (1973)
 - xv) Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, No. 182 (1999)
- b) Twelve conventions relating to the environment, good governance and the fight against drug production and trafficking
- i) Convention on International Trade in Endangered Species of Wild Fauna and Flora (1973)
 - ii) Montreal Protocol on Substances that Deplete the Ozone Layer (1987)
 - iii) Basel Convention on the Control of Trans-boundary Movements of Hazardous Wastes and Their Disposal (1989)
 - iv) Convention on Biological Diversity (1992)
 - v) United Nations Framework Convention on Climate Change (1992)
 - vi) Cartagena Protocol on Biosafety (2000)
 - vii) Stockholm Convention on Persistent Organic Pollutants (2001)
 - viii) Kyoto Protocol to the United Nations Framework Convention on Climate Change (1998)

- ix) United Nations Single Convention on Narcotic Drugs (1961)
- x) United Nations Convention on Psychotropic Substances (1971)
- xi) United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988)
- xii) United Nations Convention against Corruption (2004).

Once a candidate is accepted into the GSP Plus scheme, in return of its commitment, it enjoys further reduction of tariffs in the form of total reduction in either specific duties or *ad valorem* duties and an expansion of product access to the EU market.

The most distinctive aspect of the GSP Plus program is its monitoring process. Unlike the previous initiatives, the GSP Plus program places additional burden from the part of the beneficiary, which *prima facie* appears to be of reciprocal in nature, in return of the benefits it receives. However, it could also be argued that this is in fact an obligation that is for the beneficiary's own long-term benefit. Throughout the time period of receiving GSP Plus benefits, the recipient state must continue maintenance with the ratification of the 27 core conventions, including effective implementation and compliance. It must also accept regular monitoring by the EU through appropriate means and be willing to provide all necessary information ensuring full cooperation with the European Commission.

The monitoring process is considered by the EU as a long-term dialogue between the EU and the beneficiary state, rather than a formal inquiry that could trespass certain aspects of state sovereignty. Instead, the constant monitoring of a beneficiary state's commitment to the GSP Plus values are evaluated in the means of a score card, with the information received from the beneficiary countries and international monitoring bodies and from other sources, including civil society, social partners, businesses, the European Parliament and the Council. This also includes frequent visits by EU delegates to the beneficiary states. This gives more say to the beneficiary states in demonstrating its commitment as the burden of proof is placed on them. The result of these dialogues is compiled into bi-annual reports and are presented by the European Commission to both the European Parliament and the European Council, where the progress is assessed and decided on continuation or temporary/permanent withdrawal of the GSP Plus status of the beneficiary.

3. Part Two: EU GSP and Sri Lanka

- EU GSP and Sri Lanka
- History of EU Sri Lanka Relations
- Sri Lanka's entry into GSP
- Sri Lanka's GSP plus Withdrawal 2010
- Impact Sri Lanka's GSP plus Withdrawal 2010
- Sri Lanka's re-entry into GSP 2017
- EU Sri Lanka Trade Relations under new GSP Plus

3.1 EU GSP and Sri Lanka

In the course of Part 2 of this thesis, the Role played by the European Union's Generalized Scheme of Preference with regards to developing countries would be described and analysed with the specific focus regards to Sri Lanka.

According to 2014 data, the European Union is the second largest trading partner with Sri Lanka, which has been achieved when considering overall trade of both imports and exports that surpasses that of China and the United States respectively trailing only behind India. The difference between the imports and exports is also significant as Sri Lanka has exported 2.5 Billion Euros worth products to the EU (which amounts to 32% of the overall exports of the country), whilst importing 1.1 Billion Euros worth product from the EU (which amounts to 8% of the overall imports of the country)²⁹

An interesting point on Sri Lanka's export products to EU is that it is largely dominated by Apparels, which in quantitative terms amounts to about 60% of the country's overall exports and 82% of exports to EU. The other export products mainly include Agricultural products, fisheries, raw material, semi-manufactured products and to an extent industrial materiel.³⁰ This paints a clear picture as to what resources and technology are utilized within Sri Lanka in order to meet these export demands and at the same time, their overall effects. In that regard, the involvement of EU's

²⁹ Sri Lanka and the EU. (n.d.). Retrieved from https://eeas.europa.eu/headquarters/headquarters-homepage/1827/sri-lanka-and-eu_mt

³⁰ *ibid*

GSP program in incentivizing the economic development in Sri Lanka should be analysed together with the existing standards of the country.

Apart from current trade factors, other socio-political factors that currently prevail in Sri Lanka should also be taken into consideration. Sri Lanka is a multi-ethnic and multi-religious country which has undergone various political and social upheavals throughout its post-colonial era since 1948. It has gone through a period of socialist political rule between 1970-1977 with a closed economy and a drastic turn back to an open economy in 1978. It has suffered 2 communist insurgencies in 1971 and 1988-89 respectively, and at the same time undergoing a 30 year long armed insurgency by a separatist militant group in the country's Northern and Eastern provinces, that at certain points of time taken the form of a civil war, only to be suppressed militarily in 2009. And even after 11 years, the country is still going through a period of reconciliation. These factors do play a significant role when it comes to implementing GSP obligations.

3.2 History of EU Sri Lanka Relations

The history of relations between Sri Lanka and the European Union (then EEC) goes back to 1975, when the first Commercial Cooperation Agreement between the two entities was signed. At that time Sri Lanka was slowly emerging from a closed economy under socialist rule, which particularly marks the significance due to its influence made on the transition of Sri Lanka's economic policies. However, the most notable milestone between Sri Lanka and the EU was reached with a comprehensive Cooperation Agreement on Partnership and Development was signed in 1995. Since then the European Union has been working closely with Sri Lanka in the areas of trade development, providing technical knowhow, creating networks with the international community, elevating living standards of Sri Lankans and also resolve issues related to human rights and reconciliation etc.

3.3 Sri Lanka's entry into GSP and GSP Plus (1995 – 2010)

Sri Lanka's entry into EU GSP can be first attributed to the 1995 comprehensive Cooperation Agreement on Partnership and Development, where Sri Lanka could properly utilize the preferential trade incentives that were granted from the EU. And gradually, the export industry in Sri Lanka increased its trade volume with the EU. This can be clearly seen in the table below.

Table 1: Imports to EU from Sri Lanka

Main partners	Value (Mio ECU/Euro)											
	1980	1990	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
Sri Lanka	240	440	730	886	930	990	1,145	1,192	1,290	1,907	1,552	1,437

Table 2: Trade balance between EU and Sri Lanka

Main partners	Value (Mio ECU/Euro)											
	1980	1990	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
Sri Lanka	59	-93	-167	-84	-210	-316	-260	-393	-143	-326	-567	-553

The high increase in Sri Lankan exports to the EU and the considerable increase in its negative trade balance especially during the 1995 – 2002 time periods is a good example to show the continued upward growth of Sri Lankan trade with the EU backed by concessions under the GSP.

Therefore, when the EU rolled out its GSP Plus scheme in 2005, the European Union was one of the main trading partners of Sri Lanka, thereby providing a major incentive to take part in the GSP Plus scheme.

In 2005, Sri Lanka officially submitted its application for the EU's GSP Plus program and was successfully declared as a beneficiary. As the EU was one of the leading trading partners of Sri Lanka by that time, the additional benefits gained by could be visible. In return of the trade concessions, Sri Lanka did in fact took steps in ratifying and implementing the 27 core international conventions.

Table 3: Sri Lanka exports to EU 2005 - 2011

Sri Lanka exports to EU 2005-2009							
000 Dollars	2005	2006	2007	2008	2009	2010	2011
Exports to EU	1,910,020	2,297,128	2,878,979	3,019,378	2,736,443	2,901,142	3,558,960
		GSP+	as GSP+	as GSP+	as GSP+		

Source: Comtrade

However, by 2008, the European Commission had placed Sri Lanka's candidature in GSP Plus program under supervision. The supervisory report that was issued in 2009 raised several allegations against Sri Lanka with regards to the state's failure in its commitment towards the Covenant on Civil and Political Rights, the Convention against Torture, and the Convention on the Rights of Child. The initial allegations had been raised to Sri Lankan Government's efforts in putting down the separatist insurgency in the island, which had been investigated with the participation of civil society organizations and visits made by EU delegations. Due to lack of cooperation from the Sri Lankan government in effectively raising a defence against the allegations, the European Commission proposed in 2009 a temporary withdrawal of GSP Plus concessions to Sri Lanka. Despite the communications made to the Sri Lankan government in 2010 for the rectification of issues raised by the 2009 report, namely the cancellation of the state of emergency, the abolishment of the 'Prevention of Terrorism Act', and the implementation of the 17th Amendment to the Constitution, there was no positive response from the latter. Hence in 2010 August, based on Article 16(2) of Regulation (EC) 980/2005, the EU regulation was issued withdrawing the GSP Plus benefits from Sri Lanka "*until it is decided that the reasons justifying the temporary withdrawal no longer prevail*"³¹.

³¹ Carbone, M., & Orbie, J. (Eds.). (2016). The trade-development nexus in the European Union: differentiation, coherence and norms. Routledge. p69

3.4 Sri Lanka's GSP plus Withdrawal 2010

The withdrawal of GSP Plus beneficiary status of Sri Lanka is quite significant as it marks one of the rare occurrences of sanctions that had been imposed by the European Union with related to preferential trade agreements. It also draws the attention to the relationship between the EU's Common Foreign and Security Policy (CFSP) and its Generalized Scheme of Preferences (GSP) program. Although, *prima facie*, the GSP program is considered as an act of positive response by the European Union to the 1968 pledge by UNCTAD in creating a non-discriminatory, non-reciprocal generalized system of trade preferences to enhance the economic development of under-developed countries, the coherence of GSP withdrawals and CFSP sanctions in the recent past, which includes Sri Lanka, gives rise to the concern as to whether the current structure of the GSP program does adhere to its earlier objectives³².

