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PREFERENTIAL TRADING ARRANGEMENTS IN AGRICULTURAL AND FOOD MARKETS: THE CASE OF THE EUROPEAN UNION AND THE UNITED STATES

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FOREWORD

This document was prepared by Jacques Gallezot and Jean-Christophe Bureau for the Secretariat. It reports on the findings regarding the utilisation of selected preferential trading arrangements by developing countries and the reasons for their under-utilisation in the agricultural and food markets of the European Union and the United States

The report is part of the Secretariat's on-going examination of preference utilisation, preference erosion and the implications on agricultural markets. It was discussed and declassified by the Joint Working Party on Agriculture and Trade.

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GLOSSARY

ACP	Africa, Caribbean, Pacific
AGOA	African Growth Opportunity Act (unilateral trade agreement between the USA and Africa)
AMAD	Agricultural Market Access Database
Andean Community	Bolivia, Colombia, Ecuador, Peru and Venezuela
APEC	Asia Pacific Economic Cooperation Forum: Australia, Brunei Darussalam, Canada, Chile, China, Chinese Taipei, Hong Kong, Indonesia, Japan, Malaysia, Mexico, New Zealand, Papua New Guinea, Peru, Philippines, Russia, Singapore, South Korea, Thailand, United States, Vietnam.
ASEAN	Association of South East Asian Nations (Brunei Darussalam, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand, Vietnam)
ATPA	Andean Trade Promotion Act
ATPDEA	Andean Trade Promotion and Drug Eradication Act (US unilateral agreement)
BEC	Broad Economic Categories (United Nations classification)
BFA	Banana Framework Agreement (EU, 1995)
CACM	Central American Common Market (Costa Rica, Salvador, Guatemala, Honduras and Nicaragua)
CAP	Common Agricultural Policy
CARICOM	Caribbean Common Market
CBERA	Caribbean Basin Economic Recovery Act
CBI	Caribbean Basin Initiative
CBTPA	Caribbean Basin Trade Promotion Act
CEEC	Central and Eastern European Countries
CN	Combined Nomenclature (statistical classification)
CNL	Competitive Need Limitation (US GSP)
COMESA	Common Market For Eastern and Southern Africa (Angola, Burundi, Comoro Islands, Democratic Republic of the Congo, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Madagascar, Malawi, Mauritius, Namibia, Rwanda, Seychelles, Sudan, Swaziland, Uganda, Zambia and Zimbabwe. Tanzania left COMESA in September 2000)
COMTRADE	Commodity Trade Statistics Database
CTH	Change in Tariff Heading
EAGGF	European Agricultural Guidance and Guarantee Fund
EBA	Everything But Arms
EC	European Communities
EEA	European Economic Area
EFTA	European Free Trade Area
ERS	Economic Research Service (USDA)
EPA	Economic Partnership Agreement (Cotonou agreement)
EU	European Union
FAO	Food and Agriculture Organization
GATT	General Agreement on Tariffs and Trade
GDP	Gross Domestic Product
GM	Genetically modified
GNP	Gross National Product
GSP	Generalised System of Preferences
GSPL	Generalised System of Preferences FOR Least Developped Countries
HACCP	Hazard Analysis and Critical Control Points
HS	Harmonised System (harmonised commodity description and coding system)
HTUS	Harmonised Tariff Schedule of the United States
IDB	Integrated Data Base (WTO)
ILO	International Labour Organisation
LDC	Least Developed Countries
MCH	MACHRAK (Egypt, Jordan, Lebanon, Syria)

