



India and The U.S. GSP Programme

Cul de Sac or a Road Ahead!

The Generalized System of Preferences programme, offered by developed countries, provide a non-reciprocal preferential treatment (such as zero or low duties on imports) to qualifying imports from developing and least developed countries. India is the largest beneficiary of this programme offered by the United States. Recently, the United States Trade Representative has been urged by its dairy and medical devices industries to review India's status. The hearing will take place on 19th June 2018.

Background

Countries which are members of the World Trade Organization (WTO) must comply with two major pillars of non-discriminatory principles – namely, the Most Favoured Nations (MFN) and the National Treatment (NT). In other words, there cannot be any discriminatory preferences by a country to its trading partners.

However, trade preferences for developing countries were initially granted as an exception through a 1971 waiver which was to expire after a decade. In 1979, this waiver was extended by the General Agreement on Tariffs and Trade (GATT). As one of the decisions of the contracting parties to the GATT, it was incorporated into the law of the WTO.

The Enabling Clause is, thus, the legal basis for the Generalized System of Preferences (GSP) programme under which developed countries, such as the United States, the European Union (EU), offer non-reciprocal preferential treatment (such as zero or low duties on imports) to qualifying imports from developing and least developed countries (LDCs).

The U.S. GSP programme was initiated under the [U.S. Trade Act of 1974](#) (USTA, 1974). It was last renewed on March 23, 2018 with retrospective application from January 1, 2018. It eliminates/reduces duties on products when imported from [121](#) designated beneficiary countries and territories. Currently, 5,059 products are eligible for this programme. Of these, 3,569 products are eligible for all GSP beneficiaries and the remaining 1,490 are eligible only for LDCs.

To qualify for the U.S. GSP, an eligible country must meet 15 eligibility criteria established by Section 501 of the USTA, 1974. They include:

- respecting workers' rights
- commitments to end child labour
- respecting investor state dispute settlement claims
- not granting sanctuary to terrorists
- providing protection for intellectual property rights
- reducing barriers to investment and trade in services
- providing the USA with an equitable and reasonable market access ("the GSP market access criterion")

India's Status under The U.S. GSP Programme

Under the U.S. GSP programme, India enjoys preferential market access for nearly 3,500 GSP eligible goods. [According to](#) the United States Trade Representative (USTR), the total U.S. imports under its GSP programme in 2017 was valued at US\$ 21.2 bn, the highest imports being those of motor vehicle parts, ferroalloys and precious metal jewellery.

India is the largest beneficiary of the U.S. GSP programme, having exported US\$ 5.58 bn worth GSP-eligible goods to the U.S. in 2017 (Figure 1).

Major Indian sectors which benefit the most from the U.S. GSP programme include organic chemicals, articles of iron and steel, plastics, vehicles and parts thereof, and machinery and equipment for the electronics industry.

On April 12, 2018, the Office of the USTR launched a [GSP eligibility review of India](#) based on concerns related to its compliance with the GSP market access criterion and accepted two petitions related to the same provision. It was the U.S. dairy and medical device industries who filed petitions regarding the review of India's GSP benefits claiming that Indian trade barriers are affecting their exports to India.

For instance, India's regulations require that dairy products be derived from animals which have never consumed any feeds containing internal organs, blood meal, or tissues of ruminant origin for longstanding religious and cultural concerns.

In 2017, price controls on coronary stents and knee implants were implemented to make them more accessible to consumers.

Benefits of The U.S. GSP Programme

The U.S. GSP programme benefits several sections of its society. Direct and indirect jobs associated with moving aggregate GSP imports from the docks to farmers, manufacturers and ultimately to retail shelves totaled nearly 82,000 in [2005](#).

The programme [resulted](#) in US\$ 865 million savings for American companies during the first eleven months of 2017.

[Blanchard, Johnson and Bown \(2017\)](#) documented that countries like the U.S. are offering lower tariffs to imports that contain high levels of U.S. content arising through global value chains. Thus, if sales by foreign producers to the U.S. are hindered by revising its GSP programme, those producers may no longer buy the parts and components currently supplied by the U.S. companies.

Limitations of The U.S. GSP Programme

The U.S. GSP programme is temporary and requires renewal. A country can export only a limited amount (known as the Competitive Need Limitation or CNL) of any product under the GSP. In 2017, the cap was US\$ 180 million or a quantity greater than 50 per cent of the total U.S. imports value of a product. [Subramanian and](#)

[Wei \(2007\)](#) found that poor countries had not been able to expand exports for decades despite the existence of this programme.



Furthermore, because the U.S. government unilaterally determines the product coverage under its GSP programme, goods like agricultural produce and clothing are excluded from this scheme. From a development perspective, reduced/eliminated tariffs on these goods would provide much benefit to

poor countries but instead of that many of them face high tariffs in the U.S. market in these products.

In lieu of a conclusion

It seems that the U.S. has initiated this review due to technical barriers to trade imposed by India, such as those in place for dairy and medical devices industries.

India has banned imports of milk products derived from animals who have consumed ruminant protein. Feeding ruminant protein has been discovered as a major reason for [bovine spongiform encephalopathy \(BSE\)](#) which outbreaked in the United Kingdom during 1980s. Since then many countries, including EU and Australia, have put [a ban](#) on animal products derived from animals that have consumed feeds with ruminant protein.

As far as price control on medical devices is concerned, it is a public welfare measure which any country can adopt to provide affordable health facilities to its citizens. Recently, the U.S. President Donald Trump has also [assailed drugmakers and healthcare middlemen](#) for making prescription medicines unaffordable to Americans.

India's imports tariffs, which the U.S. alleges to be changing frequently, are WTO-legal and cannot be challenged without a renegotiation of bound tariff rates. But if India were to offer reductions, this could serve as an important bargaining chip to increase GSP benefits for the country in future. Furthermore, any action against India in the forthcoming hearing on its GSP status may generate inflationary pressure in the U.S. economy.