Interestingly, since its implementation of the GSP program, there have only been 3 occurrences where EU had withdrawn the beneficiary status of a country in the form of a sanction. These three countries are Myanmar, Belarus and Sri Lanka. And out of these three cases, both Myanmar and Burma had been relieved of their GSP beneficiary status due to breaches of core labour standards. And Sri Lanka is the only country whose GSP Plus beneficiary status had been withdrawn based on alleged breaches of International human rights/humanitarian law. It is also one of the only two cases, where the EU had even initiated investigations related to breaches of International human rights/humanitarian law of beneficiary countries, the other being Russia.

Table 4: GSP Beneficiaries at fault³³

Name of beneficiary	Previous CFSP sanctions	ILO Commission of Inquiry	Type of (alleged) violation	Type of suspension
Myanmar	Yes	Yes (1996 established, report in 1998); art 33 in 2000	Core labour standard	GSP withdrawal
Pakistan	No	No	Core labour standard	None
China	No ^a	No	Core labour standard	None
India	No	No	Non-proliferation	None
Russia	No	No	HR/humanitarian law	None
Belarus	Yes	Yes (2003 established, report in 2004)	Core labour standard	GSP withdrawal
Sri Lanka	No	No	HR/humanitarian law	GSP+ to GSP
Zimbabwe	Yes	Yes (2008 established, report in 2010)	Core labour standards	None

³² *ibid*

³³ Source: Own elaboration based on European Commission (2013), Portela (2010), and Orbie and Tortell (2009).
^aThe arms embargo on China is not a CFSP sanction (see Portela 2010).

The European commission investigation that was initiated Article 18(2) of Council Regulation (EC) No 980/2005 in 2009 on Sri Lanka was mainly based on reports and statements by UN Special rapporteurs, non-government organizations and civil society activists. Thus, it would be appropriate to analyse how the allegations were evaluated by the commission.

The investigation was primarily focused on three International conventions that are mentioned as core human rights conventions under Regulation (EC) No 980/2005.

- I. International Covenant on Civil and Political Rights ("ICCPR")
- II. Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment ("CAT")
- III. Convention on the Rights of the Child ("CRC")

In assessing the effectiveness of the implementation of the above three conventions in Sri Lanka, the European Commission has followed the interpretation and implementation approach of the UN bodies of the related conventions, where implementation certain elements of the conventions have been deemed essential for overall implementation of such conventions were to be deemed effective. And the Commission had also upheld then approach of the independent experts who compiled the 2009 report (retired Judge L. Sevón, Professor F. Hampson and Professor R. Wieruszewski), where effective implementation was evaluated not solely on the occurrence of isolated cases of violation of treaty provisions, but based on the government's ability to identifying whether an action or an omission a violation and take action to redress the issue and to prevent any future occurrence from taking place. According to the independent experts' report, any widespread occurrence of violations could be amount to less effectiveness of domestic mechanism in implementing the treaty obligations. This argument was further strengthened by the fact that, being a country that follows the dualist system of implementing international law, the corresponding local legislature had failed to cover the essential elements of the international conventions that had cast doubt on effectiveness³⁴.

³⁴ European Union, European Commission. (2009). *Report on the findings of the investigation with respect to the effective implementation of certain human rights conventions in Sri Lanka*. Retrieved from <https://reliefweb.int/report/sri-lanka/observations-government-sri-lanka-respect-report-findings-investigation-respect>

With regards to ICCPR, The commission report claimed that the local legislation, the ICCPR Act, which had been implemented to close the gaps between the then existed constitutional and other legal provisions, in terms of matching the international convention's rights, had failed to achieve its goals, especially with regards to the right to life. Although there exists an advisory opinion by the Sri Lanka's Supreme Court that the combined effect of Chapter III of the Constitution, the ICCPR Act, several other laws and judgments of the Sri Lankan courts was to ensure that the provisions of the ICCPR were fully transposed into Sri Lankan law. However, the Commission was in the view that the implied recognition granted under Sri Lankan law towards right to life (*Kottabadu Durage Sriyani Silva vs. Chanaka Iddamalgoda, Officer in Charge, Police Station Payagala and Six others 2003*)³⁵ were not sufficient enough to meet the ICCPR standards, due to it not being absolute, but qualified under Court decision.

Furthermore, The Commission also considered the restrictions placed under Sri Lankan law in terms of fundamental rights especially in view of National Security were in fact had not met the standards of the international convention in ensuring the rule of law as underogatory, even during a state of emergency. This argument was strengthened by the enactment of the Emergency (Miscellaneous Provisions and Powers) Regulation 2005 and the Emergency (Prevention and Prohibition of Terrorism and Specified Terrorist Activities) Regulation 2006, which had given Military personnel sweeping powers over activities were previously under the civil law enforcement agencies such as the Police. Avenues of "self-incrimination" based on obligatory duties imposed on general public to security personnel was considered by the Commission as actions that do not meet the standards such as presumption of innocence under the rule of law, as derived under ICCPR.

With regards to Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment ("CAT"), the Commission report generally agreed with the Sri Lanka's actions into implementing CAT provisions into domestic law, especially with regards to the constitutional provisions proscribing torture or inhumane and degrading treatment along with the adoption of Convention against Torture or other Cruel, Inhuman or Degrading Treatment or Punishment Act 1994 that criminalizes such activities, it pointed out to criticisms related to its effectiveness in

³⁵ *Kottabadu Durage Sriyani Silva vs. Chanaka Iddamalgoda, Officer in Charge, Police Station Payagala and Six others*, [2003] 2 Sri LR 63

terms of compensation to victims and procedural loop-holes in the local Code of Criminal Procedure such as the rights of persons held in custody for medical and legal advice and to communicate with family members, which could lead to buses of the system, thus negating the effectiveness of implementation of CAT standards, especially under emergency regulations.

With regards to allegations of breaches in Convention on the Rights of the Child ("CRC") however, the European Commission report 2009 had expressed its satisfaction over the effective local implementation of the international convention.

Apart from the investigation on effective implementation of core international conventions, the EC report had also raised concerns over general practices Good Governance, such as the then government's undermining of democratic values on the separation of power by abolishing the 17th amendment to the constitution that had established independent commissions over appointments of high government, judicial and police officials and also abuse of executive powers in terms of interfering with public prosecutions.

Based on the above assessments, the European Commission, in its 2009 report, had also laid out a series of recommendations to the Sri Lankan government in taking measures to address the shortcomings in effective implementation of its GSP Plus commitments. These recommendations included the amendment of several parliamentary legislation to further strengthen the position of international conventions under domestic law, to set up an independent and credible inquiry into the alleged human rights abuses and violations that had been raised against government institutions and personnel, especially with regards to putting down the armed insurgency in the North and East and also to increase its efforts on accountability in providing justice to the victims of such rights abuses.

However, in return of these allegations and recommendations, the then Sri Lankan government raised concerns over encroachment of state sovereignty. The government also raised the sensitiveness of the circumstances of the time period during which the allegations had been raised, which was in fact the final phases of the war with the Separatist movement. The Sri Lankan government however, further insisted that it was engaged in an effective dialogue with the

European Commission through diplomatic channels, in order to resolve the issues on mutual interest. But the government vehemently opposed to an investigation on the matter.³⁶

Unfortunately, this did not meet the satisfaction of the European Commission in terms of cooperation of the beneficiary state related to the monitoring mechanism, thus resulting in the Commission's recommendation to the European Council under Council Regulation (EC) No. 732/2008 to withdraw the beneficiary rights of GSP Plus program, which was initially adopted for a period of 6 months, but followed by the continue strife, was withdrawn in 2010 "until it is decided that the reasons justifying the temporary withdrawal no longer prevail".

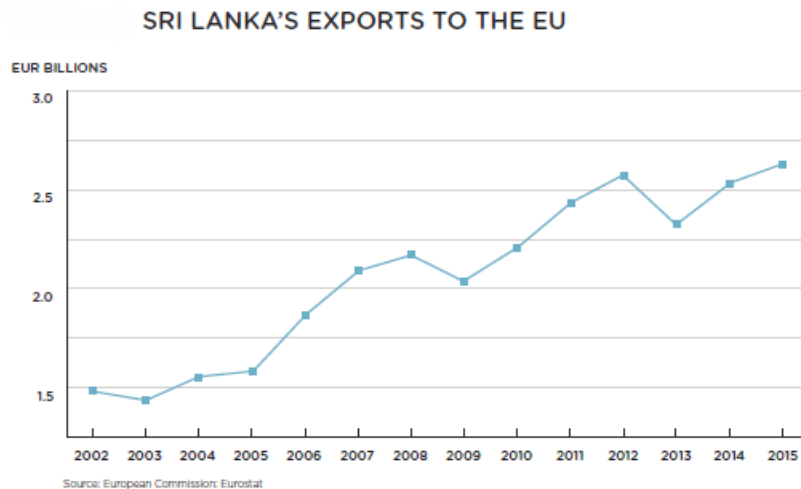
3.5 Impact of Sri Lanka's GSP plus Withdrawal 2010

The impact suffered by Sri Lanka due to the withdrawal of GSP Plus trade concessions is a highly debated topic. There are arguments to the notion that it had made a strong impact for the growth of Sri Lankan economy by way of putting additional pressure. On the other hand, there are also arguments that downplay its impact by pointing out that it was a mere fact of over-reliance and could be managed in the long run, which if fact would be a "blessing in disguise" to adapt Sri Lankan exporters to face the global competition. However, the data on Sri Lanka's trade with the EU during the time period 2010 – 2017 gives way for either interpretation.