MERCOSUR	Southern Common Market: Argentina, Brazil, Paraguay and Uruguay
MFN	Most-Favoured Nation
NAFTA	North American Free Trade Agreement (Canada, Mexico, United States)
NTR	Normal Trade Relations Tariffs (name given to MFN in the US tariff system)
OCT(s)	Overseas Countries and Territories
ODC	Other duties and charges (in addition to customs duties)
OECD	Organisation for Economic Co-operation and Development
PANEURO	Pan-European Cumulation of Origin System
SAARC	South Asian Association for Regional Cooperation (Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka)
SACU	South African Customs Union
SAD	Single Administrative Document
SADC	Southern African Development Community (Angola, Botswana, Democratic Republic of the Congo, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe)
SITC	Standard International Trade Classification
SNA	System of National Accounts
SPS	Sanitary and Phytosanitary
SSA	Sub-Saharan Africa
SSG	Special Safeguard Provisions
STD	Standard Deviation
TARIC	Integrated Tariff of the European Communities
TRQ	Tariff Rate Quota
UK	United Kingdom
UN	United Nations
UNCTAD	United Nations Conference on Trade and Development
UR	Uruguay Round
URAA	Uruguay Round Agreement on Agriculture
US(A)	United States (of America)
USDA	US Department of Agriculture
USITC	United States International Trade Commission
WAEMU	West African Economic and Monetary Union
WCO	World Customs Organisation
WTO	World Trade Organisation

EXECUTIVE SUMMARY

Preferential trade agreements have long been regarded as a factor limiting the development of multilateral trade. Now, on the contrary, they are being criticised for their shortcomings. A recent debate about the utilisation rate of trade preferences suggests that the preferential arrangements of the United States and the European Union are under-used.

The main reasons put forward to explain this under-use concern the constraints of rules of origin (Brenton and Manchin, 2002; Augier *et al*, 2003). The costs of complying with requirements relating to certification, traceability and administrative documentation have also been mentioned (Estevadeordal and Suominen, 2003). The existence of these constraints has highlighted the shortcomings of non-reciprocal schemes designed to help developing countries, like the Generalised System of Preferences, or GSP (Brenton 2003, Inama 2003).

This study takes a closer look at how this might apply to agricultural and food products, assesses the utilisation of EU and US non-reciprocal preference schemes and seeks to identify the factors that determine such utilisation. Its aim is not so much to make a direct comparison of the European and American systems as to conduct a detailed assessment of the extent to which preferences are under-used and why. The analysis is based on trade flow data under preference schemes at a particularly detailed level and takes account of the fact that a product might be eligible under several different agreements. It includes both agricultural and marine products.[1]

The analysis is based on data for 2002. At the time the report was written, this was the latest year with complete data. Although an analysis based on data from more than a single year would enhance the results, the complexity and changes in tariff schedules over time along with data sparsity of import flows for different import programs over time makes such an endeavour very difficult, especially for more than one country. It is this data scarcity that has confined the study to the EU and the US.

The results presented are valid for 2002, but this may not be a “representative” year. Many factors in addition to preferences influence imports, including macroeconomic conditions such as income growth and exchange rates. In this sense, it may be difficult to identify a “representative” year. But, there are additional factors that may make 2002 unique. Two US programs — the GSP and ATPA — expired temporarily for most of 2002, and although they were renewed in August of that year retroactively, the uncertainty of their status undoubtedly influenced trade flows and program utilisation. This however does highlight one of the problems with many of these programs, the fact that they are time-bound and that their renewal can take a long time. In addition, 2002 was the first full year in the operation of the EU’s EBA program. Undoubtedly, the newness of the program and the need to obtain and understand qualification requirements also influence the results.

Beneficiary countries often are eligible to ship under multiple preferential programs. Although the study examines utilisation rates for individual programs in order to highlight which schemes are preferred by exporters when given a choice, overall utilisation rates, accounting for all programs are also presented, an approach which differs from the studies mentioned above.

Utilisation of EU non-reciprocal preferences

Utilisation of preference schemes. The EU unilaterally and without reciprocation grants a large number of more favourable terms to LDCs and developing countries. Most of them are tariff preferences accorded in the framework of GSP (112 countries) and the special incentive arrangements granted under GSP to Andean and Central American countries (12 countries plus Pakistan) which are conducting anti-drug campaigns, or the "Everything But Arms" initiative in favour of LDCs (49 countries). Non-reciprocal tariff preferences are also granted to the African, Caribbean and Pacific (ACP) countries under the Cotonou agreement (77 countries) and to associated overseas countries and territories.

