



GSP Platform

-Statement-

The **GSP Platform** represents a group of human rights and development organizations, trade unions and other stakeholders seeking to advance human rights and labour rights; as well as promote civic space in the context of the trade preferences of the European Union. Civic space entails the freedom of expression, freedom to peaceful assembly and freedom of association.¹ The Statement sets out recommendations for the improvement of the European Union (EU) Generalised System of Preferences (GSP).

The EU GSP Regulation provides a trade framework in which businesses and governments need to uphold substantial guarantees for the protection and promotion of human and labour rights, as well as sustainable development. Hence, it has the potential to advance human and labour rights, as well as promote civic space if applied in a consistent, dynamic and comprehensive manner.

The GSP Reform Platform has been set up to ensure that key stakeholders are effectively engaged in the debate on EU trade regulation that administers GSP, Everything but Arms (EBA) and The Special Incentive Arrangement for Sustainable Development and Good Governance (GSP+). We consider that working towards fair trade policies needs to entail long-term country specific trade supported development plan for progressive change.

Reform the GSP Regulation

The EU's GSP Regulation is currently undergoing its mid-term evaluation. The Regulation administers and lays down the rules for the GSP, EBA and GSP+ beneficiary countries.

The EU treaties stipulate the legal basis to include the promotion of fundamental freedoms in their development and trade policy. Article 21(1) of the Treaty on the European Union (TEU) makes specific

¹ See Articles 19, 22, 21 of the International Covenant on Civil and Political Rights, see: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx> and, ILO Conventions 87, see: <http://bit.ly/1cTRtbB> and 98, see: <http://bit.ly/2sxKsu1> (accessed 10-10-2017).

reference to the respect of the UN Charter in all of the Union's actions on the international scene². Furthermore, Article 207(1) of the Treaty of the Functioning of the European Union (TFEU)³ reconfirms that common commercial policy shall be conducted in the context of the principles and objectives of the Union.

Additionally, the legal basis laid down in the EU Treaties provides the framework from which civil society organizations (CSOs) can engage with the EU in working towards trade policies, to increase accountability on, and be used to promote fundamental freedoms and human rights in, third countries. The 2012 EU Communication explicitly supports the enabling environment, participation and capacity of Civil Society as an actor of governance, stating; "The roots of democracy and sustainable development: Europe's engagement with Civil Society in external relations"⁴.

Moreover, the EU's commitment to promote and protect human rights, the rule of law and democracy worldwide as outlined in the "Action Plan on Human Rights and Democracy", also includes actions on Trade policy linked to the promotion of fundamental freedoms.

Therefore, we call upon the European Union to amend the GSP Regulation to align it with the goals set out by EU treaties and policies. It would contribute to making the Regulation more impactful and enable it to achieve its full potential. Some of the required amendments are adaptations of aspects that are already working well in other trade policies and others are new.

Recommendation 1: Extending Conventions to EBA and GSP beneficiaries.

It is recommended to extend, Part B. on Conventions related to the environment and to governance principles in Annex VIII of Regulation (EU) No 978/2012, to GSP and EBA beneficiary countries. Furthermore, to include ILO Convention No. 169, the Indigenous and Tribal Peoples Convention, in Annex VIII, PART A of Regulation (EU) No 978/2012. The inclusion of Convention No. 169 is especially pressing in countries where the extensions of unilateral trade benefits has led to an increase in conflict over land and water.

Recommendation 2: GSP+/EBA/GSP a tool to promote civic space for civil society - One of the positive aspects of GSP+ is the requirement on beneficiary countries to implement core human and labour rights conventions, including the monitoring process that has been set-up by the European Union. In turn, several beneficiary countries have set up bodies to assist with the implementation of these conventions. Subsequently, these bodies are used by Civil Society Organisations (CSOs), Trade Unions and Human Rights Defenders (HRDs) as an avenue for dialogue with their respective governments. As has been demonstrated, GSP+ has the potential to carve out space for CSOs to continue their work. Therefore, it is recommended that the GSP+ monitoring mechanisms be applied to Everything But Arms and other trade schemes and that a meaningful role for CSOs, Trade Unions, Community Based Organisations (CBOs) and HRDs is safeguarded in this framework.

² Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union - Consolidated version of the Treaty on European Union - Protocols - Declarations annexed to the Final Act of the Intergovernmental Conference which adopted the Treaty of Lisbon, signed on 13 December 2007 - Tables of equivalences <http://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A12012M%2FTXT> (accessed 10-09-2017).

³ Consolidated version of the Treaty on the Functioning of the European Union - PART FIVE: EXTERNAL ACTION BY THE UNION - TITLE II: COMMON COMMERCIAL POLICY - Article 207 (ex Article 133 TEC) <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A12008E207> (accessed 10-09-2017)

⁴ The roots of democracy and sustainable development: Europe's engagement with Civil Society in external relations <http://bit.ly/1z6FGRT> (accessed 10-09-2017)

Recommendation 3: Human Rights Impact Assessment (HRIA)⁵ – To prevent and remedy against negative impacts of GSP schemes on human and labour rights, the EU should conduct a HRIA before granting trade preferences to a candidate country and during its implementation. These HRIAs should be undertaken by independent experts, in consultation with civil society, including with representatives of communities affected by trade preferences. The HRIAs should be conducted prior to extending GPS+ status to beneficiary countries and the EU should impose flanking measures to mitigate risks and negative impacts identified. Additionally, a HRIA should be conducted for EBA and GSP beneficiaries during the review of the GSP Regulation in 2019. It should allow the identification of priority countries and priority sectors where serious shortcomings require additional measures to mitigate and remedy the negative impacts.

Recommendation 4 Roadmaps for the implementation of Conventions- Create roadmaps for each GSP, EBA and GSP+ beneficiary country which **sets out specific and time-bound human and labour rights benchmarks in an on-going process.** The benchmarks should include compliance with core human and labour rights conventions and need to be customized to address also specific country problems and shortcomings. They should 1) emphasize reform to legislation and also the degree to which such legislation is implemented and developed through a multi-stakeholder dialogue, 2) assess the capacity of beneficiary countries institutions to effectively implement core human and labour rights conventions and 3) assess progress in implementation. Precedents for roadmaps can be found in the EU Bangladesh Sustainability Compact, the EU Roadmap with Colombia and Peru, the US-Colombia Action Plan, as well as the US-Vietnam Labour Plan⁶ which was part of the Trans-Pacific Partnership.

Recommendation 5: Monitoring and Transparency - It is essential that the assessment of GSP+ eligibility and continuous monitoring of a GSP+/GSP/EBA beneficiary country is done in a transparent and accountable manner. The scorecards, used for the monitoring of GSP+ beneficiary countries, remain secret and not accessible to third parties thereby leaving out a key player in the process of monitoring the compliance with conventions in practice. Furthermore, CSOs and Trade Unions are key players in supporting beneficiary countries to achieve compliance with the conventions. We therefore urge the European Commission to make the assessments for eligibility for GSP+ as well as the scorecards publicly available to increase transparency and oversight and improve the implementation of conventions. Furthermore, it should be clarified who is involved in the overall monitoring process from the European Union, including EU officials as well as any third parties (consultants). Ideally monitoring should be dealt with by an independent EU agency for human rights. The mechanism of monitoring should be inviting input from Trade Unions and CSOs in a structured manner.

Recommendation 6: Mechanism to resolve individual cases of labour or human rights violations- The EU should provide a **complaint mechanism and body** within the GSP scheme that allows all interested parties to submit petitions on alleged labour and human rights violations on companies or states benefiting from the duty-free access to the EU under the GSP-list. This complaint mechanism and body should also be used to trigger an official investigation of an GSP, EBA and GSP+ beneficiary country.