The Outright market reactions at the onset of GSP Plus withdrawal is clearly visible in data between 2008-2009 time period. This is indeed an unsurprising response to the Market shock. As the graph below shows, the export market has bounced back from the shock in the successive years.

³⁶ Sri Lanka: Statement on the GSP report of the European Commission of 19 Oct 2009 - Sri Lanka. (n.d.). Retrieved from <https://reliefweb.int/report/sri-lanka/sri-lanka-statement-gsp-report-european-commission-19-oct-2009>

Table 5: Sri Lanka's exports to EU (2002 – 2015)

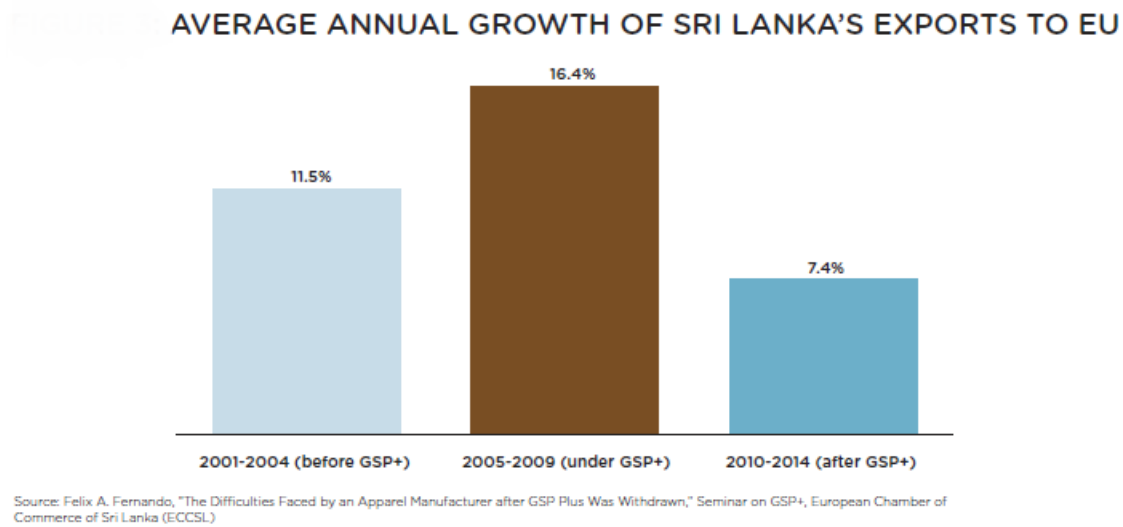


This argument has been backed up by Mahipala (2010) who claims that although the GSP Plus scheme had benefited the country, its loss was “not the end of the world.” Furthermore, He claims that increasing efficiency to meet the competition ensures the long-term growth of the trade.³⁷

On the other hand, if one could view the GSP Plus program in light of incentivization of economic development, the same data could paint a different picture. In this case, when comparing the influence of the GSP Plus program in increasing the growth of trade as opposed to trade volume, the graph below shows an adverse impact towards trade growth in the post GSP Plus time period.

³⁷ BAM ventures out in East with agri project. (2010, January 3). Sunday Observer. Retrieved from <http://archives.sundayobserver.lk/2010/01/03/fin01.asp>

Table 6: Average annual growth of Sri Lanka's exports to EU (2001 – 2014)

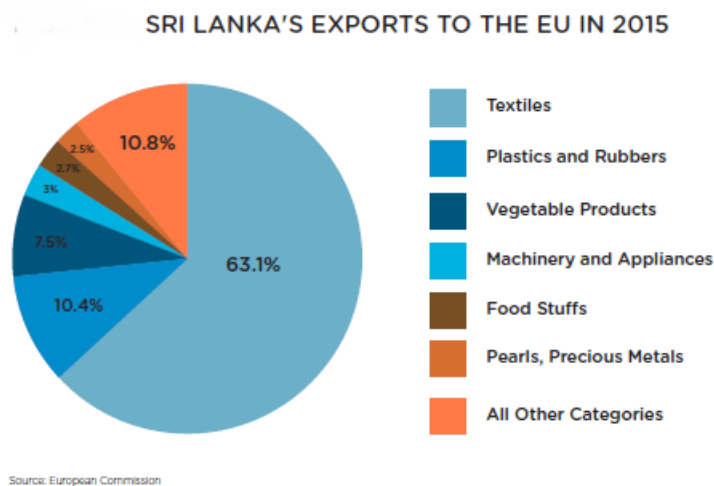


This drastic drop in export growth is a clear example as to the reliance of Sri Lankan exporters in expanding their exports into the European Markets. This view is shared by Kalegama (2010), who claims that this is a result of Sri Lanka being vulnerable to the varying fortunes of global trading system. According to him, although Sri Lanka may not be an important trading partner to the EU, it could not be the case vice versa as the majority of Sri Lanka's export goods are sent to EU. As he points out, without GSP Plus concessions, the Sri Lankan exporters have no option but to accept the additional tax burden and, in such circumstances, the loss of Sri Lanka's market share in the EU to other competitors such as India and China would be inevitable³⁸.

The impact of the 2010 GSP Plus trade withdrawal could be further elaborated by examining the export trade composition Sri Lanka, which remains, to a greater extent, the same to this date. The export goods portfolio is considerably unbalanced towards the textile sector. This is mainly due to the fact of availability of resources, mainly non-skilled labour. Since most of the raw materials that are required to produce textiles do not originate from the country, this leaves the exporters with thinner margins of profit. Therefore, there is an understandable tendency towards relying on trade concessions, which in case of sudden withdrawal, indeed create problems.

³⁸ Kelegama, S. (2010). Ready-made garment industry in Sri Lanka: Facing the global challenge. Institute of Policy Studies.

Table 7: Sri Lanka's export portfolio to the EU (2015)



According to Sri Lanka Apparels association (2009), the growth of exports goods in the textile sector over the 2005-2009 time period was largely due to the GSP Plus concessions. As its chairman had pointed out, it had helped them to continue to expand their exports to EU even during times of economic downturn. This view is backed up by Aneez (2010) who points out that the estimated value of 100 Million Euros of extra tariffs by 2010, could have amounted to the loss of competitiveness and market share, thereby rendering a considerable number of small and medium businesses obsolete. This over-dependency is pointed out by Kalegama (2010) that specially during the 2005 – 2009 time period, majority of the export growth was owned to lucrative tariff concessions.³⁹

³⁹ Withanawasam, M. P. K., & Kumara, U. A. (2013). THE IMPACT OF GSP+ WITHDRAWAL ON SRI LANKAN ECONOMY. In Proceedings of International Conference on Business Management (Vol. 10).

3.6 Sri Lanka's re-entry into GSP 2017

With the change of the governments in Sri Lanka in 2015, the new political authority was willing to cooperate with the European Union in terms of regaining the GSP Plus concessions. Opposed to its predecessors, the new Unity government of Sri Lanka was keen to express its support in answering the initial shortcomings the European Commission had raised in its 2009 report that resulted in Sri Lanka's GSP withdrawal. Accordingly, in 2017, Sri Lanka once again submitted its application to be eligible for the GSP Plus concessions. During the 2015-2017 time period, the Sri Lankan government had been actively engaged with International Organizations such as the United Nations in properly addressing the allegations that had been levelled against the country in 2007-2010 time period, especially with regards to alleged human rights violations, war crimes and reconciliation process. Most notably, co-sponsoring the Resolution 30/1 of the United Nation's Human Rights Council (UNHCR) on Promoting reconciliation, accountability, and human rights in Sri Lanka was indeed a positive course of action in favour of the GSP Plus program.

However, it is also important to notice the approach of the European Union in terms of re-considering Sri Lanka's GSP Plus application. According to the *Report on assessment of the application for GSP Plus by Sri Lanka* submitted by the European Commission in 2017, the re-entry criteria had been evaluated in line with the new GSP Plus regulations adopted in 2012.⁴⁰

According to Article 9(1) of the European Parliament and the Council Regulation (EU) No 978/2012 (GSP Regulation), GSP+ preferences may be granted to a country which:

- a) is considered to be vulnerable;
- b) has ratified all the conventions listed in Annex VIII to the GSP Regulation and the most recent available conclusions of the monitoring bodies under those conventions do not identify a serious failure to effectively implement any of those conventions;
- c) in relation to any of the relevant conventions, has not formulated a reservation which is prohibited by any of those conventions or which for the purposes of Article 9 of the GSP Regulation is considered to be incompatible with the object and purpose of that convention;

⁴⁰ European Union, European Commission. (2017). *Report on assessment of the application for GSP+ by Sri Lanka*. Retrieved from https://trade.ec.europa.eu/doclib/docs/2017/january/tradoc_155236.pdf

- d) accepts without reservation the reporting requirements imposed by each convention and gives binding undertakings referred to in points (d), (e) and (f) of Article 9(1) of the GSP Regulation.

