

# INTERNATIONAL TRADE LAW

## EU's and UK's General Schemes of Preferences after Brexit – possible consequences for developing countries

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### Introduction

After the UK's withdrawal from the EU on 31 January 2020,<sup>1</sup> the UK had the opportunity to establish its own GSP scheme for developing countries.<sup>2</sup> The need for further market access of developing countries to the UK market led to the fact that the UK has copied the body of EU's GSP scheme, which was in force at the time of the UK's withdrawal from the EU.<sup>3</sup> The UK's own GSP scheme is in force since the 1 January 2021.<sup>4</sup>

Experts said that the UK had simply rolled over EU's GSP scheme, especially to maintain continuity of the market access for developing countries.<sup>5</sup> Consequently, there should be no changes to and no problems for developing countries with the implementation of UK's GSP scheme post-Brexit. At first sight, this is true, but in some cases, Brexit had significantly more profound effects than most experts had suspected at the outset. This article asks whether there are truly no changes for developing countries in accessing the UK as well as the EU market under the GSP schemes after Brexit. Furthermore, it examines the impairment caused for developing countries regarding the access to UK as well as EU's markets under the different GSP schemes.

To address that question, the author examines different legal sources and publications. First, she analyzes the EU's and UK's provisions on the GSP, especially on the so-called graduation and market access. Additionally, the author evaluates different papers on the impact of the different GSP schemes for developing countries after Brexit. In addition, an outlook on EU's GSP scheme as of 2024 is provided, including an estimate of how grave the divergences between the two GSP schemes might be in the near future.

### The main characteristics of EU's and UK's GSP schemes

For a better understanding of the differences between EU's and UK's GSP schemes, the main characteristics of EU's GSP scheme, which mainly apply for UK's GSP scheme, are

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<sup>1</sup> European Union, *Brexit: EU-UK relationship*, available at: <<https://eur-lex.europa.eu/content/news/Brexit-UK-withdrawal-from-the-eu.html?locale=en#>> accessed 10 January 2022.

<sup>2</sup> Government UK, *Guidance – Trading with developing nations*, available at: <[www.gov.uk/government/publications/trading-with-developing-nations](http://www.gov.uk/government/publications/trading-with-developing-nations)> accessed 10 January 2022.

<sup>3</sup> Mattia Di Ubald, *A Post-Brexit Generalized System of Preferences for the UK: How to Guarantee unchanged market access for developing countries?* (2019) UK Trade Observatory, Briefing Paper 32, 2; Government UK, *Guidance – Trading with developing nations*, available at: <[www.gov.uk/government/publications/trading-with-developing-nations](http://www.gov.uk/government/publications/trading-with-developing-nations)> accessed 10 January 2022.

<sup>4</sup> Department for International Trade, *Information Pack on the UK's Generalised Scheme of Preferences*, UK 2021, 4.

<sup>5</sup> Mattia Di Ubald, *A Post-Brexit Generalized System of Preferences for the UK: How to Guarantee unchanged market access for developing countries?* (2019) UK Trade Observatory, Briefing Paper 32, 2; Government UK, *Guidance – Trading with developing nations*, available at: <[www.gov.uk/government/publications/trading-with-developing-nations](http://www.gov.uk/government/publications/trading-with-developing-nations)> accessed 10 January 2022.

to be explained. The EU has been granting unilateral trade preferences to developing countries since 1971.<sup>6</sup> With the accession of the UK to the EU in 1973,<sup>7</sup> the UK also applied unilateral preferences to developing countries until its withdrawal from the EU under EU's GSP scheme. To enable developing countries to get an almost identical market access, the UK adopted the Trade Preference Scheme (EU Exit) Regulations 2020.<sup>8</sup> Within the EU, the currently applicable legal basis for this unilateral granting of preferences is Regulation (EU) No. 978/2012 (GSP Regulation).<sup>9</sup> EU's and UK's GSP schemes are embedded in the globally applied Generalized System of Preferences (GSP). Within this framework, industrialized nations grant tariff preferences to goods originating in developing countries.<sup>10</sup> The main objective of the GSP scheme is to support the export of goods originating from developing countries. By eliminating tariffs, these countries can offer their goods on the import market at lower prices and achieve higher export revenues. These measures are intended to reduce poverty and promote industrialisation in developing countries, resulting in overall economic growth.<sup>11</sup>

