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# HUMAN RIGHTS MONITORING UNDER EUROPEAN UNION GENERALISED SCHEME OF PREFERENCES

**INTRODUCTION.** *This article examines the monitoring of human rights compliance in the European Union's Generalised Scheme of Preferences (hereinafter GSP) programmes. It aims to analyse how the European Union (hereinafter EU) uses trade preferences as leverage to promote human rights in developing countries, with a particular focus on the effectiveness of monitoring mechanisms and withdrawal procedures. The research objectives include tracing the evolution of the EU GSP programmes, examining the current monitoring system, evaluating the recent case of Cambodia's partial withdrawal, and identifying both strengths and limitations of the system along with potential improvements.*

**MATERIALS AND METHODS.** *The research employs multiple methodological approaches, including comprehensive document analysis of EU regulations, particularly Regulation (EU) No 978/2012 governing the current GSP programmes, and Commission Delegated Regulation (EU) No 1083/2013 detailing the withdrawal procedure. This article utilises case study analysis focusing on the recent partial withdrawal of trade preferences from Cambodia due to systematic human rights violations, particularly the dissolution of the Cambodia National Rescue Party and the arrest of its leader, Kem Sokha. Additionally, reports from the United Nations (hereinafter UN) and International Labour Organisation (hereinafter ILO) monitoring bodies, as well as EU institutions, were examined to evaluate the effectiveness of monitoring mechanisms. This methodological framework allows for a systematic*

*assessment of both formal procedures and the practical implementation of the EU's human rights conditionality in external trade relations.*

**RESEARCH RESULTS.** *The study reveals that the EU monitoring system operates through a multi-tiered approach, ranging from enhanced engagement to initiating formal withdrawal procedures. The Cambodia case demonstrates both the merits and constraints of this system. Despite years of engagement with the European Commission, Cambodia's human rights situation did not improve sufficiently, resulting in a partial withdrawal of the Everything But Arms (hereinafter EBA) programme preferences, which affected approximately 20 % of Cambodia's exports to the EU. The study identifies key merits of the monitoring system: the step-by-step approach allows beneficiary countries time to address violations; evidence-based assessments from multiple sources promote objectivity; and the potential for leverage creates economic incentives for compliance. However, significant weaknesses include insufficient transparency, centralised decision-making, disproportionate impacts on vulnerable populations, and limited leverage when beneficiaries have alternative markets.*

**DISCUSSION AND CONCLUSIONS.** *The analysis suggests that while the EU's GSP monitoring system provides a framework for promoting human rights through trade, substantial refinements are needed to enhance its greater effectiveness. Recommendations include establishing more defined expectations for beneficiaries based on their specific circumstances, increasing transparency through public hearings and*

*disclosure of “issue lists”, conducting social impact assessments before implementing withdrawals, and coordinating with other developed countries to create a unified approach. The EU system stands out for its progressive GSP+ programme that employs a carrot and stick approach, but it must balance leverage with avoiding disproportionate impacts on vulnerable populations in beneficiary countries.*

**KEYWORDS:** European Union, EU, Generalised Scheme of Preferences, GSP, human rights, labour rights, human rights conditionality, human rights monitoring, international trade, trade policy, trade preferences, developing countries, sustainable development

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## МОНИТОРИНГ СОБЛЮДЕНИЯ ПРАВ ЧЕЛОВЕКА В РАМКАХ ВСЕОБЩЕЙ СИСТЕМЫ ПРЕФЕРЕНЦИЙ ЕВРОПЕЙСКОГО СОЮЗА

**ВВЕДЕНИЕ.** Статья исследует мониторинг соблюдения прав человека в рамках Всеобщей системы преференций (далее – ВСП) Европейского союза (далее – ЕС). Цель работы – проанализировать, как ЕС использует торговые преференции для продвижения прав человека в развивающихся странах, уделяя особое внимание эффективности механизмов мониторинга и процедур отмены преференций. Задачи исследования включают: изучение этапов развития программ ВСП ЕС; анализ нынешней системы мониторинга; оценку недавнего случая частичного отзыва преференций у Камбоджи; а также выявление сильных и слабых сторон системы с предложениями по ее улучшению.

**МАТЕРИАЛЫ И МЕТОДЫ.** Исследование основано на комбинации методов, включая анализ документов ЕС, таких как Регламент (ЕС) № 978/2012 (основа текущих программ ВСП) и Делегированный регламент Комиссии (ЕС) № 1083/2013 (детализация процедуры отмены преференций). В рамках кейс-стади был изучен недавний отзыв части торговых преференций у Камбоджи в связи с массовыми нарушениями прав человека в стране, в частности, роспуском Партии национального спасения и арестом ее лидера Кем Сокха. Дополнительно изучены доклады мониторинговых органов Организации Объединенных Наций (далее – ООН), Международной Организации Труда (далее – МОТ)

и институтов ЕС в целях оценки эффективности мониторинга. Такой подход позволяет системно оценить как формальные процедуры, так и практическую реализацию обусловленности (кондициональности) прав человека в торговой политике ЕС.

**РЕЗУЛЬТАТЫ ИССЛЕДОВАНИЯ.** Исследование показало, что система мониторинга ЕС использует многоуровневый подход: от усиленного политического диалога до формальной процедуры отмены преференций. Случай Камбоджи продемонстрировал как сильные стороны, так и ограничения системы мониторинга. Несмотря на многолетние усилия Европейской комиссии, ситуация с правами человека в стране не улучшилась, что привело к частичной отмене преференций в рамках программы «Все, кроме оружия» (далее – ЕВА), затронувшей около 20% экспорта Камбоджи в ЕС. Сильные стороны системы: поэтапный подход дает странам время на исправление нарушений; оценка на основе данных из широкого круга источников повышает объективность; экономические стимулы способствуют соблюдению прав человека. Однако выявлены и ключевые недостатки: неполная прозрачность, централизованное принятие решений, непропорциональное воздействие на уязвимые группы и ограниченное влияние при наличии у стран-бенефициаров доступа к альтернативным рынкам.

**ОБСУЖДЕНИЕ И ВЫВОДЫ.** Проведенный анализ позволяет утверждать, что, хотя система мониторинга ВСП ЕС создает основу для продвижения прав человека через торговую политику, для большей эффективности необходимы существенные улучшения. Рекомендации включают: установление четких ожиданий по проведению реформ, направленных на улучшение ситуации с правами человека, для стран

с учетом их экономической и социальной ситуации, повышение прозрачности через проведение публичных слушаний и раскрытие «списков проблем»; проведение оценок социальных последствий до отмены преференций; координацию с другими развитыми странами для выработки единого подхода. Программа ВСП+ выделяется использованием подхода кнута и пряника, однако ЕС необходимо балансировать между чрезмерным давлением и минимизацией негативных последствий для уязвимых групп в странах-бенефициарах.

**КЛЮЧЕВЫЕ СЛОВА:** Европейский союз, ЕС, Всеобщая система преференций, ВСП, права человека, трудовые права, обусловленность прав человека, мониторинг соблюдения прав человека, международная торговля, торговая политика, торговые преференции, развивающиеся страны, устойчивое развитие

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Автор выражает признательность доценту кафедры трудового и социального права Санкт-Петербургского государственного университета, кандидату юридических наук Елене Вячеславовне Сыченко за оказанное научное вдохновение и внимательные рекомендации, которые способствовали более глубокому осмыслению темы исследования.

Автор заявляет об отсутствии конфликта интересов.

## 1. Introduction

An intersection between trade and human rights (especially, labour rights) has become a hot topic in academic and professional discourse in recent decades [Cottier 2002:111; Ibrahim 2013:321; Delgado 2019:455; Cline 2023]. In our highly globalised and interconnected world, liberalised international trade is a steam engine for economic development. At

the same time, the liberalisation of trade may lead not only to positive outcomes in terms of economic growth but also to social injustices, trade imbalances, and unequal exchange [Parikh 2004:11; Rojas-Vallejos, Turnovsky 2017:623-624]. It has to be ensured that, in the course of economic interactions between nations, fundamental human rights are not neglected or undermined. Contemporary trade policy has a range of tools at its disposal regarding advancing human rights through trade in developing countries.