Whilst the evaluation of the vulnerability criterion (a) remains the same as in previous GSP regulation in 2005, the most notable distinction under the 2012 GSP regulation is the approach towards the Sustainable Development Criteria that includes the beneficiary country's ratification and effective implementation of the core 27 international conventions related to the GSP Plus program. As opposed to 2005 regulation, the 2012 GSP regulation has taken a broader approach towards evaluation of the said criteria. This is evident in the 2017 assessment report where the Commission evaluates the term "serious error" under section (C) of Article 9(1), with a broader interpretation. In this regard, the commission has taken the view that the overall objective of GSP Plus program is to help vulnerable developing countries assume the special burdens and responsibilities resulting from the ratification and effective implementation of the relevant conventions, and that in this regard, the implementation of the GSP Plus commitments should be evaluated with a positive consideration towards the challenges faced by developing countries towards implementing them. The Commission further emphasizes that even developed states have, in certain circumstances, difficulty in implementing such conventions and are met with shortcomings. And the Commission's position that not every problem of implementation should lead to the exclusion of countries from the scheme, but a decision should be taken by evaluating the overall commitment and its progress, can be viewed as a considerably lenient approach. Most importantly, in the Assessment report 2017, the Commission upholds the fact that the GSP Plus initiative should recognize the special needs of the developing countries in this respect and should provide additional incentives.

The adoption of a set of general principles as a benchmark for "serious error", can be seen as another important factor in the Commission's approach to ensuring the meaningful and consistent implantation of the core conventions. According to the Commission, such consistent application is fundamental to respect the non-discrimination principle.

According to the revised GSP regulations, in 2017 Sri Lanka was re-admitted to the GSP Plus program. And in the subsequent years (2018-2019), the Annual Assessment reports on Sri Lanka's commitment to GSP Plus obligations have been viewed by the European Commission in a positive

manner. In both the reports, the European commission has pointed out both the progress made by the Sri Lankan government, especially in terms of addressing the shortcomings in the domestic legislature to give full effect to core international conventions and the areas that are yet to be shown progress

2016-17 assessment⁴¹:

Positive:

Right to Information (RTI) law, 19th Constitutional Amendment which led to the reappointment and strengthening of independent oversight commissions, such as the Human Rights Commission of Sri Lanka (HRCSL), A National Action Plan for the Promotion and Protection of Human Rights, The Office on Missing Persons (OMP) Act, the National Policy on Durable Solutions for Conflict-Affected Displacement, ratification of the ILO Protocol 29 on forced or compulsory labour with human trafficking, National Adaptation Plan for Climate Change Impacts, setting up an independent Commission to Investigate Allegations of Bribery or Corruption

Negative:

Repeal of the Prevention of Terrorism Act (PTA) and its replacement with counter-terrorism legislation that is in line with international standards, the amendment of the Code of Criminal Procedure to include the right of detainees to immediate access to legal counsel, the return of land occupied by the military, and establishing the truth about the fate of the missing and disappeared persons during the civil war and its aftermath.

2018-2019 assessment⁴²:

Positive:

Office on Missing Persons and the Office for Reparation, The accession to the Optional Protocol to the UN Convention Against Torture (OPCAT), the adoption of Enforced Disappearances Act,

⁴¹ European Union, European Commission. (2018). ('GSP+') assessment of Sri Lanka covering the period 2016 - 2017. Retrieved from <https://eur-lex.europa.eu/legal-content/IT/TXT/?uri=CELEX:52018SC0031>

⁴² European Union, European Commission. (2018). ('GSP+') assessment of Sri Lanka covering the period 2018 - 2019. Retrieved from <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020SC0025>

Right to Information Act, Accession to the Optional Protocol to the Convention Against Torture (OPCAT)

Negative:

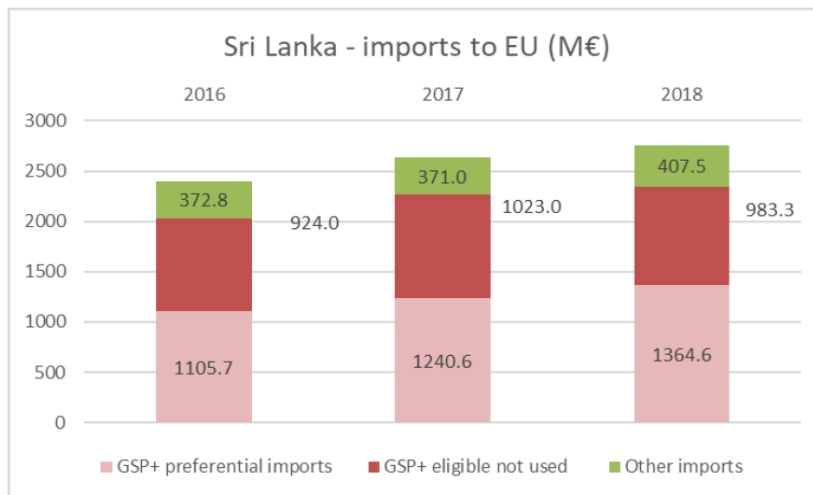
Meaningful moratorium on the death penalty; the repeal of the Prevention of Terrorism Act (PTA); adoption and implementation of legislation against domestic violence; combating sexual exploitation of children; prevention of torture; and anti-discrimination legislation.

When observing the recent assessment reports it can be understood that the current approach of the European Commission in terms of monitoring the beneficiary country’s commitment towards the GSP Plus obligations are of a comprehensive nature with an overall picture, that is more focused on using the trade concessions as an incentive in assisting the beneficiary state in making progress, rather than using it as a bargaining tool in enforcing the GSP Plus obligations.

3.7 EU Sri Lanka Trade Relations under new GSP Plus

In terms of EU - Sri Lanka trade relations, the re-entry into the GSP Plus program has generally bourn positive results. However, Due to domestic political turmoil that prevailed along with the *2019 Easter Sunday Terrorist attack*, the overall trade in Sri Lanka has faced considerable pressure. Adjusted to such conditions, the overall trade picture can be seen as developing.

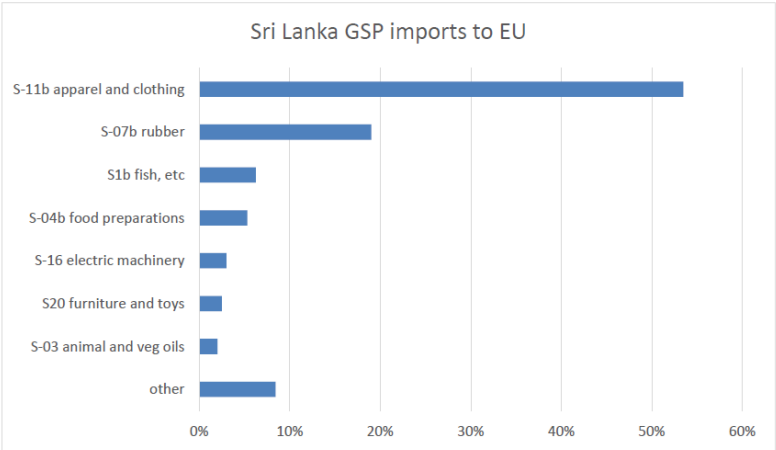
Table 8: Sri Lanka’s exports to the EU 2016-2018 by regime



Source: European Commission

However, the ongoing problem of non-balanced diversification is still seemed to be evident and is yet to be addressed in order to obtain any future meaningful overall progress in the country's economic development.

Table 9: Sri Lanka's exports to the EU 2016-2018 by Product



Source: European Commission

4. Part Three – Policy Implications and Conclusion

- Practical aspects of adhering to GSP conditions; Developing countries
- Problems and challenges
- Comparison between the pros and cons of joining the EU GSP; Developing country's point of view
- Possible changes that could be made to increase the effectiveness of the GSP

4.1 Policy Implications

The Generalized Scheme of Preferences (GSP) of the European Union has been a model initiative for many developed nations since its initial introduction in 1971 as an answer to the call of UNCTAD in its resolution in 1968 in creating a level playing field for less developed countries in facing the Post World War neo-liberal economic policies of the international community. By being in line with the pledges made in the New International Economic World Order in the 1970, the European Union's GSP program has been vehemently focused on expanding the non-reciprocal and non-discriminatory trade incentives granted towards developing nations. And over the years it has indeed achieved considerable success. However, in light of its gradual evolution, it is necessary to evaluate the implications of its policies related to the GSP program from the point of view of the developing countries, which should be a key yardstick in measuring the effectiveness of the initiative. When considering the GSP Plus initiative, by being a program that has touched both the economic and socio-political aspects, it is important to evaluate whether the final outcome has justified its means.

When the overall implementation of preferential trade agreements is taken into evaluation, it could be seen that there are considerable inconsistencies in the application of conditionalities by the European Union. Especially, when Trade Agreements related to ASEAN countries or China, it could be seen that the applicability and the interpretation of essential elements in international conventions have significant derogations. This is of quite contrasting nature, when it comes to the GSP Plus initiative, which are being made available for developing countries. In that way, it could be argued that the EU approach to Political Conditionality is considerably driven by factors such as geo-political, economic and security interests. This however is contrary to the basic ideology behind the GSP initiative, that is based on assisting the long-term economic development of

developing states, which is hard to achieve amidst additional pressure on hard political conditionalities.

Especially with regards to the consistency of the application of political conditions, it is also important to point out the rigid dogma that has been imposed by the European Union towards developing countries. With regards to political conditionalities such as rule of law, it is an unarguable truth that, such ideologies are products of long-term changes of socio-political thought. Especially in Europe, philosophies of supremacy of law, democracy and good governance have been formulated through centuries of turmoil, renaissance and even war. In such circumstances, imposing developing countries, most of them who are still stepping out of colonial and feudal mindsets, the same conditionalities and to with an expectation of short-term success could be both counter-productive and damaging. Whilst this is a noble cause that, if could be incentivized on a long term scale, could be quite fruitful, under the current policy framework, could most probably be rejected by the respective governments of developing states as the political costs associated with such conditionalities could outweigh the economic benefits associated with the GSP Program.