The Complaint body and process should be overseen by the Trade Committee, the Employment and Social Affairs Committee, the Development Committee⁷ and the Human Rights Subcommittee⁸ of the

⁵ Office of the High Commissioner for Human Rights, Guiding Principles on Human Rights Impact Assessments of Trade and Investment Agreements”, Report presented at the 19th Session of the United Nations Human Rights Council, see: <http://bit.ly/2hyUzuR> , (accessed 10-10-2017)

⁶ United States Vietnam Plan for the enhancement of Trade and Labour Relations, see: <http://bit.ly/2zZS7VR> , (accessed 10-09-2017)

⁷ Resolution on Addressing shrinking civil society space in developing countries, See: <http://bit.ly/2z4MXaT> The resolution states “that trade and investment agreements concluded by the EU and its Member States must not undermine – either directly or indirectly – the promotion and protection of human rights and civic space in developing countries”. (accessed 10-09-2017).

⁸ European Parliament, Directorate General for External Policies, Labour rights in Export Processing Zones with a focus on GSP+ beneficiary countries, see: <http://bit.ly/2hsvfmg> (accessed 10-09-2017).

European Parliament and be used in conjunction with detailed road maps for implementation to address critical human and labour right infringements. This complaint body should **include public hearings** with invited persons to testify, including representatives from CSOs and Trade Unions and these should happen on a country-by-country basis^{9, 10, 11}.

Recommendation 7: Targeted consequences- (both positive and negative) for key achievements (or lack thereof) for the beneficiary countries in line with each country's general obligations under the conventions, as well as specific obligations under the roadmaps. The Commission should be able to modulate (e.g. target a specific category of export or sector¹², temporary apply increased tariff lines) the benefits under the GSP scheme more dynamically and predictable in order to sanction (lack of) or award progress.

Recommendation 8: Spaces for participation of CSOs and Trade Unions- they must have the right to be consulted in decision-making in beneficiary countries. Meaningful consultation and possibly partnership between civil society and governments should be fostered to encourage a **space where** issues of concern to specific social and economic groups or topics of interest to all actors can be discussed with fear of repercussion from their beneficiary government.

Recommendation 9: Funding for monitoring - In order to put all the above-mentioned recommendations into practice we recommend that the EU allocates existing financial resources on human rights and development to advance labour and human rights in EU's GSP schemes and to encourage inter-institutional dialogue between the EEAS, DG Trade, DG EMPL, DG DEVCO, as well as the European Parliament.

The platform aims to achieve the aforementioned goals by:

- Sharing information and expertise and Informing our networks;
- Engage in a dialogue with decision makers through an engagement strategy; and
- Conducting media outreach, through press releases, press conferences, social media to inform key decision makers.

This document has been prepared with the input of: ACT Alliance EU, Clean Clothes Campaign, International Federation for Human Rights (FIDH), International Trade Union Confederation (ITUC), and 11.11.11.

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⁹ A similar review process is already being used by the US Trade Representative for the eligibility review of the GSP of the United States of America. Office of the United States Trade Preferences, Generalized System of Preferences (GSP): Initiation of the 2017 Annual GSP Product and Country Practices Review; Deadlines for Filing Petitions; Notice of Change in Country Practices Hearing, see: <http://bit.ly/2zHlBpu> (accessed 10-09-2017)

¹⁰ The EU has successfully used the Illegal, Unreported and Unregulated fishery regulation to put pressure on South Korea and the Philippines issuing 'yellow cards' prior to the 'red card' of banning imports. Companies benefiting from EU trade and investment agreements could be asked to comply with their obligations under OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights. European Commission Maritime affairs and Fisheries: EU acts on illegal fishing: Yellow card issued to Thailand while South Korea & Philippines are cleared, see: <http://bit.ly/2jrA3wO>, (accessed 10-09-2017)

¹¹ See also suggestions for a complaint procedure by Client Earth submission 'A Formal Complaint Procedure for a More Assertive Approach towards TSD Commitments', Version 1.1, 27 October 2017.

¹² The chairman of the Chairman, Standing Committee on Environment & GSP Plus, Federation of Pakistan Chamber of Commerce & Industry states that: "If labour and human rights are violated, then it should not affect the GSP scheme as a whole. Punitive actions should be taken against the sectors that are in violation only.", Report of the Stakeholder Outreach Workshop on the Mid-Term Evaluation of the EU's Generalised Scheme of Preferences (GSP), see: <http://bit.ly/2sS7qcG> (accessed 8-11-2017)