The Generalised Scheme of Preferences (GSP) programmes are examples of human rights conditionality in trade<sup>1</sup>. The GSP allows developed countries to decrease or fully eliminate trade barriers, like tariffs and quotas, in favour of developing countries. This instrument has a unilateral and non-reciprocal nature. The GSP has the potential to stimulate economic growth and reduce poverty in the beneficiary developing countries. Despite being primarily an economic tool, it may also contribute to better protection of human rights (a non-trade objective). This non-trade objective can be achieved via the conditionality mechanism in the GSP programmes. It sets compliance with international human rights standards as a condition for receiving preferential access to developed countries' markets.

Under the EU's GSP programmes, participating countries are required to ratify and effectively implement relevant UN/ILO conventions (*positive conditionality*), or at least not to systematically violate human and labour rights (*negative conditionality*), and in return receive preferential access for their goods and services to the EU Single Market. The effectiveness of such conditions relies on the ability to properly monitor and effectively address the issues of human rights arising in participating states.

## 2. Evolution of the EU GSP programmes

The European Union (then the European Communities) was the first jurisdiction in the world to introduce GSP in 1971<sup>2</sup>. This happened shortly after the GATT signatories approved a waiver from the "Most-Favoured-Nation" principle in favour of de-

veloping countries. The EU's GSP is derived from the Union's obligation to promote and protect human rights in all aspects of its external relations, including trade policy (modern-day Article 21 of the Treaty on European Union (TEU))<sup>3</sup>. More than half a century has passed since those times, and both the EU and its GSP programmes have evolved and changed significantly.

The Common Commercial Policy (CCP), also known as the EU Trade Policy, was fully introduced in 1968 [Sapir 1992:1491]. As part of the CCP, the Member States delegated their trade policy powers to the Union's exclusive competence (modern-day Articles 3 and 207 of the Treaty on the Functioning of the European Union (TFEU))<sup>4</sup>. Nowadays, the European Commission and its Directorate-General for Trade are responsible for coordinating EU trade policy. For these reasons, the EU's GSP is centrally managed by the Union rather than by individual EU Member States.

The EU's first GSP programme began in 1971 and lasted ten years, until 1981<sup>5</sup>. The programme was extended for an additional ten years, from 1981 to 1991<sup>6</sup>. These two first cycles did not include any form of human rights or sustainability conditionality<sup>7</sup>. *Positive conditionality* was introduced only in 1991, when the EU decided to provide incentives to several Latin American countries to stimulate combating drug trafficking [Beke, Hachez 2015:188].

In January 1995, the Union adopted Council Regulation (EC) No 3281/94 for industrial products and Council Regulation (EC) No 1256/96 for agricultural products<sup>8</sup>. The possibility of suspending benefits under GSP programmes due to forced

<sup>1</sup> European Commission: Generalised Scheme of Preferences. URL: [https://policy.trade.ec.europa.eu/development-and-sustainability/generalised-scheme-preferences\\_en](https://policy.trade.ec.europa.eu/development-and-sustainability/generalised-scheme-preferences_en) (accessed date: 30.12.2024).

<sup>2</sup> Generalised System of Preferences (GSP). EUR-Lex. URL: <https://eur-lex.europa.eu/EN/legal-content/glossary/generalised-system-of-preferences-gsp.html> (accessed date: 03.01.2025).

<sup>3</sup> Consolidated version of the Treaty on European Union. EUR-Lex. 2024. URL: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02016M/TXT-20240901> (accessed date: 03.01.2025).

<sup>4</sup> Consolidated version of the Treaty on the Functioning of the European Union. EUR-Lex. 2024. URL: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02016E/TXT-20240901> (accessed date: 03.01.2025).

<sup>5</sup> Generalised System of Preferences: Handbook on the Scheme of the European Union. Fifth Edition. Geneva: United Nations Conference on Trade and Development (UNCTAD). 2022. P. 6. URL: [https://unctad.org/system/files/official-document/itcdtsbmisc25rev5\\_en.pdf](https://unctad.org/system/files/official-document/itcdtsbmisc25rev5_en.pdf) (accessed date: 03.01.2025).

<sup>6</sup> Ibid.

<sup>7</sup> Council Regulation (EEC) No 3835/90 of 20 December 1990 amending Regulations (EEC) No 3831/90. (EEC) No 3832/90 and (EEC) No 3833/90 in respect of the system of generalised tariff preferences applied to certain products originating in Bolivia, Colombia, Ecuador and Peru. EUR-Lex. 1990. URL: <http://data.europa.eu/eli/reg/1990/3835/oj> (accessed date: 03.01.2025).

<sup>8</sup> Council Regulation (EC) No 3281/94 of 19 December 1994 applying a four-year scheme of generalized tariff preferences (1995 to 1998) in respect of certain industrial products originating in developing countries. EUR-Lex. 1994. URL: <https://eur-lex.europa.eu/eli/reg/1994/3281/oj> (accessed date: 03.01.2025); Council Regulation (EC) No 1256/96 of 20 June 1996



labour was introduced for the first time (ILO Conventions 29 and 105) [Zamfir 2018:2]<sup>9</sup>. This addition marked the debut of *negative conditionality*. The GSP programmes were extended from July 1999 to December 2001 by Council Regulation (EC) No 2820/98<sup>10</sup>.

Starting January 1, 2002, the updated Council Regulation (EC) No 2501/2001 stated that tariff preferences could be temporarily withdrawn if any of the standards outlined in the ILO Declaration on Fundamental Principles and Rights at Work (1998) were seriously and consistently violated<sup>11</sup>. In other words, the *negative conditionality* was expanded to include not only compliance with the abolition of forced labour, but also other core labour standards.

Furthermore, special incentive arrangements for the protection of labour rights and the environment, as well as separate terms for LDCs, were implemented. Unlike general arrangements, the former required developing countries to file an application to claim benefits and provide evidence that their national legislation complies with the labour standards or/and standards for tropical forest management. The latter was a specially designed GSP programme for LDCs that eliminated all tariffs except for weapons and ammunition (now known as Everything But Arms).

In 2005, the EU's GSP programmes were revised<sup>12</sup> following the WTO Appellate Body report (EC – Tariff Preferences, 2004), in which the special arrangements to combat drug production and trafficking were found to be non-compliant with Article I of the GATT<sup>13</sup>. The report argued that differentiation between developing countries can only be justified when there are legitimate development needs, the preferences are appropriate, and available to all countries [Bartels 2005:482]. Moreover, a new programme was introduced known as GSP+. This programme provides beneficiary countries with additional bonuses under the condition that they ratify and effectively implement an extended number of conventions on human rights, environmental protection, and good governance<sup>14</sup>.

As for the first half of 2025, the current EU's GSP programmes are governed by Regulation (EU) No 978/2012 of 25 October 2012, which has been in force since 2014<sup>15</sup>. As a result of the reform, the total number of beneficiary countries was reduced from 177 to 99 due to new stricter eligibility requirements (as of 2014) [Van Der Loo 2022:3]. For instance, neither GSP beneficiaries that concluded free trade agreements (FTAs) with the EU nor nations that the World Bank designated as high-income or upper-middle-income for three years in a row remained eligible.

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applying multiannual schemes of generalized tariff preferences from 1 July 1996 to 30 June 1999 in respect of certain agricultural products originating in developing countries. EUR-Lex. 1996. URL: <https://eur-lex.europa.eu/eli/reg/1996/1256/oj> (accessed date: 03.01.2025).

<sup>9</sup> C029 – Forced Labour Convention, 1930 (No. 29). NORMLEX. 1930. URL: [https://normlex.ilo.org/dyn/nrmlx\\_en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C029](https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C029) (accessed date: 03.01.2025); C105 – Abolition of Forced Labour Convention, 1957 (No. 105). NORMLEX. 1957. URL: [https://normlex.ilo.org/dyn/nrmlx\\_en/f?p=1000:12100:0::NO::P12100\\_ILO\\_CODE:C105](https://normlex.ilo.org/dyn/nrmlx_en/f?p=1000:12100:0::NO::P12100_ILO_CODE:C105) (accessed date: 03.01.2025).