As a founding member of the WTO, the UK will continue to be a WTO member after its separation from the EU, thus WTO law continues to apply.<sup>12</sup> Under WTO law, it is possible to grant tariff preferences to developing countries, to exclude further developed and developing countries from benefits in total or in part, and to grant additional benefits to least developed countries as exemption from the Most-Favoured-Nation obligation of Article I GATT 1994.<sup>13</sup> Under WTO Law, differentiation based on economic needs is legitimate if it is ensured that developing countries with comparable economic situations are treated equally.<sup>14</sup> This results in a fixed structure within the current GSP regulation, as in previous regulations. The GSP scheme consists of one general arrangement and two special arrangements.<sup>15</sup> The UK's GSP scheme refers to them as frameworks.<sup>16</sup>

The general arrangement (Art. 4 - 8 Regulation (EU) No. 978/2012) or framework (Art. 7, the Trade Preference Scheme Regulations 2020) applies to all GSP beneficiary countries.<sup>17</sup> Beneficiary countries include all eligible countries that are not classified by the World Bank

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<sup>6</sup> Preamble No. 1 to the Regulation (EU) No. 978/2012 of the European Parliament and of the Council of 25 October 2012 applying a scheme of generalized tariff preferences and repealing Council Regulation (EC) No. 732/2008 [2012] OJ L303/1.

<sup>7</sup> Treaty of Accession of Denmark, Ireland and the United Kingdom [1972] OJ L73/1; Treaty of Accession of Denmark, Ireland and the United Kingdom, Adaptation decision [1973] OJ L2/1.

<sup>8</sup> The Trade Preference Scheme (EU Exit) 2020 No. 1438 of 15 December 2020.

<sup>9</sup> Regulation (EU) No. 978/2012 of the European Parliament and of the Council of 25 October 2012 applying a scheme of generalized tariff preferences and repealing Council Regulation (EC) No. 732/2008 [2012] OJ L303/1.

<sup>10</sup> Gene M. Grossmann and Alan O. Sykes, in George A. Bermann and Petros C. Mavroidis, *WTO Law and Developing Countries* (2007), 255, 257.

<sup>11</sup> Achim Rogmann, in Hans-Michael Wolfgang, Achim Rogmann, and Georg Pietsch, *Kommentar für das gesamte Außenwirtschaftsrecht (AWR-Kommentar)*, Einführung zur APS-VO, para. 30; Leonie Zappel, '50 Jahre APS der EU – Ein Anreiz für nachhaltige Entwicklung?' Part 2 (2021), 12, AW-Prax, 638.

<sup>12</sup> Martín Molinuevo, 'Brexit: Trade Governance and Legal Implications for Third Countries' (2018), Vol. 52, Issue 4, *Journal of World Trade*, 608.

<sup>13</sup> Achim Rogmann, in Hans-Michael Wolfgang, Achim Rogmann and Georg Pietsch, *Kommentar für das gesamte Außenwirtschaftsrecht (AWR-Kommentar)*, Einführung zur APS-VO, para. 32.

<sup>14</sup> WTO-Appellate Body, Report of 7.4.2004, WT/DS246/AB/R – EC – Tariff Preferences, para. 142 ff.

<sup>15</sup> Leonie Zappel, '50 Jahre APS der EU – Ein Anreiz für nachhaltige Entwicklung?' Part 2 (2021), 12, AW-Prax, 638.

<sup>16</sup> Government UK, *Guidance – Trading with developing nations*, available at:

<[www.gov.uk/government/publications/trading-with-developing-nations](http://www.gov.uk/government/publications/trading-with-developing-nations)> accessed 10 January 2022.