Preference utilisation is traditionally assessed by comparing the volume of EU imports enjoying preferential treatment with the total volume of imports eligible for preferential treatment. The available statistics in the matter concern the duty requested by the operators and not the duty obtained. Consequently, customs data have to be used in order to explore the factors determining preference utilisation and to verify measurement of the utilisation rate. The approach taken in this study has been to back up data from importer declarations (SAD-Eurostat) with data from TARIC, the Integrated Tariff of the Community (DG Taxation and Customs).

The processed data reveal the scale of European preferential imports under all EU schemes. In 2002, they accounted for 32% of total imports of agricultural and food products and 47% of imports of dutiable products, with 31% entering under non-reciprocal preferences.

Determining factors for preference utilisation. The estimate of the utilisation rate confirms that some non-reciprocal schemes are under-utilised, including GSP (apparent utilisation rate of 50%) and EBA (17%). However, third countries use the full range of preferences available to them through their qualification for another system. In the case of EBA, 78% of imports of eligible products enter under the Cotonou scheme and only 4% under MFN. On the other hand, until LDCs belong to a competing Cotonou scheme like Bangladesh, for example, the utilisation rate of EBA is very high (99%). The utilisation rate for non-reciprocal preferences as a whole exceeds 89%. In the case of imports qualifying for preferential treatment that enter under MFN (11%), half of those which waive preferential treatment do so not because of restrictions related to origin but because they take advantage of a more favourable MFN quota (mostly duty-free) or a tariff suspension for certain products.

Examination of individual preference schemes shows that a particular scheme is under-utilised because a competing scheme is preferred. With GSP and EBA, Cotonou is the preferred scheme. Utilisation rates for countries with products eligible only for GSP or EBA are 80% and 98% respectively. In contrast, in the most important cases where products are eligible for both Cotonou and EBA, the utilisation rates are 3% for EBA and 4% for GSP.

A formal representation of operators' decisions to use a non-reciprocal scheme combined with econometric modelling of the parameters confirm that the preference margin has a positive effect and that the presence of a competing system, MFN quotas and the scale of import operations have a negative effect.

Ultimately, the problem raised by dual eligibility for preferential treatment is that of harmonisation of the various systems or dilution of the objectives pursued by each. However, the results of the study do not point to under-utilisation of European preference schemes for agricultural and food products.

The operators' point of view. The study was supplemented by interviews with market operators. Most of the firms surveyed confirmed that difficulties in meeting administrative requirements were not a major obstacle and that technical and hygiene restrictions were more important. However, firms need a period of investment or familiarisation, during which they can bed in their operating routines with suppliers, before they are capable of using preferences. As it can be expensive to build relations with third country partners so as to establish a network of well-trained suppliers and local factories, the durability and predictability of agreements is an important factor.

The case of African countries. A special section has been devoted to the preferences granted to African countries, in which we measure the preference utilisation rate not only on the basis of products actually exported to the European Union but on the broader basis of the country's total exports. In this case the conditions for preference utilisation extend to the country's entire export potential. The analysis from this standpoint suggests greater under-utilisation of preference scheme. However, the approach deserves closer examination, especially in the case of countries that do not export certain eligible products to the EU, in order to draw a distinction between general conditions relating to the standards for access to the European market whatever the scheme, and specific conditions relating to preference utilisation (rules of origin, administrative requirements, etc.).

Utilisation of US non-reciprocal preferences

Utilisation of US preferences. The United States grant non-reciprocal preferences under GSP (134 countries and territories), AGOA (37 countries in sub-Saharan Africa), CBI (24 Caribbean and Central American countries) and ATPDEA (four South American countries).

Overall, the study shows that the utilisation rate for US non-reciprocal preferences is high, but that exports of agricultural and food products to the United States from countries that benefit from trade preferences are small.

Developing countries make considerable use of US preference schemes for their exports to the United States. The apparent utilisation rate for non-reciprocal preferences (ratio of imports under a preference scheme to imports eligible for preference) was 88% in 2002. However, relatively little use is made of certain non-reciprocal schemes in proportion to eligible imports (Andean Trade Promotion Act[2] and GSP, with utilisation rates of 43% and 58% respectively), generally because the product can enter the United States duty-free under a competing scheme.

This is attributable to dual qualification and the comparative conditions for access to the different systems. Altogether, only 12% of imports eligible for non-reciprocal preferences enter under MFN. They are mostly small cargoes for which the administrative formalities would be too expensive, or products subject to a WTO tariff quota for which the preferences are lifted when the quota is reached, or products for which MFN duty is very low.