<sup>10</sup> Council Regulation (EC) No 2820/98 of 21 December 1998 applying a multiannual scheme of generalised tariff preferences for the period 1 July 1999 to 31 December 2001. EUR-Lex. 1998. URL: <https://eur-lex.europa.eu/eli/reg/1998/2820/oj> (accessed date: 03.01.2025).

<sup>11</sup> Council Regulation (EC) No 2501/2001 of 10 December 2001 applying a scheme of generalised tariff preferences for the period from 1 January 2002 to 31 December 2004. EUR-Lex. 2001. URL: <http://data.europa.eu/eli/reg/2001/2501/oj> (accessed date: 02.01.2025); ILO Declaration on Fundamental Principles and Rights at Work (1998), as amended in 2022. NORMLEX. 1998. URL: [https://normlex.ilo.org/dyn/nrmlx\\_en/f?p=1000:62::NO:62:P62\\_LIST\\_ENTRIE\\_ID:2453911:NO](https://normlex.ilo.org/dyn/nrmlx_en/f?p=1000:62::NO:62:P62_LIST_ENTRIE_ID:2453911:NO) (accessed date: 03.01.2025).

<sup>12</sup> Council Regulation (EC) No 980/2005 of 27 June 2005 applying a scheme of generalised tariff preferences. EUR-Lex. 2005. URL: <http://data.europa.eu/eli/reg/2005/980/oj> (accessed date: 03.01.2025).

<sup>13</sup> European Commission: WT/DS246 – European Communities – Conditions for the granting of tariff preferences to developing countries. URL: [https://policy.trade.ec.europa.eu/enforcement-and-protection/dispute-settlement/wto-dispute-settlement/wto-disputes-cases-involving-eu/wtds246-european-communities-conditions-granting-tariff-preferences-developing-countries\\_en](https://policy.trade.ec.europa.eu/enforcement-and-protection/dispute-settlement/wto-dispute-settlement/wto-disputes-cases-involving-eu/wtds246-european-communities-conditions-granting-tariff-preferences-developing-countries_en) (accessed date: 02.01.2025).

<sup>14</sup> European Commission: The EC Special Incentive Arrangement for Sustainable Development and Good Governance (GSP+) 2009-2011. 2008. URL: [https://ec.europa.eu/commission/presscorner/detail/en/MEMO\\_08\\_777](https://ec.europa.eu/commission/presscorner/detail/en/MEMO_08_777) (accessed date: 02.01.2025).

<sup>15</sup> Regulation (EU) No 978/2012 of the European Parliament and of the Council of 25 October 2012 applying a scheme of generalised tariff preferences and repealing Council Regulation (EC) No 732/2008 (as amended 01.01.2025). EUR-Lex. 2012. URL: <http://data.europa.eu/eli/reg/2012/978/2025-01-01> (accessed date: 03.01.2025).

Current Regulation (EU) No 978/2012 offers three GSP programmes: Everything But Arms (EBA), which is designed to help the least developed countries (LDCs); Standard GSP, which is automatically given to low- and middle-income developing countries; and GSP+, which is an incentive for Standard GSP countries that showed even more commitment to sustainable development by ratifying and effectively implementing additional conventions.

Moreover, the 2012 GSP Regulation once again expanded *negative conditionality*, allowing temporary withdrawal of benefits for serious human rights violations, prison labour exports, lapses in international agreements on terrorism and money laundering, persistent unfair trade practices, and infringement of fisheries agreements<sup>16</sup>.

The procedural dimension of granting the GSP+ status is further clarified by Commission Delegated Regulation (EU) No 155/2013<sup>17</sup>, which supplements Regulation 978/2012. This delegated act details the formal requirements for applications, including documentation of ratification of the relevant UN/ILO conventions, binding undertakings by the requesting country, and acceptance of transparency and monitoring obligations. It also establishes deadlines, most notably a six-month period for the Commission to assess an application, as well as defines procedural guarantees such as access to the constituted file, disclosure of essential facts, and the possibility of hearings (including the involvement of the Hearing Officer). In this way, Regulation 155/2013 provides the necessary procedural framework com-

plementing the substantive conditionalities of the GSP Regulation and the practice developed under the Commission's monitoring.

The European Commission proposed an updated GSP Regulation in September 2021 to improve current programmes and monitoring processes.<sup>18</sup> The proposal added four human/labour rights conventions, one targeting organised crime, and updated one climate change convention. It expanded *negative conditionality* for EBA and Standard GSP beneficiaries to all 32 conventions, including good governance and the environment.

The Council adopted its negotiating mandate on the revised GSP regulation, allowing negotiations with the European Parliament<sup>19</sup>. The Council supported the Commission's migration and readmission clause, but negotiations were not concluded due to polarised positions between the Council and the European Parliament on this issue<sup>20</sup>. For this reason, the Parliament agreed to extend the existing GSP Regulation until December 31, 2027<sup>21</sup>. Amnesty International and other civil society organisations are urging the Council to reconsider tying trade preferences for GSP beneficiaries to cooperation with the EU on immigration and readmission<sup>22</sup>. The currently-in-force and proposed GSP programmes are the results of a long evolution since the programmes have been revised multiple times to reflect progress in trade policy, as outlined above.

In sum, the legal basis that links the GSP programmes to the EU's normative framework is two-tiered. At primary-law level, the Treaties set the Union's external-action objectives (including the

<sup>16</sup> Regulation (EU) No 978/2012 of the European Parliament and of the Council of 25 October 2012 applying a scheme of generalised tariff preferences and repealing Council Regulation (EC) No 732/2008 (as amended 01.01.2025).

<sup>17</sup> Commission Delegated Regulation (EU) No 155/2013 of 18 December 2012 establishing rules related to the procedure for granting the special incentive arrangement for sustainable development and good governance under Regulation (EU) No 978/2012 of the European Parliament and of the Council applying a scheme of generalised tariff preferences. EUR-Lex. 2013. URL: [http://data.europa.eu/eli/reg\\_del/2013/155/oj](http://data.europa.eu/eli/reg_del/2013/155/oj) (accessed date: 03.01.2025).

<sup>18</sup> Proposal for a Regulation of the European Parliament and of the Council on applying a generalised scheme of tariff preferences and repealing Regulation (EU) No 978/2012 of the European Parliament and of the Council. EUR-Lex. 2021. URL: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2021:0579:FIN> (accessed date: 04.01.2025).

<sup>19</sup> European Council: Council approves reinforced rules on granting trade preferences to developing countries. 2022. URL: <https://www.consilium.europa.eu/en/press/press-releases/2022/12/20/council-approves-reinforced-rules-on-granting-trade-preferences-to-developing-countries/> (accessed date: 04.01.2025).

<sup>20</sup> European Parliament: Review of the Generalised Scheme of Preferences (GSP) Regulation | Legislative Train Schedule. 2024. URL: <https://www.europarl.europa.eu/legislative-train/theme-an-economy-that-works-for-people/file-new-gsp-regulation?sid=9001> (accessed date: 04.01.2025).

<sup>21</sup> European Parliament: GSP rollover is good news, but negotiations must continue. 2023. URL: <https://www.europarl.europa.eu/news/en/press-room/20231120IPR12406/gsp-rollover-is-good-news-but-negotiations-must-continue-meps-say> (accessed date: 04.01.2025).

<sup>22</sup> Joint Letter from the NGOs to the Members of the Council of the European Union. 27 February 2023. Amnesty International et al. URL: [https://www.amnesty.eu/wp-content/uploads/2023/03/Joint-letter\\_GSP-reform\\_readmission-conditionality\\_updated-28.02.23.pdf](https://www.amnesty.eu/wp-content/uploads/2023/03/Joint-letter_GSP-reform_readmission-conditionality_updated-28.02.23.pdf) (accessed date: 04.01.2025).

promotion of human rights and the rule of law) and allocate the Common Commercial Policy as an exclusive EU competence. At secondary-law level, the basic GSP Regulation defines the architecture of the schemes (EBA/Standard/GSP+), sets human-rights and labour conditionality, and provides for monitoring and temporary withdrawal. These rules are further operationalised by delegated/implementing acts that lay down procedural guarantees (information-gathering, right to be heard, assessment steps) and by an allocation of institutional roles (Commission as monitor and initiator of measures, EEAS as co-lead for dialogues and missions, Member States within the GSP Committee for scrutiny, and the European Parliament for oversight).