<sup>17</sup> Achim Rogmann, in Hans-Michael Wolfgang, Achim Rogmann and Georg Pietsch, *Kommentar für das gesamte Außenwirtschaftsrecht (AWR-Kommentar)*, Art. 1 APS-VO, para. 8.

as high-income or upper-middle income countries during three consecutive years, or do not benefit from a preferential market access arrangement that provides the same tariff preferences as the scheme (or better), for substantially all trade with the EU/UK. Imports from these countries benefit from reduced rates of import duty on certain goods outlined in the GSP scheme.<sup>18</sup>

Additionally, the GSP scheme provides a special arrangement (Art. 9 - 16 Regulation (EU) No. 978/2012) or enhanced framework (Art. 8 the Trade Preference Scheme Regulations 2020) for those countries that are particularly promoting sustainable development and good governance. The classification with a GSP+ (EF) status depends on ratification and compliance with, currently, 27 international agreements, which require, for example, human rights protection and good governance.<sup>19</sup> In principle, any developing country whose imports are less than 2 per cent of imports of all GSP beneficiaries, and whose seven major export products comprise at least 75 per cent of that country's total exports, may apply to receive GSP+ benefits.<sup>20</sup> The third framework is called the LDC or EBA framework. This framework comprises countries that the UN classifies as Least Developed Countries (Art. 17 - 18 Regulation (EU) No. 978/2012 and Art. 6 of the Trade Preference Scheme Regulations 2020). Imports of goods other than arms and ammunition (Everything but Arms – EBA) originating from these countries have a quota-free access and are free of import duty.<sup>21</sup>

Due to the graduation mechanisms, developing countries or individual groups of goods can be excluded from preferential market access. Graduation means removing those countries and sectors from the GSP preferences that are no longer considered in need of preferential treatment.<sup>22</sup> There are two graduation mechanisms in the EU's und UK's GSP. Within the country graduation GSP, beneficiaries graduate from the GSP if the World Bank classifies them as high- or upper-middle income countries consecutively for three year or if they sign a trade agreement with the EU that provides the same or better tariff preferences as those under the GSP (Art. 4 Regulation (EU) No. 978/2012). The second alternative is incorporated in Article 9 of the Trade Preference Scheme (EU Exit) Regulations 2020. Within the country-section graduation, the GSP preferences are withdrawn in specific product sections if a country's share of EU GSP imports in that section exceeds a certain threshold (per cent age of GSP imports) for three consecutive years (Art. 8 para. 1 Regulation (EU) No. 978/2012). The UK has adopted this graduation mechanism (Article 22 the Trade Preference Scheme (EU Exit) Regulations 2020).<sup>23</sup> The exact thresholds are defined in the GSP schemes. In general, violations of the condition for granting preferences

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<sup>18</sup> Government UK, *Guidance – Trading with developing nations*, available at:

<[www.gov.uk/government/publications/trading-with-developing-nations](http://www.gov.uk/government/publications/trading-with-developing-nations)> accessed 10 January 2022.

<sup>19</sup> Martín Molinuevo, 'Brexit: Trade Governance and Legal Implications for Third Countries' (2018), Vol. 52, Issue 4, *Journal of World Trade*, 608; Achim Rogmann in Hans-Michael Wolfgang, Achim Rogmann and Georg Pietsch, *Kommentar für das gesamte Außenwirtschaftsrecht (AWR-Kommentar)*, Art. 1 APS-VO, para. 9.

<sup>20</sup> Achim Rogmann, in Hans-Michael Wolfgang, Achim Rogmann and Georg Pietsch, *Kommentar für das gesamte Außenwirtschaftsrecht (AWR-Kommentar)*, Einführung zur APS-VO, para. 33.

<sup>21</sup> Government UK, *Guidance – Trading with developing nations*, available at:

<[www.gov.uk/government/publications/trading-with-developing-nations](http://www.gov.uk/government/publications/trading-with-developing-nations)> accessed 10 January 2022.