Another significant factor that fuels the earlier argument of forced conditionalities could be attributed to the rigidity of the EU approach towards the subject. The classical approach of "One size fits all" where a common policy framework is imposed on a diverse group of developing states, each with their own composition in terms of both politics and economy, have been proven to be rather ineffective in other instances of international relations. Especially with regards to the Bretton-Woods system, which had initially followed a uniform policy towards all countries, is a good example of meeting resistance from the recipients. There is clear evidence as to how such rigid policies had resulted in both political and economic turmoil in many developing countries. This has been pointed out by scholars such as Joseph Stiglitz, who had highlighted the political costs of "one size fits all" policies. Furthermore, even the UNCTAD, the very organization who sphere headed the non-reciprocal and non-discriminatory economic development initiative in 1968, had highlighted the need for "policy Space" for developing countries. At present the decedents of the Bretton-Woods system, namely the World bank and the International Monetary Fund (IMF) have adapted to a more flexible approach ensuring positive outcome. This is indeed a point of guidance that could be embraced by the EU as well.

Apart from conditionalities, the extent to which the monitoring of the beneficiary states' commitment towards the GSP Plus obligations is another area that could potentially undermine the overall objective of the initiative. In case of the GSP Plus program, monitoring has been given much more significance than the general and EBA agreements. Apart from general observance on economic aspects such as state of origin and culmination, the GSP Plus scheme has placed a higher significance on the monitoring of the sustainable development criterion. In terms of monitoring the compliance of core international conventions, the creation of parallel mechanisms to the existing monitoring bodies related to the said conventions such as the International Human Rights Council (UNHCR), the International Labour Organization (ILO) etc., could have the possibility of "over-observance", that might lead to distortion of the exiting situation in terms of exaggeration. This could be clearly observed in the case of Sri Lanka, where the monitoring of rigid compliance bore adverse results in the long run. If this could be balanced with the trade policy, better results could be achieved.

With regards to Using the withdrawal of GSP Plus concessions as a means of sanction against failures of beneficiary states in implementing their commitments effectively Could also be subjected to debate, based on the key objectives of the GSP Plus program itself. As the EU GSP program is primarily based on Poverty Reduction, Sustainable Development and Good Governance, there could be a possibility of the Poverty Reduction and Sustainable Development objectives being undermined in case the EU withdraws the GSP Plus concessions based on flaws related to good governance. This was clearly the case with Sri Lanka as the withdrawal of GSP Plus concessions in 2009 made a significant impact on the Appeals industry of the country which is the sole income of a considerable portion of Sri Lanka's work force. This was worse in the case of small and medium exporters as the effects there were far greater, especially in terms of being in business. Furthermore, due to the excess financial burden faced by producers, many initiatives that had been taken with the focus of sustainable development such as "garments without guilt" – an initiative of over 130 apparel industries voluntarily submitting themselves for an independent audit on labour conditions and a green initiative taken to reduce the carbon footprint caused by the textile industry (which in fact had been the first eco-friendly garments factory program in a developing country) had been substantially slowed down. Therefore, in the case of Sri Lanka, the over-emphasis on the political conditionality of the GSP Plus program had bourn negative results in achieving the overall objectives of the Scheme.

Therefore, in spite of using the withdrawal of tariff concessions as a means of sanction, much more effectiveness could be obtained by opting for an approach with Voluntary Sustainability Standard (VSS). This could be done by placing monitoring bodies to implement voluntary standards on sustainability across firms within a beneficiary country in order to monitor their compliance. In this way, as Schukat & Rust (2014) states, it allows for a targeted approach towards individual firms. This would be quite effective in cases such as effective adherence to satisfactory labour standards, there under the conventional GSP system, the remedy would be general sanctions, which could affect even those who attempt to follow the proper standards and also ones who are engaged in a different export product. However, there are equal criticism as to over-reliance of Voluntary Standards focused on individual economic operators as this could also provide an avenue for the state institutions to shift the blame and responsibility to individual firms, in case of a serious breach of GSP obligations. Therefore, the best approach in such as case would be implementing voluntary standards coupled with a meaningful dialogue with the state actors in overall facilitation and facilitation.

4.2 Conclusion

All these implications clearly point to the common policy conclusion that the effectiveness of using economic policy in promoting human rights and good governance in developing countries in general is less than expected. By observing the growth patterns of many formerly under-developed countries who had become developed over the course of time, as well as taking into consideration the diverse characteristics of developing countries, it could be said that aspects such as good governance and democracy building are more successful when they are not driven by external forces, but are adopted through internal changes of public mindset. Hence, the rise to Democracy and Good Governance would be much sustainable and effective when they are tailor-made to suit the individual country, rather than as an obligation in return of an economic benefit.

Greater success can be achieved if the GSP Plus trade incentives are to be used in a positive manner in reinforcing the process of democracy building by enhancing the economic development of the country, instead of being used as a punitive weapon, which in the long run would strengthen the gradual process of achieving good governance. In order to achieve this goal, the GSP Plus policy

should be more flexible that takes into account the circumstances of individual countries. This would indeed help the European Union to constructively engage in a political dialogue with the developing countries by working together, not ahead, of its beneficiaries.

The case of Sri Lanka provides the perfect example of the evolution of the European Union's Generalized Scheme of Preferences for sustainable development and good governance (GSP Plus). By being the only developing world to undergo a withdrawal of its GSP Plus beneficiary status as a result of rigid application of conditions and later allowed re-entry based on the change of approach in a more flexible manner. It further depicts the importance of engaging in a constructive dialogue with the beneficiary state rather than opting for sanctions in case of a failure to meet required standards. Apart from that, it provides a window to further thinking on the effectiveness of using trade policy in achieving political objectives that could negate the overall objectives of the original initiative.

Trade will always shape the course of human history in the years to come. In a world where there is unlimited demand for limited supply, trade will always dominate the political stages of nation states. Especially in the case of Sri Lanka, the GSP Plus program was used as a political tool by both the government and the opposition political parties. Securing GSP Plus has thus become a political achievement. This is a clear example of how the beneficiary countries have been viewing GSP programs. On a positive note, it can be seen that the EU too has realized that it is time for a change in the system. The 2012 regulations back this argument. And the long term dialogue continues.

As we see from all these findings, tariff concessions should be used as a stimulant, not a escape route. And Last but not least, it continues to question the practicality of using trade concessions as incentives of achieving economic sustainability without tempting developing countries to become addicted to concessions, which would internally keep them below the heights of development.

Bibliography

“Generalized Scheme of Preferences”, 1985 (1989) 39 United Nations Disarmament Yearbook, 558

About GSP. (n.d.). Retrieved from <https://unctad.org/en/Pages/DITC/GSP/About-GSP.aspx>

Baldwin, R. E., & Murray, T. (1977). MFN tariff reductions and developing country trade benefits under the GSP. *The Economic Journal*, 87(345), 30-46.

BAM ventures out in East with agri project. (2010, January 3). *Sunday Observer*. Retrieved from <http://archives.sundayobserver.lk/2010/01/03/fin01.asp>

Carbone, M., & Orbie, J. (Eds.). (2016). *The trade-development nexus in the European Union: differentiation, coherence and norms*. Routledge. p69

Christie, D., & Breinlich, H. (2015). US and EU trade preferences towards the developing countries. A comparison. *Economics of the EU*, 1-15.

Cooper, W. H., & Foreign Affairs, Defense, and Trade Division. (2002, June). *Generalized system of preferences*. Congressional Research Service, the Library of Congress.

Davenport, M. (2017). *Trade Policy, Protectionism and the Third World (Vol. 28)*. Routledge.

DeLong, J. B. (2000). *The Shape of Twentieth Century Economic History*. National Bureau of Economic Research. Retrieved 5 21, 2020, from <https://nber.org/papers/w7569>

Demaria, F. A. F. (2010). Do trade preferential agreements enhance the exports of developing countries? Evidence from the EU GSP•.

Dhar, B., & Majumdar, A. (2006). *The India-EC GSP Dispute: The Issues and the Process*. ICTSD Asia Dialogue on WTO Dispute Settlement and Sustainable Development.

Diebold Jr, W. (1996). *From the ITO to GATT--And Back*. KRISHNER O., The Bretton

Dirlik, A. (2018). *The postcolonial aura: Third World criticism in the age of global capitalism*. Routledge.

ENHANCING PAKISTAN’S TRADING BENEFITS FROM THE PROPOSED EU GSP PLUS SCHEME (2015). Trade Related Technical Assistance (TRTA II) Programme. <http://trtapakistan.org/wp-content/uploads/2015/09/Policy-Recommendation-GSP.pdf>

European Commission. (2003). *External and Intra-European Union Trade: Statistical Yearbook*.