Of course, the fact that goods eligible for preferential treatment are exported under MFN rules is partly due to compliance costs and rules of origin. The requirements that must be met in order to benefit from preferential treatment (product tracking and traceability, administrative formalities, etc.) sometimes seem to generate prohibitive costs. These costs exceed the preference margin and result in goods being imported under MFN rules, which are much less complex administratively. The constraints imposed by rules of origin may be dissuasive for countries that cannot produce all the raw materials and components themselves, as is often the case with small countries. Although the statistical estimates are rather fragile, they suggest that these problems are particularly significant for processed products.

Here again, however, rules of origin and compliance costs provide only a partial explanation for the relatively small volumes of exports to the United States, since either substantial proportions of goods eligible for preferential treatment are exported under preference schemes or the goods are not exported at all under any scheme (MFN or preferential).

In terms of import volumes, the impact of preference schemes differs considerably. Imports from Caribbean and Central American countries under the CBI system are substantial, especially in view of the fact that relatively few countries are eligible and their economies are small. In contrast, hardly any of the sub-Saharan countries export significant volumes of agricultural products under the AGOA.

The case of Africa clearly illustrates the paradox of preferences which are used but account for only a small proportion of imports. Despite the preferences granted by AGOA and GSP, the US imports very little from Africa. Only a handful of countries, South Africa foremost among them, have significant exports to the US. Exports from African LDCs are tiny.

There are several reasons why US preferences have such a limited effect in Africa. First, not all agricultural products are eligible for preferential treatment. This is particularly true of AGOA and GSP (except in the case of LDCs, which are accorded more extensive preference), since only a third of tariff lines are eligible for preferential treatment (two-thirds for LDCs).

In addition, tariff preferences often remain virtual because of non-tariff barriers to exports, especially health and hygiene requirements. Many developing countries have not been declared free from a series of potentially contagious diseases and are not allowed to export meat or dairy products, for example. In many cases, the US administration deems processing plants and control, inspection and certification procedures to be deficient. The infrastructure and the skilled labour needed for countries to benefit from the tariff opportunities created by preference generally exceed the local investment capability. On this point, it is instructive to note that South Africa is virtually the only country where the opportunities offered by AGOA correspond to substantial exports of agricultural and food products.

Non-reciprocal preferences have not been able to generate substantial export flows, especially for African countries and LDCs. Overall, however, the low level of exports to the United States has its origins in problems that go beyond the question of preference utilisation. It is less a matter of the requirements for making use of preferences than of the wider difficulties these countries encounter in exporting to the United States.

The main results

The study reveals a certain number of features common to both the European Union and the United States, which grant non-reciprocal preferences on a generalised basis (GSP) and a regional basis. Examples of regional preference systems are, for the European Union, the Cotonou agreements vis-à-vis the ACP countries and, for the United States, the Africa Growth Opportunity Act (AGOA) and the Caribbean Basin Economic Recovery Act (CBERA).

A high apparent utilisation rate. First, the utilisation rate for non-reciprocal agreements measured in the study is generally high, a finding which tends to contradict a certain number of recent studies. Taken individually, the utilisation rate for some schemes may seem relatively low, whether in the European Union (the GSP, especially the "Everything But Arms" initiative, for example) or in the United States (the GSP or the Andean Trade Promotion and Drug Eradication Act). But that is mostly due to the fact that certain products are eligible for preferential treatment

under more than one scheme. If a country's dual qualification for preferential treatment is taken into account, on the whole the products targeted by preferences do indeed enter the EU or the US under a preference scheme. Only a small proportion of them enter under non-preferential rules (*i.e.* liable to MFN duty, corresponding to most-favoured nation treatment).

The problem is therefore more one of competition between preference schemes than of their general under-utilisation. However, the explanation of the factors that determine the utilisation of each of the competing schemes raises important issues. It shows that certain schemes are subject to restrictions, such as quantitative limits ("graduation" in the GSP) or more restrictive rules of origin (cumulation rules, for example). This often explains why, in such cases, goods are exported under another preference scheme. The short time horizons of some schemes also seem to encourage exporters to give priority to more predictable arrangements when that is possible.