<sup>22</sup> European Commission, The EU's new Generalised Scheme of Preferences (GSP), tradoc 150164, 9 f.

<sup>23</sup> Government UK, *Guidance – Trading with developing nations*, available at:

<[www.gov.uk/government/publications/trading-with-developing-nations](http://www.gov.uk/government/publications/trading-with-developing-nations)> accessed 10 January 2022.

may be sanctioned by a withdrawal of preferences. Similarly, temporary withdrawal of tariff preferences is possible in case of fraud, irregularities and non-compliance.<sup>24</sup>

### **The problems of rolling over the EU GSP into the UK GSP**

In order to identify the problems for developing countries, the differences in the legal frameworks will be considered first. The list of the current GSP beneficiary countries, under Schedule 1 Part 1 of the UK Trade Preference Scheme and Annex II Regulation (EU) 978/2012, differ significantly. Only some beneficiary countries on the list for preferences under the general arrangement or framework are similar. Some differences in the lists of GSP beneficiary countries are based on the conclusion of free trade agreements and therefore on the second option of the country graduation. The second reason is that the UK lists in this Schedule only beneficiary countries that fall solely under the GSP arrangement and not under another special arrangement such as the enhanced or LDC framework. Consequently, the GSP beneficiary countries are nearly the same, but the depiction of the lists of GSP beneficiary countries is different. The List of GSP+ beneficiary countries of EU's and UK's GSP schemes are identical. The main problem for the UK was that they had to verify that all current GSP+ members meet the current UK eligibility thresholds.<sup>25</sup> Since the EBA scheme applies to the least developed countries classified by the UN, the lists in both the UK's and EU's GSP scheme are still identical. Thus, the beneficiary countries of EU's and UK's GSP schemes currently only differ because of the conclusion of free trade agreements.<sup>26</sup>

The main problem lies in unevenly distributed trade.<sup>27</sup> The withdrawal of the UK from the EU caused a split of the markets served by developing countries. Because of the unevenly distributed trade between the UK and the EU, it is possible that the country-section graduation thresholds for the GSP scheme in the UK or the EU could be exceeded without any change in the competitiveness of the developing countries.<sup>28</sup> To maintain continuity, the UK has graduated the same goods as those graduated under EU's GSP scheme at the time that the scheme came into effect.<sup>29</sup> Nevertheless, the annual review of the graduation thresholds may lead to a future change in the lists of beneficiary goods. The developing countries most affected by this issue are those that were already close to the graduation threshold before Brexit.<sup>30</sup> If both the UK and the EU had raised the graduation thresholds, a graduation without a change in the competitiveness could have been avoided post Brexit.<sup>31</sup>

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<sup>24</sup> Achim Rogmann, in Hans-Michael Wolfgang, Achim Rogmann and Georg Pietsch, *Kommentar für das gesamte Außenwirtschaftsrecht (AWR-Kommentar)*, Einführung zur APS-VO, para. 35.

<sup>25</sup> Mattia Di Ubald, *A Post-Brexit Generalized System of Preferences for the UK: How to Guarantee unchanged market access for developing countries?* (2019) UK Trade Observatory, Briefing Paper 32, 4.

<sup>26</sup> Department for International Trade, *Information Pack on the UK's Generalised Scheme of Preferences*, UK 2021, 6; Sophia Price, 'Brexit and the UK-Africa Caribbean and Pacific Aid Relationship', *Global Policy*, (2018) Vol. 9, Issue 3, 426.

<sup>27</sup> Mattia Di Ubald, *A Post-Brexit Generalized System of Preferences for the UK: How to Guarantee unchanged market access for developing countries?* (2019) UK Trade Observatory, Briefing Paper 32, 4 ff.

<sup>28</sup> Mattia Di Ubald, *A Post-Brexit Generalized System of Preferences for the UK: How to Guarantee unchanged market access for developing countries?* (2019) UK Trade Observatory, Briefing Paper 32, 4.