European Union, European Commission. (2009). *Report on the findings of the investigation with respect to the effective implementation of certain human rights conventions in Sri Lanka*. Retrieved from <https://reliefweb.int/report/sri-lanka/observations-government-sri-lanka-respect-report-findings-investigation-respect>

European Union, European Commission. (2017). *Report on assessment of the application for GSP+ by Sri Lanka*. Retrieved from https://trade.ec.europa.eu/doclib/docs/2017/january/tradoc_155236.pdf

- European Union, European Commission. (2018). ('GSP+') assessment of Sri Lanka covering the period 2016 - 2017. Retrieved from <https://eur-lex.europa.eu/legal-content/IT/TXT/?uri=CELEX:52018SC0031>
- European Union, European Commission. (2020). ('GSP+') assessment of Sri Lanka covering the period 2018 - 2019. Retrieved from <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020SC0025>
- Everything But Arms. (2019, March 27). Retrieved from <https://trade.ec.europa.eu/tradehelp/everything-arms>
- GATT Part 4, Final discussion at the Second Special Session of the CONTRACTING PARTIES of the reports and draft texts to be adopted: 2SS/SR.2, 4, 5
- Greenwald, J. A. (1967). UNCTAD and GATT as Instruments for the Development of Trade Policy. In Proceedings of the American Society of International Law at its annual meeting (Vol. 61, pp. 155-163). Cambridge University Press.
- GSP . (2019, March 27). Retrieved from <https://trade.ec.europa.eu/tradehelp/gsp>
- GSP + and Sri Lanka Democracy reporting (2016). Democracy Reporting International gmbH. http://democracy-reporting.org/wp-content/uploads/2016/06/GSP-and-Sri-Lanka_ENG-1.pdf
- Hudec, R. E. (2010). Developing countries in the GATT legal system. Cambridge University Press.
- International business Publications. (2010). United States Generalized System of Preferences - Business Law Handbook (Vol. 1). Washington, USA. doi: <https://books.google.cz/books?id=Sy6yDwAAQBAJ&pg=PA19&lpg=PA19&dq=US GSP terrorism communist states vietnam&source=bl&ots=KrOAvsvSMG&sig=ACfU3U0YWAnWXXvmJK8c3yiTnR8d2J2Sbw&hl=cs&sa=X&ved=2ahUKEwihqM3p6NLPahWFSxUIHRSbCzwQ6AEwAHoECAkQAQ#v=onepage&q=US GSP terrorism communist states vietnam&f=false>
- Jayaratne, S. M. (2009). Enhancing Export Competitiveness through Trade Facilitation: the Experience of Sri Lanka. Impact of Trade Facilitation on Export Competitiveness: A Regional Perspective, 147.
- Jones, V. C., Hornbeck, J. F., & Villareal, M. (2010). Trade Preferences: Economic Issues and Policy Options.
- Kelegama, S. (2010). EU Trade Policy and Democracy Building in South Asia.
- Kelegama, S. (2010). Ready-made garment industry in Sri Lanka: Facing the global challenge. Institute of Policy Studies.
- Kelegama, S. (2010, March 12). GSP-Plus removal 'will raise many issues for EU in global trade debate.' The Island Business . <http://www.island.lk/2010/03/12/business6.html>
- Klasen, S., Martínez-Zarzoso, I., Nowak-Lehmann, F., & Bruckner, N. (2016). Trade preferences for least developed countries. Are they effective? Preliminary Econometric Evidence. Policy Review, (4).

- Kottabadu Durage Sriyani Silva vs. Chanaka Iddamalgoda, Officer in Charge, Police Station Payagala and Six others, [2003] 2 Sri LR 63
- Kungpanidchakul, K. (2007). Do Developing Countries benefit from GSP.
- Marx, A. (2018). Integrating Voluntary Sustainability Standards in Trade Policy: The Case of the European Union's GSP Scheme. *Sustainability*, 10(12), 4364.
- Orbie, J., & Tortell, L. (2009). The new GSP+ beneficiaries: Ticking the box or truly consistent with ILO findings?. *European Foreign Affairs Review*, 14(5), 663-681.
- Özden, Ç., & Reinhardt, E. (2003). *The Perversity of Preferences: GSP and Developing Country Trade Policies, 1976-2000* (Vol. 2955). World Bank Publications.
- Özden, Ç., & Reinhardt, E. (2005). The perversity of preferences: GSP and developing country trade policies, 1976–2000. *Journal of Development Economics*, 78(1), 1-21.
- Panagariya, A. (2002). EU Preferential Trade Policies and Developing Countries. *World Economy*, 25(10), 1415-32.
- Pomfret, R. (1986). MFN tariff reductions and developing country trade benefits under the GSP: a comment. *The Economic Journal*, 96(382), 534-536.
- Portela, C. (2010). *European Union sanctions and foreign policy: when and why do they work?* (Vol. 64). Routledge.
- Raju, K. D. (2008). *World Trade Organization Agreement on Anti-dumping: A GATT/WTO and Indian Jurisprudence* (Vol. 15). Kluwer Law International BV
- Robertson, C. L. (1969). The creation of UNCTAD. In *International Organisation: World Politics* (pp. 258-274). Palgrave Macmillan, London.
- Sankey, J. (1990). Decolonization: Cooperation and Confrontation at the United Nations. In *the United Kingdom—The United Nations* (pp. 90-119). Palgrave Macmillan, London
- Schukat, P., Rust, J., & Baumhauer, J. (2014). Tariff preferences for sustainable products: A summary. In *Voluntary Standard Systems* (pp. 419-430). Springer, Berlin, Heidelberg.
- Sri Lanka and the EU. (n.d.). Retrieved from https://eeas.europa.eu/headquarters/headquarters-homepage/1827/sri-lanka-and-eu_mt
- Sri Lanka: Statement on the GSP report of the European Commission of 19 Oct 2009 - Sri Lanka. (n.d.). Retrieved from <https://reliefweb.int/report/sri-lanka/sri-lanka-statement-gsp-report-european-commission-19-oct-2009>
- Standard GSP. (2019, March 27). Retrieved from <https://trade.ec.europa.eu/tradehelp/standard-gsp>
- UNCTAD. (2018). *Generalized System of Preferences List of Beneficiaries*. United Nations Conference on Trade and Development.

- Van den Bossche, P. (2008). *The law and policy of the World Trade Organization: text, cases and materials*. Cambridge University Press.
- Weeraratne, B. (2005). *Labour standards and international trade: The case of EU GSP concessions to Sri Lanka*. Institute of Policy Studies.
- Weston, A., Cable, V., & Hewitt, A. (1980). *The Eec's Generalised System of Preferences— Evaluation and Recommendations for Change*. Overseas Development Institute. doi:
<https://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/8050.pdf>
- Withanawasam, M. P. K., & Kumara, U. A. (2013). *THE IMPACT OF GSP+ WITHDRAWAL ON SRI LANKAN ECONOMY*. In *Proceedings of International Conference on Business Management* (Vol. 10).
- World Trade Organization. (1999). *The legal texts: the results of the Uruguay Round of multilateral trade negotiations*. Cambridge University Press.
- World Trade Organization. (n.d.). Retrieved from
https://www.wto.org/english/tratop_e/dda_e/status_e/sdt_e.htm
- World Trade Organization: Database on Preferential Trade Arrangements. (n.d.). Retrieved from
<http://ptadb.wto.org/>
- World Trade Organization: Doha Declaration explained. (n.d.). Retrieved from
https://www.wto.org/english/tratop_e/dda_e/dohaexplained_e.htm#s_and_d
- Yusuf, A. (1982). *Legal aspects of trade preferences for developing states: A study in the influence of development needs on the evolution of international law*. Brill..

Abstract

In human civilization trade has been considered as one the most vital elements for its survival. Therefore, since known memory, states have been regulating it in the form of a political tool. And in the course of history, we can see trade as a key factor of both socioeconomic and political relations. Especially with the dawn of trade liberalism in the 17th century, trade between states quickly grew into a large undertaking, at the end helping certain nations create empires. Great Britain and the Dutch East India Trading company are very good examples of how trade sphere headed the expansion of the empire. Therefore, one of the first things that caused the creation of a new world map at the end of World War One was the necessity to trade. This was even more evident with the sudden surge of new countries, who had previously been the colonies of economic and military superpowers, into the international arena. And at the aftermath of World War 2, the decolonization was in full swing. However, most these “new” nations in the world map had previously been robbed of their resources, both in terms of physical property and also in terms of human capital (slavery). Therefore, the post-World War Two global economy was not a levelled playing field as many had expected to be. While the transition of trade from being used as a political weapon was slowly moving towards actual economic development of sates, there was a general discomfort towards undue discriminations and tariff cuts given as favouritisms. Therefore, when the General Agreement on Trade and Tariff (GATT) was agreed upon by world nations, the article 1 of the agreement was the abolishing of Most Favoured Nation Clauses, giving equal opportunity to all players in the global economy to compete fairly. However, it was quickly brought into the UN’s attention that in order to survive in this unequal trading floor, less developed Countries should have some form of a non-reciprocal, non-discriminatory and generalized scheme of trade preferences. This would give them the ability to compete with more developed economies in the market. The UNCTAD declaration in 1968 had this exact objective. And it gave birth to a series of GSP programs over the years.

However, after passing of several decades, it has become a question as to whether the developing countries have actually been able to achieve the ultimate goals expected by the UNCTAD declaration. Although the GSP systems (especially in the EU) have been evolving over time to achieve these objectives, from the literature and empirical studies done on the effectiveness of GSP program of the EU on developing countries, the results are divided. While helping the

developing countries to compete well in the international market with tariff concessions, it seems like that it has also created a culture of addiction and over-reliance of trade concessions by the GSP beneficiaries. The case of Sri Lanka is a perfect example in this regard as it is the only country in the world whose GSP Plus benefits were granted, temporarily withdrawn and then re-granted. Therefor by analysing this timeline both in terms of trade data and also legal instruments such as EU Council regulations, we can see a clear picture of how the EU had changed its position towards developing countries over the years and what loopholes still remain in the current GSP Plus systems of the EU that prevents it from achieving its goals set in 1968. In this thesis, I would be covering the history of EU preferential Trade Agreements and their evolution in the context of Sri Lanka, and I would also investigate deeply into the necessity of the EU's GSP Plus program that have been accused of going against the general principle of preference trade by adding conditionalities that are beyond the control of economic actors. And also, at the end of the thesis, I would be trying to find some suggestions for the future improvement of EU GSP program in positively achieving its original goal in assisting the long-term economic development of less developed countries.