For both the EU and the US, the fraction of agricultural and food exports for which preference is waived and which enter under MFN represents only a small proportion of eligible preferences (11% and 12% respectively). This is due partly to the use of duty-free MFN quotas or tariff suspensions and partly to the fact that some goods are exported in small quantities, in which case the administrative formalities are expensive.

However, the fact that few products eligible for preferential treatment are imported outside the preference system does not mean that the schemes fulfil their objectives. For certain countries, especially the least developed (LDCs), import flows induced by such preferences are very small. This raises issues that go well beyond the use of preferences.[3]

The explanations for these low import levels can have their origin in matters related to the preferences granted. For example, preference schemes are often incomplete in their coverage of agricultural and food products, especially when the countries concerned are not LDCs. A large number of products of interest for developing countries are not eligible for preferential treatment and incur high MFN duties. The problem to be solved in this case is not really that of the utilisation of preference schemes but of their extension to a wider range of goods.

In other cases, the fact that few if any products benefiting from preferences are exported may be caused, when MFN duties are high, by the costs involved in taking advantage of preferences (administrative costs and the cost of compliance with rules of origin). Other causes may lie in the fact that preference schemes are insufficiently predictable and frequently revised. Surveys of importers carried out as part of this study suggest that it takes a relatively long time for an export flow to emerge. An even longer time horizon is needed for the establishment of investment flows that generate local production which fulfils the technical conditions and is of satisfactory quality.

In the main, however, the problem of low export flows from developing countries, especially the least developed countries, seems to be due to factors unrelated to preference schemes. Such factors include technical conditions, especially hygiene, which means that exports in certain sectors are prohibited (marine products, live animals and animal products), and the capacity of exporting countries to meet the quality and traceability requirements imposed by the European Union and the United States.

NOTES

1. Although both sections of the report cover marine products, the section on the European Union does not cover non-food agricultural products (*i.e.* those beyond Chapter 24 in the WTO classification). The fact that marine products are included, and that imports are measured on a CIF (cost, insurance, freight) basis, explains some of the differences in relation to other studies.

2. Replaced in 2002 by the Andean Trade Promotion and Drug Eradication Act, which explains why this study refers to ATPA before 2003 and ATPDEA thereafter.

3. The US Africa Growth and Development Act demonstrates the paradox: 85% of food exports from African countries that are eligible under the agreement (and dutiable under MFN) do in fact enter duty-free under the scheme. The system is therefore used. Nevertheless, export flows from almost all countries to the United States are very small.

INTRODUCTION

Non-discrimination is one of the fundamental principles of the General Agreement on Tariffs and Trade (GATT), signed by the 148 countries that are members of the World Trade Organisation (WTO). The Most Favoured Nation (MFN) clause of the 1947 Agreement prohibits the existence of preferential trade insofar as "any advantage, favour, privilege or immunity granted by any contracting party to any product originating in or destined for any other country shall be accorded immediately and unconditionally to the like product originating in or destined for the territories of all other contracting parties" (Article I).

Nevertheless, free trade areas and preferential agreements (regional agreements and customs unions) have proliferated in recent decades. Despite the GATT principles, preferential trade is de facto of great importance.[1] About 250 regional agreements had been notified to the WTO by the end of 2002, 130 of them since 1995. The WTO Secretariat estimates that 170 regional agreements are currently in place, plus 70 agreements that have not been notified to the WTO, and that if current negotiations are successful, there will probably be about 300 regional or preferential trade agreements by 2005.

In this report we shall be paying particular attention to non-reciprocal preferences, which are mainly granted to developing and transition countries. GATT members have been granting preferential treatment to products originating in developing countries and territories since 1971.[2] But these preference schemes are not limited to the Generalised System of Preferences (GSP). They also include geographically-based non-reciprocal agreements.[3] In addition to GSP and special treatment for LDCs, the United States has created specific non-reciprocal programmes for geographical zones like the Caribbean and Central America and the countries of sub-Saharan Africa. The Lomé (Cotonou) agreements, non-reciprocal between the European Union and the African, Caribbean and Pacific countries, also allow for a substantial measure of preferential trade, especially in the agricultural sector.