### 3. EU monitoring system

The EU GSP Regulation currently in force (2012), as well as the Commission's Proposal, includes three GSP programmes: Everything But Arms (EBA), Standard GSP, and GSP+. As previously explained, while Standard GSP and EBA are based on *negative conditionality*, GSP+ also includes *positive conditionality*, binding beneficiaries to 1) ratify and effectively implement the twenty-seven conventions; 2) comply with the reporting requirements; and 3) cooperate with the Commission in its monitoring efforts (Article 9)<sup>23</sup>.

Compliance with these obligations is strictly monitored by the European Commission and the European External Action Service (EEAS), considering the reports of ILO/UN bodies and insights from civil society and other stakeholders (Article 14).

The preferential access to the European single market under all the EU GSP programmes, among other reasons, may be suspended for all or a particular group of products in case of persisting and systematic violations of principles stipulated in the core human and labour rights UN/ILO Conventions

listed in Annex VIII of the Regulation (Article 19). Nevertheless, such suspensions are only executed after warnings and opportunities to address the human rights issues. The Regulation of 2012, as well as the diplomatic practice of the European Commission and the EEAS, contains a step-by-step procedure that aims to efficiently restore human rights conditions in the countries under concern. Such a multi-staged procedure reserves the trade preference withdrawal as the "last resort" measure in case of severe violations. This section follows the stages (*enhanced engagement* → *procedure for temporary withdrawal of preferences*), exemplifying them based on the Cambodia case.

#### 3.1. Enhanced engagement

The European Commission has developed a comprehensive system of interaction with the GSP+ beneficiaries regarding the monitoring and reporting on human rights concerns. In 2015, as was introduced in *Trade for All* Communication, the Commission expanded this system to the Standard GSP and EBA countries<sup>24</sup>. The system is informally known as enhanced engagement, as it is not directly mentioned in the Regulation of 2012. This stems from established diplomatic practice (GSP+) and an aspiration to intensify the dialogue with specific Standard GSP/EBA recipients in areas where the EU can play a pivotal role in preventing and combating human rights atrocities<sup>25</sup>. This is particularly relevant for the Standard GSP/EBA countries with a high volume of trade, like Cambodia (exports to the EU)<sup>26</sup>.

Enhanced engagement serves as the first step, aiming to avoid the activation of the formal temporary withdrawal procedure as indicated in Article 19. By means of enhanced engagement, the European Commission requests that government officials introduce solutions and take concrete measures to address systemic issues in upholding fundamental human rights. It is expected that the participating

<sup>23</sup> Hereinafter, the articles of this Regulation shall be cited throughout the text unless otherwise specified: Regulation (EU) No 978/2012 of the European Parliament and of the Council of 25 October 2012 applying a scheme of generalised tariff preferences and repealing Council Regulation (EC) No 732/2008 (as amended 01.01.2025).

<sup>24</sup> Communication from the Commission to European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. *Trade for All: Towards a more responsible trade and investment policy*. 14 October 2015. COM(2015) 497 final. P. 19. URL: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52015DC0497&from=en> (accessed date: 05.01.2025).

<sup>25</sup> Ibid.

<sup>26</sup> European Commission: *Trade-Human Rights – withdrawal of Cambodia's preferential access to the EU market – Factsheet*. 2020. P. 1. URL: <https://circabc.europa.eu/rest/download/02ab82d2-6152-46f4-9b00-a95c950d386d> (accessed date: 05.01.2025).

states will take action that results in noticeable advancements in the near future or, if the concerns are more delicate and complex, over the foreseeable future<sup>27</sup>.

According to the Commission, enhanced engagement expands upon the suggestions and findings of the UN and ILO monitoring bodies tasked with supervising the application of the fifteen human rights agreements listed in the Regulation<sup>28</sup>. Information from other stakeholders is also taken into consideration, including civil society organisations<sup>29</sup>. The contribution of these actors makes it easier for the Commission to evaluate the adherence to the international agreements' tenets in an unbiased and open manner. Nevertheless, such information from the stakeholders does not legally bind the Commission or any other EU bodies while deciding on preference withdrawal. This fact reminds us that the contemporary model of GSP human rights conditionality is unilateral in nature and under the full discretion of a granting state.

During the enhanced engagement, a "list of issues" is presented to the countries, and they are requested to respond<sup>30</sup>. This is supplemented by formal and informal consultations with governmental officials and other stakeholders in the concerned state<sup>31</sup>. Correspondence and discussions on progress made and to be made are the driving force behind the process. Furthermore, on-ground monitoring missions may be dispatched<sup>32</sup>. Enhanced engagement may result in the creation of approved action plans (with goals and deadlines) with regard to particular concerns [Zerk, Beacock 2021:32]. The Commission, together with the EEAS, publishes biennial reports addressed to the European Parliament and

the Council on GSP (Article 14). A report explains the current issues in all GSP+ countries, as well as Standard GSP/EBA under the enhanced engagement.

In 2020, the Commission introduced a new complaint system for reporting breaches of Trade and Sustainable Development commitments under trade agreements and GSP requirements (Single Entry Point (SEP)). The Commission implemented this system to enhance the ease of obtaining crucial information about these violations<sup>33</sup>. For human rights issues, the complainant must give details of the impact and seriousness of the alleged breach (for more details, see the recommendation on the SEP below). If the Single Entry Point team finds that there may have been a violation of the GSP Regulation that may have led to the withdrawal of GSP preferences (Articles 15 or 19), information about the violation will be published on the Commission's website<sup>34</sup>. The content will include the most important information on the topic raised, but it will not disclose how the violation was discovered<sup>35</sup>.

In order to better analyse the monitoring and withdrawal processes under the Regulation of 2012, the method of case studies is applied. The case of Cambodia is quite prominent in this regard, taking into consideration that it is the most recent case of benefit withdrawal as of 2025. Moreover, it was the first time when the European Commission decided to withdraw preferences partially, in contrast to its previous practice of full withdrawal. Since Cambodia is one of the Least Developed Countries (LDCs) classified by the United Nations<sup>36</sup>, it was granted the most advantageous scope of trade preferences under the EBA programme.

<sup>27</sup> European Commission and EEAS: Report on EU enhanced engagement with three Everything But Arms beneficiary countries: Bangladesh, Cambodia and Myanmar. SWD(2020) 19 final. 2020. P. 1. URL: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020SC0019&qid=1675788126097&from=EN> (accessed date: 05.01.2025).

<sup>28</sup> Ibid. P. 2.

<sup>29</sup> Ibid.

<sup>30</sup> GSP Platform: Everything But Arms. URL: <https://gspplatform.eu/everything-but-arms> (accessed date: 05.01.2025).

<sup>31</sup> Ibid.

<sup>32</sup> European Commission and EEAS: Report on EU enhanced engagement with three Everything But Arms beneficiary countries: Bangladesh, Cambodia and Myanmar. SWD(2020) 19 final. 2020. P. 2.

<sup>33</sup> European Commission: Commission launches new complaints system to fight trade barriers and violations of sustainable trade commitments. 2020. URL: [https://ec.europa.eu/commission/presscorner/api/files/document/print/en/ip\\_20\\_2134/IP\\_20\\_2134\\_EN.pdf](https://ec.europa.eu/commission/presscorner/api/files/document/print/en/ip_20_2134/IP_20_2134_EN.pdf) (accessed date: 05.01.2025).

<sup>34</sup> European Commission: Operating guidelines for the Single Entry Point and complaints mechanism for the enforcement of EU trade agreements and arrangements. 2023. P. 4. URL: [https://trade.ec.europa.eu/access-to-markets/en/form-assets/operational\\_guidelines.pdf](https://trade.ec.europa.eu/access-to-markets/en/form-assets/operational_guidelines.pdf) (accessed date: 05.01.2025).

<sup>35</sup> Ibid.

<sup>36</sup> UNCTAD: UN List of Least Developed Countries. URL: <https://unctad.org/topic/least-developed-countries/list> (accessed date: 05.01.2025).