Nadpis:

Efekt všeobecných celních preference na rozvojové státy: Srí Lanka

Abstrakt

V civilizované společnosti je obchod považován za jeden z nejdůležitějších prvků pro přežití. Z tohoto důvodu už od nepaměti využívají státy regulaci obchodu jako politického nástroje. Během historie je možné vidět obchod jako klíčový faktor jak pro socioekonomické tak politické vztahy. Obzvláště na začátku obchodního liberalismu v 17. století, se obchod stává nesmírně důležitou věcí a napomáhá některým národům vytvořit impéria. Velká Británie, nizozemská Východoindická společnost jsou velmi dobrým příkladem, jak obchodní vliv vede k růstu impéria. Jednou z prvních věcí, která zapříčinila vytvoření nového umístění států na konci Světové války byla nezbytnost obchodu. Jeho důležitost byla ještě více očividná potom, co se začaly objevovat nové státy, které byly před tím pod koloniální nadvládou ekonomických a vojenských velmocí. Po Druhé světové válce nabrala dekolonizace na síle. Avšak mnoho těchto „nových“ národů na světové mapě byly před tím okradeny o své zdroje a to jak co se týká majetku tak i lidského kapitálu (otroctví). Díky tomu nebyla světová ekonomika po Druhé světové válce místo s rovnými podmínkami pro každý stát, jak by se čekalo. Zatím, co docházelo k přechodu z využívání obchodu jako politické zbraně k nástroji ekonomického pokroku, objevuje se všeobecná nelibost k nepřiměřené diskriminaci a nebo naopak snižováním cel za účelem preference určitých států. Kvůli této nelibosti byla schválena ostatními národy Všeobecná dohoda o clech a obchodu. Již v prvním článku této dohody se ruší veškeré upřednostňování mezi jednotlivými státy, čímž by měly vzniknout rovné podmínky mezi světovými hráči. Do pozornosti OSN se dostává další fakt a to, že, aby mohly rozvojové státy na tomto poli nerovných podmínek fungovat, musí zde existovat Všeobecné celní preference (VCP), které nejsou diskriminační nebo pro-reciproční. To by jim mělo dát schopnost konkurovat na trhu více rozvinutým státům. V roce 1968 UNCTAD mělo záměr uskutečnit tyto cíle. To vedlo k vytvoření série VCP programů v následujících letech. Po několika dekádách se objevuje otázka, jestli skutečně státy dosáhly toho, co se od UNCTAD očekávalo. Systémy VCP (obzvláště v EU) se postupně rozvíjely v čase, aby dosáhly zmíněných cílů avšak na základě literatury a empirických studií je jejich efektivita rozporuplná. Vypadá to,

že využití celních koncesí pro rozvojové státy vedlo k vytvoření kultury závislosti a přehnaného spoléhání na těchto koncesích a VCP. Příklad Srí Lanky je dokonalou ukázkou výše zmíněného problému, neboť tento stát je jediným na světě, kterému byly VCP plus benefity uděleny, odňaty a znovu uděleny. Díky její historii s VCP, je možné u Srí Lanky pozorovat v čase to, jak se vyvíjely jak obchodní data tak i právní instrumenty jako například předpisy rady EU. Z toho je viditelný jasný obraz změn pozice EU k rozvojovým státům během let a jaké trhliny zůstávají v současných systémech Plus VCP EU, které zabraňují dosažení cílů stanovených v roce 1968. V této práci bude probrána historie a vývoj preferenčních obchodních dohod mezi EU a Srí Lankou. Také se zaměří na zjištění, zdali je VCP Plus EU skutečně nezbytná pro Srí Lanku. Součástí práce je i prověření, zdali VCP Plus EU neporušuje všeobecné principy preferenčního prodeje tím, že dává do svých požadavků i prvky, jenž jsou mimo kontrolu zúčastněných stran. Na konci práce budou návrhy na zlepšení programů VCP EU tak, aby dokázaly splnit původní cíl, kterým je dosažení dlouho trvajícího ekonomického vývoje méně rozvinutých států.

Appendix 1:

List of GSP Beneficiary Countries (by 2018)

GSP BENEFICIARIES		GSP DONORS																
		AUSTRALIA	BELARUS	CANADA	EUROPEAN UNION			ICELAND	JAPAN	KAZAKHSTAN	NEW ZEALAND	NORWAY		RUSSIAN FEDERATION	SWITZERLAND	TURKEY	UNITED STATES OF AMERICA	
					GSP	GSP-LDCs (EBA)	GSP +					GSP	GSP +				GSP	AGOA
Afghanistan	LDC	x	x	x	x		x	x	x	x	x		x	x	x	x		
Albania		x	x						x	x	x			x				x
Algeria		x	x						x	x	x			x	x	x	x	
American Samoa		x							x							x		
Angola ^b	LDC	x	x	x	x		x	x	x	x	x		x	x	x	x	x	x
Anguilla		x	x	x					x	x				x	x	x	x	
Antarctica																x		
Antigua and Barbuda		x	x						x	x	x			x	x	x		
Argentina		x	x						x	x	x			x	x	x		
Armenia				x			x					x		x			x	
Aruba																x		
Ascension Island																		
Azerbaijan									x						x	x	x	
Bahamas		x	x							x				x		x		
Bahrain		x	x							x				x	x	x		
Bangladesh	LDC	x	x	x	x		x	x	x	x	x			x	x	x		
Barbados		x	x							x				x		x		
Belarus									x						x	x		
Belize		x	x	x					x	x	x		x	x	x	x	x	
Benin	LDC	x	x	x	x		x	x	x	x	x			x	x	x	x	x
Bermuda		x	x							x				x		x		
Bhutan	LDC	x	x	x	x		x	x	x	x	x			x	x	x	x	
Bolivia, Plurinational State of		x	x	x			x		x	x	x		x	x	x	x	x	
Bosnia and Herzegovina		x	x						x	x	x			x	x			x
Botswana			x						x	x	x			x		x	x	x
Bouvet Island																x		
Brazil		x	x						x	x	x			x	x	x	x	
British Indian Ocean Territory		x		x						x						x	x	
Brunei Darussalam		x	x							x				x		x		

Bulgaria		x								x							
Burkina Faso	LDC	x	x			x		x	x	x	x		x	x	x	x	x
Burundi	LDC	x	x	x		x		x	x	x	x		x	x	x	x	x
Cabo Verde		x	x	x			x	x	x	x		x	x	x	x	x	x
Cambodia	LDC	x	x	x		x		x	x	x	x		x	x	x	x	
Cameroon		x	x	x				x	x	x		x	x	x	x	x	x
Cayman Islands		x	x						x				x		x		
Central African Republic	LDC	x	x	x		x		x	x	x	x		x	x	x	x	x
Ceuta and Melilla				x													
Chad	LDC	x	x	x		x		x	x	x	x		x	x	x	x	x
Chile		x	x					x	x	x			x		x		
China		x	x					x	x	x			x	x	x		
Hong Kong		x	x						x				x				
Macao		x													x		
Taiwan Province of		x															
Christmas Island				x						x					x	x	
Cocos (Keeling) Islands				x						x					x	x	
Colombia		x	x					x	x	x			x		x		
Comoros	LDC	x	x	x		x		x	x	x	x		x	x	x	x	x
Congo		x	x	x	x			x	x	x	x		x	x	x	x	x
Cook Islands ^a		x	x	x	x					x				x	x	x	x
Costa Rica		x	x					x	x	x			x	x	x		
Côte d'Ivoire ^b		x	x	x	x			x	x	x	x		x	x	x	x	x
Croatia		x	x						x	x			x				
Cuba		x	x					x	x	x			x	x	x		
Cyprus		x															
Czechia		x															
Democratic People's Republic of Korea		x	x						x		x		x	x			

Democratic Republic of the Congo	LDC	x	x	x		x			x	x	x	x		x	x	x	x	x
Djibouti	LDC	x	x	x		x		x	x	x	x	x		x	x	x	x	x
Dominica		x	x						x	x	x			x	x	x	x	
Dominican Republic		x	x						x	x	x			x	x	x		
Ecuador		x	x						x	x	x			x	x	x	x	
Egypt		x	x	x					x	x	x			x		x	x	
El Salvador		x	x	x					x	x	x		x	x	x	x		
Equatorial Guinea		x	x			x		x	x	x	x			x	x	x		
Eritrea	LDC	x	x	x		x		x	x	x	x	x		x	x	x	x	x
Ethiopia	LDC	x	x	x		x		x	x	x	x	x		x	x	x	x	
Falkland Islands (Malvinas) ^c		x		x						x						x	x	
Fiji ^a		x	x	x					x	x	x		x	x	x	x	x	
French Southern and Antarctic Lands																	x	
French Polynesia		x															x	
Gabon		x	x						x	x	x			x	x	x	x	
Georgia				x					x				x		x	x	x	
Ghana ^b		x	x	x	x				x	x	x	x		x	x	x	x	x
Gibraltar		x									x						x	
Greenland																	x	
Grenada		x	x						x	x	x			x	x	x	x	
Guam		x															x	
Guatemala		x	x	x					x	x	x		x	x	x	x		
Guinea	LDC	x	x	x		x		x	x	x	x	x		x	x	x	x	x
Guinea-Bissau	LDC	x	x	x		x		x	x	x	x	x		x	x	x	x	x
Guyana		x	x	x					x	x	x		x	x	x	x	x	
Haiti	LDC	x	x	x		x		x	x	x	x	x		x	x	x	x	
Heard Island and McDonald Islands																	x	x