<sup>29</sup> Department of International Trade, *UK Generalised Scheme of Preferences (GSP): goods graduation 2021 to 2022*, available at: <[www.gov.uk/government/publications/uk-generalised-scheme-of-preferences-gsp-graduated-goods/uk-generalised-scheme-of-preferences-gsp-goods-graduation-2021-to-2022](http://www.gov.uk/government/publications/uk-generalised-scheme-of-preferences-gsp-graduated-goods/uk-generalised-scheme-of-preferences-gsp-goods-graduation-2021-to-2022)> accessed 16 January 2022.

<sup>30</sup> Mattia Di Ubald, *A Post-Brexit Generalized System of Preferences for the UK: How to Guarantee unchanged market access for developing countries?* (2019) UK Trade Observatory, Briefing Paper 32, 4.

<sup>31</sup> Mattia Di Ubald, *A Post-Brexit Generalized System of Preferences for the UK: How to Guarantee unchanged market access for developing countries?* (2019) UK Trade Observatory, Briefing Paper 32, 7;

The legislative proposal of the European Commission on the GSP scheme for the years 2024 - 2034 foresees that the GSP graduation thresholds will be reduced by 10 per cent to better target competitive products.<sup>32</sup>

The findings can be summarised as follows. Currently, there are no significant changes for developing countries in accessing EU's or UK's market under the different GSP schemes. In the near future, the main problems for developing countries will result from an unevenly distributed trade between the UK and the EU, which can cause a country-section graduation with the result of a part exclusion from preferential market access.<sup>33</sup>

### **EU's revised GSP after 2023**

On 22 September 2021, the European Commission adopted the legislative proposal on the GSP scheme for the years 2024-2034,<sup>34</sup> and forwarded it to the European Parliament and Council in order to commence the legislative procedure to amend the GSP.<sup>35</sup> The basic scheme consisting of the general arrangements and the two special arrangements is to remain in place in the future EU GSP scheme. Therefore, no problems regarding the general structure will occur after 2023. Furthermore, it is anticipated that the adjustment of the list of eligible countries caused by changes in the trade and development sectors of the countries concerned will be included. This results in more flexibility within EU's GSP scheme in the light of changing economic conditions, compared to UK's GSP scheme.<sup>36</sup>

In addition, the proposal provides an extension of the reasons for withdrawal of preferences under the EU GSP scheme in case of serious and systematic violations in the areas of environment and good governance.<sup>37</sup> However, the socio-economic impact of temporary withdrawal of tariff preferences in a beneficiary country will now to be taken into account. Overall, temporary withdrawal is to be made more flexible, to enable the EU to respond to abruptly arising circumstances, such as global health and hygiene emergencies. Furthermore, a fast-track procedure for temporary withdrawal of tariff preferences under the GSP scheme is envisaged for cases requiring a rapid response.<sup>38</sup>

In its resolution on the implementation of the current GSP scheme of 14 March 2019, the European Parliament already called for the EU to take even more effective action against social and environmental dumping and unfair competition and trade practices under the GSP

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and Peter Holmes, Jim Rollo and Alan L. Winters, 'Negotiating the UK's post Brexit trade agreements' (2016) 238, National Institute Economic Review, 11.

<sup>32</sup> See 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, COM(2021) 579 final, 13.

<sup>33</sup> Mattia Di Ubald, *A Post-Brexit Generalized System of Preferences for the UK: How to Guarantee unchanged market access for developing countries?* (2019) UK Trade Observatory, Briefing Paper 32, 5 f.

<sup>34</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, COM(2021) 579 final.

<sup>35</sup> European Commission, *Trade and sustainability: Commission proposes new EU Generalised Scheme of Preferences to promote sustainable development in low-income countries*, available at: <[https://ec.europa.eu/commission/presscorner/detail/en/ip\\_21\\_4801](https://ec.europa.eu/commission/presscorner/detail/en/ip_21_4801)> accessed 16 January 2022.

<sup>36</sup> COM (2021) 579 final, 1.