The Council voiced serious concern about the decline of democracy, respect for human rights, and the rule of law in its Conclusions on February 26, 2018, noting the growing persecution of the opposition, the media, and trade unions<sup>37</sup>. The Council condemned the actions taken by the Cambodian government against the members of the dissolved Cambodian National Rescue Party (CNRP), especially the detention of CNRP leader Kem Sokha. The Council demanded the reinstatement of the elected CNRP officials, the release of Kem Sokha, and the reversal of the CNRP's dissolution<sup>38</sup>. In light of the GSP Regulation's provisions, the Council encouraged the Commission to intensify its engagement with Cambodia and to augment its monitoring of the situation<sup>39</sup>.

The European Parliament raised similar concerns in its Resolution dated September 13, 2018, reminding the government of Cambodia that it has a duty to uphold democratic values and social rights, which are a crucial part of the EU–Cambodia Cooperation Agreement and the requirements under the EBA<sup>40</sup>. The Parliament also urged the Commission to examine potential consequences in light of the trade advantages enjoyed by Cambodia<sup>41</sup>.

These calls from major EU bodies, accompanied by various official reports from the UN Human Rights Council<sup>42</sup>, persuaded the Commission to initiate the enhanced engagement with Cambodia.

Additionally, this involved heightened communication and oversight, with a fact-finding visit to the country undertaken in July 2018<sup>43</sup>. On October 10, 2018, a “camera” style hearing of the European Parliament's International Trade (INTA) Committee featured a thorough discussion of the conclusions of the fact-finding mission<sup>44</sup>. Under Rule 210a of the Rules of Procedure of the European Parliament, this format of consultation is designed for considering confidential information<sup>45</sup>. Thus, the recording is not publicly available, and unauthorised visitors were asked to leave the room by the chairperson<sup>46</sup>.

### 3.2. Procedure for the temporary withdrawal of preferences

The procedure for the temporary withdrawal of tariff preferences is detailed in another source of EU law: Commission Delegated Regulation (EU) No 1083/2013 of 28 August 2013<sup>47</sup>. Under the provisions of the Commission Delegated Regulation, the Commission must consider any kind of information it finds essential. Third parties may also submit written comments. The Commission considers those third parties' positions if there is sufficient evidence to support them (Article 1). At the same time, the right to a hearing before the Commission is granted to the relevant beneficiary countries as well as other parties who have correctly filed information backed by adequate proof (Article 4).

<sup>37</sup> European Council: Council conclusions on Cambodia. 6416/18. 2018. P. 2. URL: <https://data.consilium.europa.eu/doc/document/ST-6416-2018-INIT/en/pdf> (accessed date: 05.01.2025).

<sup>38</sup> Ibid. P. 3.

<sup>39</sup> Ibid.

<sup>40</sup> European Parliament: Resolution of 13 September 2018 on Cambodia, notably the case of Kem Sokha. 2018/2842(RSP). 2018. URL: [https://www.europarl.europa.eu/doceo/document/TA-8-2018-0346\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-8-2018-0346_EN.html) (accessed date: 05.01.2025).

<sup>41</sup> Ibid.

<sup>42</sup> UN Human Rights Council: Role and achievements of the Office of the United Nations High Commissioner for Human Rights in assisting the Government and people of Cambodia in the promotion and protection of human rights. A/HRC/36/32. 2017. URL: <https://documents.un.org/api/symbol/access?j=G1724105&t=pdf> (accessed date: 05.01.2025); UN Human Rights Council: Report of the Special Rapporteur on the situation of human rights in Cambodia. A/HRC/39/7. 2018. URL: <https://documents.un.org/api/symbol/access?j=G1824954&t=pdf> (accessed date: 05.01.2025).

<sup>43</sup> European Commission: Cambodia: EU mission assesses human rights and labour situation. 2018. URL: [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_18\\_4467](https://ec.europa.eu/commission/presscorner/detail/en/ip_18_4467) (accessed date: 05.01.2025).

<sup>44</sup> A letter from Ramon Tremosa i Balcells (ALDE) to the Commission. 22 August 2018. E-004308/18. URL: [https://www.europarl.europa.eu/RegData/questions/reponses\\_qe/2018/004308/P8\\_RE\(2018\)004308\\_EN.pdf](https://www.europarl.europa.eu/RegData/questions/reponses_qe/2018/004308/P8_RE(2018)004308_EN.pdf) (accessed: 05.01.2025).

<sup>45</sup> Rule 210a: Procedure for the consultation by a committee of confidential information in a committee meeting in camera. Rules of Procedure of the European Parliament. 2019. URL: [https://www.europarl.europa.eu/doceo/document/RULES-8-2019-03-25-RULE-210-1\\_EN.html](https://www.europarl.europa.eu/doceo/document/RULES-8-2019-03-25-RULE-210-1_EN.html) (accessed: 05.01.2025).

<sup>46</sup> European Parliament: INTA Committee Meeting – Multimedia Centre. 2018. URL: [https://multimedia.europarl.europa.eu/en/webstreaming/event\\_20181010-0900-COMMITTEE-INTA?start=181010083818&end=181010083849&audio=en](https://multimedia.europarl.europa.eu/en/webstreaming/event_20181010-0900-COMMITTEE-INTA?start=181010083818&end=181010083849&audio=en) (accessed: 05.01.2025).

<sup>47</sup> Commission Delegated Regulation (EU) No 1083/2013 of 28 August 2013 establishing rules related to the procedure for temporary withdrawal of tariff preferences and adoption of general safeguard measures under Regulation (EU) No 978/2012 of the European Parliament and the Council applying a scheme of generalised tariff preferences. EUR-Lex, 2013. URL: [https://eur-lex.europa.eu/eli/reg\\_del/2013/1083/oj](https://eur-lex.europa.eu/eli/reg_del/2013/1083/oj) (accessed date: 05.01.2025).

With regard to Cambodia, the Commission concluded after consulting the Generalised Preferences Committee that there was enough proof to initiate the process of temporarily removing the country's EBA tariff privileges on February 11, 2019<sup>48</sup>. The evidence suggested grave and persistent violations of the core provisions of UN/ILO Conventions<sup>49</sup>.

The withdrawal procedure began with the publication of the Notice of Initiation on February 12, 2019, which launched a six-month monitoring and evaluation period<sup>50</sup>. On March 19–20, 2019, a high-level Commission/EEAS delegation travelled to Cambodia as part of political dialogue with the Cambodian government<sup>51</sup>. Another Commission/EEAS fact-finding expedition to evaluate the situation with human rights was held on June 3–10, 2019<sup>52</sup>. The Commission collected all relevant data throughout the monitoring and evaluation period, including observations from industry, civil society groups, UN and ILO monitoring bodies, and Cambodian governmental institutions<sup>53</sup>.

On August 12, 2019, the monitoring and evaluation period elapsed. The Commission sent Cambodia its report of findings and conclusions on November 12, 2019. Commentary from Cambodia was received on December 12, 2019<sup>54</sup>.

On February 12, 2020, the Commission enacted a Delegated Regulation on the temporary and partial removal<sup>55</sup> of tariff benefits given to Cambodia under the EBA<sup>56</sup>. The Regulation is in effect starting on August 12, 2020<sup>57</sup>. Even though the procedure for temporary withdrawal of preferences has been concluded, the stage of enhanced engagement continues

to apply to Cambodia. As indicated in Commission Delegated Regulation (EU) 2020/550 of 12 February 2020, which enacted the partial benefit suspension, the Commission will keep monitoring the situation in Cambodia, particularly concerning labour rights<sup>58</sup>. It may restore the tariff privileges if Cambodia completely addresses the concerns brought up in the Delegated Regulation<sup>59</sup>.

### 3.3. Lessons to learn from the Cambodia case

The EU monitoring and withdrawal system employed in the case of Cambodia demonstrates certain positive sides as well as serious limitations. Permit us to begin with the former.

***Tiered Approach:*** *the monitoring system operates with a step-by-step approach, beginning with enhanced engagement to promote remedial action prior to initiating withdrawal.*

To advance human rights in beneficiary nations, the EU's GSP monitoring mechanism applies a tiered approach. Before enacting the measure of "last resort", which is the suspension of trade preferences, this approach entails a number of overlapping phases. The system encourages the beneficiaries to address human rights issues by beginning with negotiations as part of enhanced engagement. In this informal phase, the EU identifies issues and encourages the country to address them through diplomatic negotiations and drafting action plans.