Trade preference is a controversial issue. Some economists see the growing number of regional agreements as a cul-de-sac and an obstacle to greater multilateralism. Others take the opposite view, seeing trade preference as a solution to the disappointments of multilateralism and the lack of progress on trade liberalisation at the WTO. Some even think that regionalism could be a stepping stone on the way to a multilateral solution, which everyone agrees to be fairer and the source of greater welfare.

Preferential agreements with developing countries also come in for criticism (Borrell, 1999). However, it is widely accepted that the inclusion of developing countries in international trade favours growth and that trade opportunities are an essential condition for development (Easterly 2002).

Preferential arrangements with developing countries tend to be criticised because they do not go far enough, since several features limit the export possibilities they are supposed to offer, especially in the agricultural sector:

- they are limited in scope, excluding a certain number of products that are important for developing countries' economies;
- the discriminatory nature of preference means that certain regions or countries are excluded, thus leading to diversions of trade. It is argued that this is amplified by the fact that unilateral agreements are sometimes used as instruments of foreign policy and not only to assist development (Onguglo, 2001);
- the unilateral nature of preference underlines the developing countries' weakness in negotiations on cooperation agreements. This is reflected, for example, in the exclusion of goods that are politically sensitive for northern countries or the application of quotas (Michalopoulos, 1999; Hallaert, 2000);
- the administrative cost of proving eligibility for preference arguably wipes out part of the preference margin while rules of origin limit the benefits, especially for small countries which find it difficult to source intermediate goods locally;
- certain unilateral agreements are temporary and subject to review, which introduces an element of uncertainty unfavourable to investment and the creation of long-term trade flows;
- more generally, the preferences given to developing countries, especially LDCs, have failed to generate significant flows and their share of world trade is steadily decreasing (UNCTAD, 2001).

A number of recent studies have highlighted the conditions that restrict utilisation of preference schemes (Brenton 2003, Mattoo *et al*, 2002). They open the debate about developing countries' relative under-utilisation of preference schemes. This study aims to contribute to the debate by identifying, for agricultural and food products, the determining factors and the scale of the utilisation of EU and US preference schemes.

In Chapter 1 of the study, Jacques Gallezot looks at EU trade preferences, especially tariff concessions granted on a non-reciprocal basis, using disaggregated original data. In Chapter 2, Jean-Christophe Bureau does the same for the US. The emphasis is placed on the importance of preferences in trade flows and on the utilisation of those preferences. The statistical analysis is supplemented with surveys of European importers and with estimates and tests of the factors determining the utilisation of preferences.

NOTES

1. Grether and Olarreaga estimate that preferential agreements covered approximately 40% of trade over the period 1993-1997 (plus trade under GSP, representing approx. 3%).

2. The Decision on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries (the "Enabling Clause") provides a legal basis that allows developed country contracting parties to grant preferential treatment and take tariff and non-tariff measures in favour of developing countries. The Enabling Clause, as a decision of the GATT contracting parties, was incorporated into the WTO system in accordance with the provisions of Article 1 of the 1994 GATT. The Enabling Clause also allows developing countries to grant each other regional or global preferences under less strict conditions than those laid down in Article XXIV of the GATT.

3. See Tangermann, 2000 for the status of this trade with regard to the WTO rules. While GSP is covered by the Enabling Clause ("notwithstanding the provisions of Article I of the General Agreement, contracting parties may accord differential and more favourable treatment to developing countries, without according such treatment to other contracting parties"), preferential trade on a geographical basis relies on less certain legal foundations.

Chapter 1

THE UTILISATION OF EUROPEAN UNION TARIFF PREFERENCES FOR AGRICULTURAL AND FOOD PRODUCTS

Abstract

The EU unilaterally grants a large number of tariff preferences to less developed and developing countries. However, a study of utilisation rates confirm that some non-reciprocal schemes are under-utilised because imports qualifying for preferential treatment often take advantage of more favourable quotas or tariff suspensions for certain products under other programmes. Consequently, utilisation rates are generally high when account is taken of all the schemes for which countries are eligible. Ultimately, the problem raised by dual eligibility for preferential treatment is that of harmonisation of the various systems or dilution of the objectives pursued by each.