Honduras		x	x	x						x	x	x		x	x	x	x		
Hungary		x																	
India		x	x		x					x	x	x			x	x	x	x	
Indonesia		x	x		x					x	x	x			x	x	x	x	
Iran, Islamic Republic of		x	x							x	x	x			x	x	x		
Iraq		x	x	x						x	x	x		x	x	x	x	x	
Israel		x																	
Jamaica		x	x							x	x	x			x	x	x	x	
Johnston Island ^d		x																	
Jordan		x	x							x	x	x			x		x	x	
Kazakhstan										x						x	x	x	
Kenya ^b		x	x	x	x					x	x	x	x		x	x	x	x	
Kiribati ^a	LDC	x	x	x		x		x	x	x	x	x			x	x	x	x	
Kosovo			x							x	x			x	x	x		x	
Kuwait		x	x							x					x		x		
Kyrgyzstan ^b				x		x				x						x	x	x	
Lao People's Democratic Republic	LDC	x	x	x		x		x	x	x	x	x			x	x	x		
Lebanon		x	x							x	x	x			x		x	x	
Lesotho	LDC	x	x	x		x		x	x	x	x	x			x		x	x	x
Liberia	LDC	x	x	x		x		x	x	x	x	x			x	x	x	x	x
Libya		x	x							x	x	x			x	x	x		
Madagascar	LDC	x	x	x		x		x	x	x	x	x			x	x	x	x	x
Malawi	LDC	x	x	x		x		x	x	x	x	x			x	x	x	x	
Malaysia		x	x							x	x	x			x	x	x		
Maldives ^b		x	x							x	x	x	x		x	x	x	x	
Mali	LDC	x	x	x		x		x	x	x	x	x			x	x	x	x	x
Malta		x																	
Marshall Islands ^a		x	x	x						x	x			x	x	x	x		
Mauritania	LDC	x	x	x		x		x	x	x	x	x			x	x	x	x	x

Mauritius		x	x						x	x	x			x	x	x	x	x
Mayotte																	x	
Mexico		x	x						x	x	x			x			x	
Midway Islands ^f		x																
Micronesia, Federated States of ¹		x	x	x	x				x	x	x		x	x	x	x		
Mongolia		x	x	x			x		x	x	x		x	x	x	x	x	x
Montenegro			x						x	x				x			x	x
Montserrat		x	x	x					x	x	x			x	x	x	x	x
Morocco		x	x	x					x	x	x			x			x	
Mozambique	LDC	x	x	x		x		x	x	x	x	x		x	x	x	x	x
Myanmar	LDC	x	x			x		x	x	x	x	x		x	x			x
Namibia			x						x	x	x			x			x	x
Nauru ^g		x	x	x	x				x					x	x	x		
Nepal	LDC	x	x	x		x		x	x	x	x	x		x	x	x	x	x
Netherlands Antilles		x	x							x				x			x	
New Caledonia and Dependencies		x															x	
Nicaragua		x	x	x					x	x	x		x	x	x	x		
Niger	LDC	x	x	x		x		x	x	x	x	x		x	x	x	x	x
Nigeria		x	x	x	x				x	x	x			x	x	x	x	x
Niue			x	x	x				x	x				x	x	x	x	
Norfolk Island				x							x						x	x
Northern Mariana Islands		x															x	
Occupied Palestinian Territory ^g		x																
Oman		x	x							x	x			x	x	x		
Pakistan		x	x	x			x		x	x	x			x	x	x	x	
Palau									x		x				x	x		
Panama		x	x						x	x	x			x	x	x		
Papua New Guinea ^{a,b}		x	x	x					x	x	x	x		x	x	x	x	

Paraguay		x	x	x			x		x	x	x		x	x	x	x	x	
Peru		x							x		x						x	
Philippines		x	x	x			x		x	x	x			x	x	x	x	
Pitcairn Island		x		x						x							x	x
Poland		x																
Qatar		x	x							x				x			x	
Republic of Korea		x	x							x				x				
Republic of Moldova					x					x				x		x	x	x
Romania		x									x							
Russian Federation																		x
Rwanda	LDC	x	x	x		x		x	x	x	x	x		x	x	x	x	x
Saint Helena		x	x	x					x	x	x			x	x	x	x	
Saint Kitts and Nevis		x	x						x	x	x			x	x	x		
Saint Lucia		x	x						x	x	x			x	x	x	x	
Saint Pierre and Miquelon		x																x
Saint Vincent and the Grenadines		x	x						x	x	x			x	x	x	x	
Samoa ^{a, i}		x	x	x		x		x	x	x	x	x		x	x	x	x	
Sao Tome and Principe	LDC	x	x	x		x		x	x	x	x			x	x	x	x	
Saudi Arabia		x	x							x	x			x	x	x		
Senegal	LDC	x	x	x		x			x	x	x	x		x	x	x	x	x
Serbia		x	x							x	x			x				x
Seychelles		x	x							x	x	x			x	x	x	
Sierra Leone	LDC	x	x	x		x		x	x	x	x	x		x	x	x	x	x
Singapore		x	x							x				x				
Slovakia		x																
Slovenia		x																
Solomon Islands ^a	LDC	x	x	x		x		x	x	x	x	x		x	x	x	x	
Somalia	LDC	x	x	x		x		x	x	x	x	x		x	x	x	x	
South Africa			x						x	x				x		x	x	x

South Sudan	LDC			x		x						x			x		x	x
South Georgia and the South Sandwich Islands and Dependencies		x															x	
Sri Lanka		x	x	x			x	x	x	x		x	x	x	x	x	x	
Sudan	LDC	x	x	x		x		x	x	x	x		x	x	x	x		
Suriname		x	x					x	x	x			x	x	x	x		
Swaziland		x	x	x	x			x	x	x		x	x			x	x	x
Syrian Arab Republic		x	x	x	x			x	x	x		x	x	x	x			
Tajikistan				x	x			x			x				x	x		
Thailand		x	x					x	x	x			x	x	x	x		
The former Yugoslav Republic of Macedonia		x	x					x	x	x			x				x	
Timor-Leste	LDC	x	x	x		x		x	x	x	x		x	x	x	x		
Togo	LDC	x	x	x		x		x	x	x	x		x	x	x	x	x	x
Tokelau		x	x	x				x	x			x	x	x	x	x		
Tonga ^a		x	x	x	x			x	x	x		x	x	x	x	x		
Trinidad and Tobago		x	x						x	x			x			x		
Tristan da Cuna				x														
Tunisia		x	x					x	x	x			x			x	x	
Turkey		x	x					x	x	x			x					x
Turkmenistan				x				x				x			x	x		
Turks and Caicos Islands		x	x						x	x			x			x		
Tuvalu ^a	LDC	x	x	x		x		x	x	x	x		x	x	x	x		
Uganda	LDC	x	x	x		x		x	x	x	x		x	x	x	x	x	x
Ukraine				x				x								x	x	
United Arab Emirates		x	x						x				x			x		
United Republic of Tanzania	LDC	x	x	x		x		x	x	x	x		x	x	x	x	x	x
United States Minor Outlying Islands										x						x		

Uruguay		x	x					x	x	x			x	x	x		
Uzbekistan				x	x			x				x		x	x	x	
Vanuatu ^{a, i}	LDC	x	x	x		x		x	x	x	x		x	x	x	x	
Venezuela, Bolivarian Republic of		x	x					x	x	x			x	x	x		
Viet Nam		x	x	x	x			x	x	x			x	x	x		
Virgin Islands, British		x	x	x					x	x			x		x	x	
Virgin Islands, United States		x													x		
Wake Island ^d		x															
Wallis and Futuna Islands		x								x				x	x	x	
Western Sahara																	x
West Bank and Gaza Strip ^e								x									x
Yemen	LDC	x	x	x		x		x	x	x			x	x	x	x	
Zambia	LDC	x	x	x		x		x	x	x	x		x	x	x	x	x
Zimbabwe ^b		x	x	x				x	x	x	x		x	x	x	x	

^a Country classified as a Forum Island Country under the Generalized System of Preferences scheme of Australia.

^b Country treated as a least developed country under the Generalized System of Preferences scheme of Norway.

^c A dispute exists between the Governments of Argentina and the United Kingdom of Great Britain and Northern Ireland concerning sovereignty over the Falkland Islands (Malvinas). See UNCTAD editorial directive ST/CS/SER.A/42 dated 3 August 1999.

^d Johnston Island is part of the United States Minor Outlying Islands.

^e West Bank and Gaza Strip, including East Jerusalem.

^f Midway Islands are part of the United States Minor Outlying Islands.

^g Wake Island is part of the United States Minor Outlying Islands.

^h Angola will graduate from least developed country in 2021.

ⁱ Samoa will be removed from the list of EBA beneficiary countries as from 1 January 2019, see Commission Delegated Regulation (EU) 2017/217 of 5 December 2016.

^j Vanuatu was granted and extension as least developed country until 2010.

Source: UNCTAD. (2018). Generalized System of Preferences List of Beneficiaries. United Nations Conference on Trade and Development.