Thanks to this approach, engaging in negotiations beforehand protects recipient nations' economies from sudden trade benefit withdrawals and, in the event of such withdrawals, facilitates quick rein-

<sup>48</sup> Commission Implementing Decision of 11 February 2019 on the initiation of the procedure for temporary withdrawal of the tariff preferences provided to the Kingdom of Cambodia under Article 19 of Regulation (EU) No 978/2012. EUR-Lex, 2019. P. 3. URL: [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32019D0212\(02\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32019D0212(02)) (accessed date: 05.01.2025).

<sup>49</sup> Ibid.

<sup>50</sup> Ibid. P. 4.

<sup>51</sup> European Commission and EEAS: Report on EU enhanced engagement with three Everything But Arms beneficiary countries: Bangladesh, Cambodia and Myanmar. SWD(2020) 19 final. 2020. P. 20.

<sup>52</sup> Ibid.

<sup>53</sup> Commission Implementing Decision of 11 February 2019 on the initiation of the procedure for temporary withdrawal of the tariff preferences provided to the Kingdom of Cambodia under Article 19 of Regulation (EU) No 978/2012. P. 3.

<sup>54</sup> European Commission and EEAS: Report on EU enhanced engagement with three Everything But Arms beneficiary countries: Bangladesh, Cambodia and Myanmar. SWD(2020) 19 final. 2020. P. 20.

<sup>55</sup> Sugar, travel supplies, selected garment products, and particular footwear products.

<sup>56</sup> European Commission: Cambodia loses duty-free access to the EU market over human rights concerns. 2020. URL: [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_20\\_1469](https://ec.europa.eu/commission/presscorner/detail/en/ip_20_1469) (accessed date: 05.01.2025).

<sup>57</sup> Ibid.

<sup>58</sup> Commission Delegated Regulation (EU) 2020/550 of 12 February 2020 amending Annexes II and IV to Regulation (EU) No 978/2012 of the European Parliament and of the Council as regards the temporary withdrawal of the arrangements referred to in Article 1(2) of Regulation (EU) No 978/2012 in respect of certain products originating in the Kingdom of Cambodia. EUR-Lex. 2020. URL: [http://data.europa.eu/eli/reg\\_del/2020/550/oj](http://data.europa.eu/eli/reg_del/2020/550/oj) (accessed date: 05.01.2025).

<sup>59</sup> Ibid.

statement of the benefits in cases of normalisation. Moreover, cooperation pushes recipient nations to assume responsibility for reforms, which might result in greater long-lasting results in the sphere of human rights and other aspects of sustainable development. Furthermore, the tiered approach may be modified to fit the unique circumstances of any country under suspicion, raising the chances of positive feedback and reforms.

The evidence for that can be observed in the process of enhanced engagement with other Standard GSP/EBA countries, like Bangladesh. In order to improve the labour rights situation, particularly to guarantee that the Export Processing Zone Labour Act and the Bangladesh Labour Act comply with the ILO fundamental Conventions, the Bangladeshi authorities decided in October 2019 to create the National Action Plan on the Labour Sector of Bangladesh (NAP), which includes timelines for reforms<sup>60</sup>. In September 2021, Bangladesh released its final NAP to the public. This extensive paper also addressed EU concerns about child labour, labour inspections, and closing factories that cannot be made compliant with health and safety regulations<sup>61</sup>. Furthermore, Bangladesh adopted ILO Convention No 138 on the minimum age in 2022<sup>62</sup>.

While there are certain improvements in Bangladesh, positive progress in Burma (Myanmar), another Standard GSP/EBA country under enhanced engagement, is dramatically limited. However, it would be quite irrational to assess the effectiveness of enhanced engagement based on the Burma case, as a *coup d'état* led by the military junta was executed in February 2021. The European Union has remained committed to addressing the worsening situation with human rights in Burma through targeted sanctions and interaction with stakeholders.<sup>63</sup> At the same time, no legal steps were taken by the European Commission to initiate the formal withdrawal of trade preferences.

**Evidence-Based:** *the system is based on evidence from a number of sources, including UN/ILO monitoring bodies, stakeholders, and fact-finding missions, leading to a more objective assessment.*

Utilising data from several sources helps reduce prejudice and promotes a more impartial evaluation of human rights situations in a particular country under review. This includes an assessment of current national legislation as well as law enforcement. The legitimacy of the monitoring procedure and the EU's position when interacting with governmental officials are strengthened by the use of reliable evidence. Moreover, data analysis based on a diverse range of sources enables the EU to more precisely formulate a "list of issues".

**Relative Transparency:** *publicly available joint Commission/EEAS reports contribute to the openness of the system.*

As has been mentioned earlier, the Regulation of 2012 obliges the Commission and the EEAS to present joint reports for a period of two years to the Parliament and the Council. The EU's interactions with beneficiary countries, including dialogue with authorities, monitoring missions, and economic statistics, are documented in the biennial reports. They list the accomplishments to date along with the problems that still need to be addressed.

**Potential for Leverage:** *the monitoring system constitutes an instrument that may persuade a beneficiary nation to improve its human rights standards, especially with the prospect of trade preference removal.*

A team of analysts from the European Centre for Development Policy Management (ECDPM) compared the effectiveness of achieving non-trade objectives by EU trade policy tools and concluded that the "carrot-and-stick" system embodied in the GSP conditionality provides more potential for leverage in terms of advancing human rights than Free Trade Agreements [Borchert, Conconi, Di Ubaldo, Herghelegiu 2021:640]. "Carrot" is attributed to trade benefits provided in return for compliance with international human rights standards, while "stick" means a sanctioning measure in the form of full or partial trade benefits withdrawal [Hepple 2005:102].

The possibility of losing trade advantages might provide beneficiary nations with a strong financial incentive to resolve human rights issues. The moni-

<sup>60</sup> European Commission and EEAS: Report on EU enhanced engagement with three Everything But Arms beneficiary countries: Bangladesh, Cambodia and Myanmar. SWD(2023) 360 final. 2023. P. 4. URL: <https://data.consilium.europa.eu/doc/document/ST-15996-2023-ADD-2/en/pdf> (accessed date: 06.01.2025).

<sup>61</sup> Ibidem.

<sup>62</sup> Ibid. P. 3.

<sup>63</sup> Ibid. P. 13.

toring mechanism ensures that concerned nations fulfil their obligations under internationally recognised norms and/or principles. In addition, the EU's activities may draw attention to human rights abuses in recipient nations in a global arena.

Although the long-term effects are still unknown, Cambodia's partial loss of EBA advantages demonstrates the EU's willingness to use trade preferences as leverage to force changes in national practices.

Finding a middle ground or determining whether the EU should give incentives a higher priority than penalties has been a major topic of discussion in both political and scholarly circles. Nevertheless, the fundamental objective of the EU to use its economic influence as a means to exert pressure on third countries to promote human rights remains undisputed [Orbie, Alcazar III, Sioen 2022:69].

A number of the above-mentioned positive aspects of the EU GSP monitoring system have a double-edged nature. There are certain limitations to them, as well as other issues to be overcome. Each drawback is supplemented with a corresponding recommendation, which is addressed to EU institutions responsible for the operation of the GSP, chiefly the European Commission (DG Trade), the European External Action Service (EEAS), and the European Parliament (EP) regarding oversight. They are further directed at Member States acting within the GSP Committee and the human rights dialogue frameworks:

**Insufficiency of the Tiered Approach:** *the situation in Cambodia highlights the shortcomings of the tiered approach.*

Years of enhanced engagement and the formal procedure of withdrawal did not improve Cambodia's human rights status at the required level to maintain full access to trade preferences under the EBA programme. As a result, certain products were excluded from preferential treatment (approximately 20% of all exports to the EU<sup>64</sup>).

*Corresponding recommendations:*

**Establish more defined expectations for beneficiary nations based on their economic and social situation:** this would allow for resource pooling and increased accountability, guaranteeing not only the

presence of legislation compliant with international standards but also the ability to carry them out<sup>65</sup>. For instance, the European Union and the beneficiary could negotiate to develop publicly available roadmaps that outline precise deadlines for reforms.