<sup>37</sup> COM (2021) 579 final, Leonie Zappel, '50 Jahre APS der EU – Ein Anreiz für nachhaltige Entwicklung?' Part 2 (2021), 12, AW-Prax, 638.

<sup>38</sup> COM (2021) 579 final, 13.

scheme, thus ensuring a level playing field.<sup>39</sup> In order to improve the coverage of competitive goods, the legislative proposal foresees that the GSP graduation thresholds will be raised by up to 10 per cent for a large part of the goods.<sup>40</sup> Consequently, a further differentiation in market access for developing countries regarding the EU and UK market is possible.

In addition, the criterion of limited export competitiveness is to be abolished under the GSP+ scheme.<sup>41</sup> Thus, a country will already be considered vulnerable if the seven largest sections of its GSP-covered imports of Annex III products into the Union represent, on average over the last three consecutive years, more than 75 per cent of its total imports of Annex III products. This is particularly intended to facilitate access to GSP+ preferences for EBA beneficiary countries graduating from this scheme.<sup>42</sup>

Furthermore, comprehensive measures in the GSP scheme are to be implemented in order to promote positive developments in the environmental sector.<sup>43</sup> The European Parliament therefore recommended that the Paris Convention should be added to the list of 27 major international conventions to be respected by GSP+ beneficiary countries.<sup>44</sup> This recommendation is reflected in the legislative proposal on the EU GSP scheme. In addition to the Paris Climate Change Agreement (2015), the United Nations Convention against Transnational Organized Crime (2000) has been added to the list of now 32 key conventions.<sup>45</sup>

In several countries, export-processing zones (EPZs) are exempt from national labour laws, which prevents exercising the right to unionise and seek redress fully. This violation of International Labour Organization (ILO) core labour standards can lead to the impairment of human rights, and, according to Parliament's demands, must be taken into account in the reform of the EU's GSP scheme.<sup>46</sup> The legislative proposal thus added Convention No. 81 on Labor Inspection (1947), Convention No. 144 on Tripartite Consultation (1976), the Convention on the Rights of Persons with Disabilities (UN CRC, 2007), and the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (OP-CRC-AC, 2000) to the list of core UN and ILO conventions. These will form part of conditions to benefit from the GSP+ arrangement. In addition, GSP+ applicant countries shall be required to submit an action plan regarding the effective implementation of the relevant conventions.<sup>47</sup> The proposed amendment of the GSP+ arrangements is accompanied by a transitional arrangement for countries benefiting from the GSP+ arrangements under the current GSP Regulation. It is envisaged that the countries concerned will have to reapply for GSP+ benefits.<sup>48</sup> Thus, in comparison to UK's GSP scheme, the obligations for GSP+ benefits might be significantly higher in EU's revised GSP.

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<sup>39</sup> Implementation of the Generalised Scheme Preferences (GSP) Regulation, European Parliament resolution of 14 March 2019 on the implementation of the GSP Regulation (EU) No 978/2012 (2018/2107(INI)), OJ 2021 C23/100.

<sup>40</sup> COM (2021) 579 final, 13.

<sup>41</sup> OJ [2021] C23/103.

<sup>42</sup> COM (2021) 579 final, 6.

<sup>43</sup> Leonie Zappel, '50 Jahre APS der EU – Ein Anreiz für nachhaltige Entwicklung?' Part 2 (2021), 12, AW-Prax, 638.

<sup>44</sup> OJ [2021] C23/102.

<sup>45</sup> COM (2021) 579 final, 16 f.

<sup>46</sup> OJ [2021] C23/103.

<sup>47</sup> COM (2021) 579 final, 17.

<sup>48</sup> COM (2021) 579 final, 17.