**Consider cumulative and more targeted consequences:** investigate an opportunity to apply targeted economic sanctions<sup>66</sup> in combination with partial GSP withdrawal.

The GSP partial withdrawals and the EU's Common Foreign and Security Policy (CFSP) sanctions may work in concert to encourage beneficiary nations to adhere to international human rights standards, as it was in the cases of Myanmar and Belarus [Portela, Orbie 2014:71–72]. On one hand, the EU can apply pressure by imposing CFSP sanctions on certain individuals and entities within a suspected country. On the other hand, GSP partial withdrawals may provide a focused reaction to non-compliance by concentrating on particular goods or industries. By harmonising the application of both tools, the EU can establish a comprehensive external action system for addressing human rights violations in beneficiary countries. A coherent strategy like this would send a clear message that the EU is dedicated to maintaining these standards and would take a diverse range of appropriate measures in the event of severe violations.

**Enhanced oversight:** empowering the Generalised Preferences Committee could improve the system's legitimacy and impartiality.

The European Commission is the central player in comparison with other EU core bodies, as it may adopt implementing regulations (neither the Parliament nor the Council perform an active role in GSP decision-making). Being a body of general specialisation, the Commission evaluates beneficiary nations' adherence to human rights standards. There are concerns about possible biases and a lack of openness, as it also executes all other aspects of EU policy. Thus, other aspects of the Commission's activities may influence its objectivity.

Currently, the Commission's decision to initiate a procedure for temporary withdrawal of benefits does not require the consent of the Generalised

<sup>64</sup> Leang U. 20 % of EBA withdrawal effect. – *Khmer Times*. 24 August 2020. URL: <https://www.khmertimeskh.com/50756228/20-of-eba-withdrawal-effect> (accessed date: 06.01.2025).

<sup>65</sup> Reijn R. How EU Trade Policy Can Better Promote Sustainability Standards in Supply Chains. – *Institute for Human Rights & Business (IHRB)*. 30 March 2021. URL: <https://www.ihrb.org/latest/eu-trade-policy-sustainability-standards-supply-chains> (accessed date: 06.01.2025).

<sup>66</sup> Under the framework of the EU Global Human Rights Sanctions Regime.



Preferences Committee following the comitology advisory procedure (Article 19(3) of the 2012 GSP Regulation), which is made up of representatives from the Commission, EEAS, the EP's INTA committee, and individual Member States. It meets on a regular basis to discuss the scheme's economic, social, and political implications [Beke, D'Hollander, Hachez, Pérez de las Heras 2014:34]. Comitology applies when a law provides the Commission with implementation powers. The same law requires a committee to assist the Commission in defining the implementing act's measures<sup>67</sup>. Comitology encompasses two different forms: the advisory procedure and the examination procedure. In both procedures, a committee comprising representatives from all EU member states must provide a formal opinion on the proposed measures by the Commission<sup>68</sup>.

In the examination procedure, the Commission must adopt the proposed implementing act if a qualified majority (55 % of EU countries, or at least 65 % of the total EU population) votes in favour of it; the Commission may not adopt the proposed act if a qualified majority votes against it; in the event that no qualified majority votes in favour of the proposed act, the Commission may submit a new, amended version or adopt the proposed act. In contrast, in the advisory procedure, the Commission is not bound by the committee's position while deciding whether to enact the proposed act<sup>69</sup>.

So, changing the advisory procedure to an examination procedure and assigning prominent experts in human rights to the Committee could increase the legitimacy and impartiality of the monitoring system [Tsogas 2000:365]. Furthermore, focusing solely on GSP monitoring would prevent other considerations, such as pure geopolitical implications, from clouding their decisions.

**Lack of Transparency:** the "list of issues" as well as oral hearings on the matter are not publicly available.

The EU may conceal some material, such as details from stakeholder submissions or fact-finding missions, claiming confidentiality issues to protect

sources or ongoing discussions (e.g., "in camera" sessions of the Parliament). Moreover, the "lists of issues" submitted to national governments are not publicly available<sup>70</sup>. Furthermore, unlike the US GSP review system, oral hearings under Commission Delegated Regulation (EU) No 1083/2013 are not open to the public. So, the lack of detailed information in publicly available reports hinders public scrutiny of the monitoring process and decision-making by the Commission. The concern has also been raised by the NGOs while preparing their official positions with regard to the Commission's Proposal for a new GSP Regulation [Zamfir 2022:8].

*Corresponding recommendations are as follows.*

**Publish summaries of confidential information:** the Commission might consider sharing anonymised summaries of confidential information to help the public and NGOs better understand the evidence used in the monitoring process.

**Make the "list of issues" publicly available, notwithstanding the first point:** the data indicated in the "list of issues" should be available to a wider range of stakeholders. It is conceivable that collaboration among NGOs, corporations, EU bodies, and the beneficiary government might have a greater effect on resolving concerns noted in the list (see public hearings recommendation below) [Zamfir 2022:8].

**Organise frequent press briefings:** to inform the public and non-governmental organisations on the progress of the monitoring procedure and ongoing discussions with beneficiary nations, the European Commission may arrange frequent press briefings. Regular briefings could take place in conjunction with the release of biennial<sup>71</sup> reports and whenever new issues emerge.

**Raise awareness of the Single Entry Point (SEP) complaint mechanism:** this would guarantee the receiving of vital information concerning the alleged violations and non-compliance of beneficiary states with international standards in an organised and reliable manner.

<sup>67</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers. EUR-Lex. 2011. URL: <http://data.europa.eu/eli/reg/2011/182/oj> (accessed date: 06.01.2025).

<sup>68</sup> European Commission: Comitology. URL: [https://commission.europa.eu/law/law-making-process/adopting-eu-law/implementing-and-delegated-acts/comitology\\_en#:~:text=examination%20procedure%20-%20used%20particularly%20for,for%20all%20other%20implementing%20acts](https://commission.europa.eu/law/law-making-process/adopting-eu-law/implementing-and-delegated-acts/comitology_en#:~:text=examination%20procedure%20-%20used%20particularly%20for,for%20all%20other%20implementing%20acts) (accessed date: 06.01.2025).

<sup>69</sup> Ibid.

<sup>70</sup> Reijn R. How EU Trade Policy Can Better Promote Sustainability Standards in Supply Chains. 2021.

<sup>71</sup> Or triennial if the Commission's Proposal is adopted with no amendment in this regard.

As there are no known complaints with regard to the GSP eligibility so far, the Commission can conduct targeted outreach campaigns to inform civil society organisations and stakeholders in the EU, as well as GSP beneficiary countries, about the SEP and how to utilise it effectively. However, the current guidelines only allow EU-based organisations to file a complaint<sup>72</sup>. At the same time, EU-based NGOs may act on behalf of their partner organisations in GSP recipient countries. For example, *CNV Internationaal* has done so on behalf of trade unions in Colombia and Peru in relation to precarious working conditions for miners under the provisions of the Free Trade Agreement<sup>73</sup>.

**Allow public oral hearings as a part of enhanced engagement and the withdrawal procedure:** such a step might contribute to an open dialogue between the Commission, beneficiary's government, enterprises, and NGOs, with the opportunity to address questions between each other.

Public hearings would allow stakeholders, including civil society organisations and human rights experts, to present evidence and perspectives on the human rights situation in beneficiary countries. This would increase public oversight and accountability for the EU's decisions. Hearings could provide a platform for sharing information about the monitoring process and the specific concerns identified with beneficiary countries. Besides that, the public nature of hearings could put pressure on beneficiary countries to address identified human rights violations to avoid negative publicity.

Public hearings may be prioritised for high-risk countries or instances involving serious continuing human rights breaches. Furthermore, using video conferencing technology might enable greater stakeholder engagement in hearings, bypassing geographical barriers. Public hearings can help create a more responsible and successful system for advancing rights via trade by drawing on the US GSP review process and adapting it to the EU setting.

**Limitations of Leverage:** *EU preferences may not be the primary trading partner for beneficiary countries; exiting to alternative markets; authoritarian regimes neglect their nations' sustainable development.*

For some beneficiary countries, the EU may not be their primary trading partner. In another scenario, if these countries lose EU trade preferences, they may look for other markets for their products. Besides that, some authoritarian regimes may overlook their national interests (e.g., sustainable development) for inadequate geopolitical considerations. These governments disregard the danger of benefit withdrawal or the imposition of economic sanctions. All these cases and scenarios limit the leverage of the EU GSP monitoring and withdrawal system.

*Corresponding recommendations are as follows.*

**Targeted leverage:** concentrate on using leverage in industries or goods that are most dependent on EU markets in beneficiary nations. This can concentrate pressure on areas where economic impact is most likely while minimising disruption to the overall national economy.

**EU-US cooperation**<sup>74</sup>: the asymmetry of requirements between EU and US GSP programmes enables beneficiary countries to redirect export flows towards less stringent regimes. In the long term, this undermines the effectiveness of the EU's human rights conditionality. One possible hypothetical scenario for enhancing efficiency could be institutional convergence or harmonisation of the EU and US criteria, potentially including the establishment of a joint consultative body. Such coordination, although politically challenging, would reduce the risk of circumventing human rights conditionality through alternative developed-country markets.

**Encourage other developed countries to introduce sustainability conditionality in their GSP programmes:** a more comprehensive approach could be created for pressing beneficiary nations to enhance their human rights records by developed nations working together.

Such a global coalition is likely to make it more difficult for the national governments of beneficiary countries to just shift commerce elsewhere in response to calls for reform. For example, the very first country in such a coalition can become Norway, considering its economic ties with the EU through the European Economic Area (EEA).

<sup>72</sup> European Commission: Operating guidelines for the Single Entry Point and complaints mechanism for the enforcement of EU trade agreements and arrangements. 2023. P. 2.

<sup>73</sup> CNV Internationaal: On non-compliance by the Colombian and Peruvian Governments of Chapter IX, on Sustainable Development, of the Trade Agreement with the European Union. 2022. URL: [https://www.cnvinternationaal.nl/\\_Resources/Persistent/7/e/a/d/7eaded188057bc7dd0e1b6bf1569d3a5883b119/CNVI-0334%20Complaint%20Colombia%20Peru%20SEP%20EU%20Trade%20Agreement.pdf](https://www.cnvinternationaal.nl/_Resources/Persistent/7/e/a/d/7eaded188057bc7dd0e1b6bf1569d3a5883b119/CNVI-0334%20Complaint%20Colombia%20Peru%20SEP%20EU%20Trade%20Agreement.pdf) (accessed date: 06.01.2025).

<sup>74</sup> NB! This can be achieved only if the US re-authorises its GSP programme.

Uniform standards (e.g., a common list of UN/ILO treaties) across developed countries' GSP programmes would prevent beneficiary countries from "playing off" different systems with weaker or no human rights requirements [Kryvoi 2008:242–243]. This may not only increase the effectiveness of EU GSP leverage but also reinforce human rights across the globe.

A platform for creating a global coalition might become the International Labour Organisation (ILO) or the United Nations Conference on Trade and Development (UNCTAD), as this particular conference gave birth to the GSP as a functioning system. Alternatively, this can be done by setting up bilateral agreements.

**Provide successful recipients with additional benefits beyond trade preferences:** link trade preferences with extra bonuses that are conditional on advancements in human rights. This might entail more access to EU research programmes, technological transfer, or development assistance.

**Disproportionate Impact of GSP Withdrawal:** *disproportionate trade preference withdrawals may have unforeseen repercussions that hurt disadvantaged communities and prevent the intended aims from being met.*

A disproportionate preference withdrawal is likely to harm the vulnerable population of a beneficiary country, while the main goal of the GSP is completely the opposite. In the case of Cambodia, poor female workers from rural areas were particularly affected by the partial withdrawal, as they make up a sizable portion of the workforce in the garment and footwear industry [Tanaka 2022:3416]. In the meantime, the Cambodian government's recent attempts to allay EU concerns about legal and political problems in Cambodia have not demonstrated any discernible progress, as indicated in the Joint Report for the period 2020–2022<sup>75</sup>. This means that the Commission's decision mainly had a disproportionately detrimental effect on workers and enterprises engaged in export-oriented industries.

*Corresponding recommendations are as follows.*

**Social impact assessments:** before enforcing withdrawal measures, a comprehensive social impact evaluation shall be conducted. This assessment would identify potential negative consequences

for vulnerable populations and develop mitigation strategies.

**Increased support for local NGOs:** reinforce aid to civil society groups in beneficiary nations. A strong and resilient civil society can hold governments responsible and advocate for the rights of vulnerable social groups.

**Technical assistance:** beneficiary countries with systematic violations, if their governments agree, may get advice from EU experts on how to implement reforms and strengthen institutions as well as law enforcement. This may also include providing training and capacity-building programmes to empower civil society organisations and independent trade unions in those countries.

Overall, a proposed toolbox of effective monitoring instruments may include: (i) country-specific, time-bound and measurable benchmarks with public action plans that specify responsible authorities, legal steps, enforcement milestones and metrics; (ii) regular Commission/EEAS dialogues using follow-up matrices with clear deadlines and published summaries of commitments; (iii) systematic uptake of UN/ILO supervisory findings through a transparent mapping that links each external finding to a concrete benchmark and government action; (iv) structured civil-society inputs via standardised calls for evidence, safe-reporting channels and published summaries; (v) targeted fact-finding missions with *aide-mémoire*, stakeholder lists and verification notes; and (vi) a graduated conditionality ladder (warning, enhanced monitoring, and, where persistent non-compliance is established, reasoned proposals for partial/temporary withdrawal, with reinstatement upon verified compliance).

Correspondingly, an optimal procedural pathway may be as follows: screening of UN/ILO outputs and substantiated civil-society inputs as the trigger; opening of enhanced monitoring with a public roadmap of measurable and time-bound benchmarks; structured dialogue and on-site verification; interim public reporting on progress against each benchmark; agreement of a corrective, time-bound action plan where gaps persist; a reasoned final assessment with, if necessary, proportionate measures under the GSP legal framework; and follow-up leading to possible reinstatement once compliance is verified.

<sup>75</sup> European Commission and EEAS: Report on EU enhanced engagement with three Everything But Arms beneficiary countries: Bangladesh, Cambodia and Myanmar. SWD(2023) 360 final. 2023. P. 16–24.

#### 4. Conclusion

The impact of international trade on human rights in developing and least-developed countries has become one of the priorities for trade policy to address. The European Union's Generalised Scheme of Preferences (GSP) is a bright example of how trade policy tools may be utilised for achieving sustainable development, and respect for human rights in particular. In the course of its gradual evolution, the EU's GSP programmes developed the complex system of *negative* and *positive conditionalities*.

The EU system stands out with its progressive incentive GSP+ programme, employing a "carrot and stick approach". Additional trade preferences under this programme motivate developing countries to ratify and effectively implement UN/ILO Conventions on human rights, as well as those related to other aspects of sustainable development, including environmental protection and good governance. This is supplemented by the EU's reliance on the conclusions and recommendations of the UN/ILO monitoring bodies, leading to an increased degree of impartiality within its system. Another distinctive feature is dispatching fact-finding missions to

the territories of concerned countries to assess the situation regarding human and labour rights.

The case of Cambodia demonstrates both strengths and weaknesses of the EU's GSP monitoring system. The EU's multi-tiered approach and reliance on evidence-based monitoring confirm the GSP's status as a decent tool for achieving non-trade objectives. However, challenges remain. Insufficient transparency, limited leverage, disproportionate impact on vulnerable groups and mixed results of enhanced engagement highlight areas for further study and improvement.

To maximise the GSP's potential, the EU needs to address these shortcomings by increasing transparency, strengthening monitoring mechanisms, conducting social impact assessments and developing international cooperation to create a unified approach for advancing human rights through trade globally. In addition, technical assistance and support to civil society in affected countries could mitigate unintended consequences and ensure the protection of vulnerable communities.

Ultimately, while trade preferences alone cannot address systemic human rights violations, they remain a powerful tool in the context of the EU's external action for promoting economic growth and human rights around the world.

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