With regard to the rules of origin, there is a global demand on behalf of the developing countries to lower the requirements in the area of value-added content, and to simplify access to the markets of the industrialized nations via the rules of origin that can be fulfilled more easily as a result and ultimately facilitate preferential use.<sup>49</sup> This demand is contrary to the fears of circumventing imports and the protection interests of the economy of the industrialized countries. In the current GSP scheme of the EU, there is the possibility to request exemptions from the cumulation rules,<sup>50</sup> provided the beneficiary countries undertake sufficient efforts to meet the requirements of the EU. This requirement has been met in the legislative proposal.<sup>51</sup> Both regional and extended cumulation will be possible under certain conditions, such as the specific trade, financing and development needs of the beneficiary country.<sup>52</sup> Compared to UK's GSP scheme, this leads to easier preferential market access to the EU market for goods that are not fully produced within the respective developing country.

Finally, the proposal on the future GSP scheme of the EU provides an extension of the reporting period from two to three years. This is intended to bring it in line with the reporting and monitoring periods of international bodies, while at the same time giving developing countries more time to address problems in the application of excess income, at the same time reducing the administrative burden.<sup>53</sup>

The findings can be summarised as follows. If the current legislative proposal for EU's revised GSP as of 2024 comes into force, the differences and problems regarding the market access to both markets will grow,<sup>54</sup> but this could also be an opportunity for developing countries to redirect their export markets.<sup>55</sup>

## Conclusion

At first sight, it appears that the UK has fully adopted the GSP scheme of the EU as post-Brexit standard, meaning that, essentially, nothing changes. Examining the lists of GSP and GSP+ beneficiary countries, considerable differences can be observed. These disparities result, on the one hand, from the fact that meanwhile the EU and the UK have concluded free trade agreements with different countries, which leads to the exclusion from GSP benefits. On the other hand, the import shares of developing countries to the EU and the UK are distributed differently, so that depending on the trade intensity, the import thresholds are exceeded, which can also lead to exclusion from GSP benefits. It has yet to be seen how far the EU and the UK will use the possibility to adjust the import thresholds in the future in order to achieve an equal market access for developing countries to both markets, or whether the differences will remain.

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<sup>49</sup> OJ [2021] C23/102.

<sup>50</sup> Cumulation ("accumulation") in this context means that processing carried out in other countries is "credited" in the acquisition of origin.

<sup>51</sup> Leonie Zappel, '50 Jahre APS der EU – Ein Anreiz für nachhaltige Entwicklung?' Part 2 (2021), 12, AW-Prax, 638.

<sup>52</sup> COM (2021) 579 final, 34.

<sup>53</sup> COM (2021) 579 final, 3; Leonie Zappel, '50 Jahre APS der EU – Ein Anreiz für nachhaltige Entwicklung?' Part 2 (2021), 12, AW-Prax, 638.

<sup>54</sup> Leonie Zappel, '50 Jahre APS der EU – Ein Anreiz für nachhaltige Entwicklung?' Part 2 (2021), 12, AW-Prax, 638.

<sup>55</sup> Dirk Kohnert, 'More Equitable Britain-Africa Relations Post-Brexit: Doomed to Fail?' (2018) Vol. 52, Issue 2, Africa Spectrum, 119; 'US law firm hired for retaining Bangladesh's duty-free market access to EU' *The Financial Express* (8 January 2021) available at: <<https://go.gale.com/ps/i.do?p=STND&u=murdoch&id=GALE|A683166783&v=2.1&it=r&sid=summon&sid=d22f635d>> accessed 21 January 2022.

With regard to GSP+ benefits, it also remains to be determined whether the UK will also introduce the EU's intended changes for GSP as of 2024. If there were no changes made by the UK, the requirements to obtain GSP+ preference with the UK would be significantly lower than the EU. This could lead to a further change in imports from developing countries. A similar situation applies to the EU's plan to change the reasons for the temporary withdrawal of preferences. If the UK leaves the current arrangements in place, then preferences could be temporarily withdrawn by the EU, while they are still granted by the UK.

It should also be borne in mind that there are currently 13 different GSP schemes worldwide, which are similar in their basic structure, but differ in their detailed provisions. However, this could also be seen as an opportunity for developing countries to redirect their exports and to target markets where they have preferential market access.