A special section has been devoted to the preferences granted to African countries, which measures the preference utilisation rate on the basis of a country's total exports. The analysis suggests significant under-utilisation of preference schemes and suggests further examination to determine the origins of the utilisation gap.

Leaving aside the general conditions for access to the market for agricultural and food products applicable to all third countries, the European Union (EU) grants more favourable treatment to the least developed and developing countries. The question then arises of evaluating how these preference schemes work, and in particular the extent to which preferences are utilised. This chapter seeks to carry out this evaluation for agricultural and food products. It begins with a description of EU preference schemes then describes the method used to evaluate the preference utilisation rate. The results for each non-reciprocal scheme are then explored.

European preference schemes

The EU authorities are constantly adapting the common customs tariff to developments in world trade while complying with the undertakings given in WTO negotiations. Any trade agreements the EU may have with third countries or groups of countries are notified to the WTO under Article XXIV of the GATT covering the formation of free trade areas (FTAs) and customs unions. In addition to the provisions of Article XXIV of the GATT, the "enabling clause" allows non-reciprocal tariff concessions to be granted for goods from certain developing countries or groups of countries. But the EU also grants tariff preferences autonomously and non-reciprocally to certain groups of countries (ACP, OCT, western Balkan states).

- The purpose of a customs union is to integrate and constitute a single entity with a common customs tariff.

- In free trade areas, the countries merely wish to bring their economies closer together through reciprocal tariff concessions. Although the objective is to entirely eliminate customs duties and trade restrictions between the countries in the FTA, each EU Member State retains its own customs tariff and its own trade policy with regard to the outside world. Consequently, the FTA has to define rules to determine which goods can move freely from one country to another within the zone (according to whether the goods come from a country within the FTA or are imported from the outside). Most of these are rules of origin. In terms of tariff preference, the most important thing is sometimes not so much the perspectives in which the agreements are notified as the day-to-day conditions and the nature of the applicable agreements.[1] The common feature of the different forms these free trade agreements may take (association, cooperation, specific, partnership) is the reciprocal nature of the tariff concessions.

EU preference schemes

The free trade areas of which the EU is a part include the European Economic Area (EEA – European Union, Iceland, Norway and Liechtenstein) and the zones formed with each member of the European Free Trade Association (EFTA – Iceland, Norway, Switzerland and Liechtenstein). The EU has concluded association agreements in a free trade area perspective with South Africa and the countries of central and eastern Europe (Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia). Its association and cooperation agreements with the Mediterranean Basin countries (Algeria, Cyprus, Egypt, Israel, Lebanon, Morocco, Palestine Liberation Organisation, Syria and Tunisia) are due to be replaced in the near future by the Euro-Mediterranean agreement. Table 1.1 gives a list of EU preference schemes.

Table 1.1. EU preferential agreements

EFTA countries	**Rules of origin**
Switzerland	diagonal "pan European "
Iceland	diagonal "pan European "
Norway	diagonal "pan European "
European Economic	diagonal "pan European "
(EC-Iceland-Norway- Liechtenstein)	
Central and Eastern Europe countries	
Hungary	diagonal "pan European "
Poland	diagonal "pan European "
Czech Republic	diagonal "pan European "
Slovak Republic	diagonal "pan European "
Bulgaria	diagonal "pan European "
Romania	diagonal "pan European "
Estonia	diagonal "pan European "
Latvia	diagonal "pan European "
Lithuania	diagonal "pan European "
Slovenia	diagonal "pan European "
West Balkan countries	
Macedonia (Former Yugoslavia)	bilateral
Croatia	bilateral
Mediterranean countries	
Turkey (products non-customs)	bilateral
Malta	bilateral
Cyprus	bilateral
Algeria	bilateral, diagonal, total "Maghreb"
Tunisia	bilateral, diagonal, total "Maghreb"
Morocco	bilateral, diagonal, total "Maghreb"
Israel	bilateral
Palestinian Authority	bilateral
Egypt	bilateral
Jordan	bilateral
Lebanon	bilateral
Syria	bilateral
Other countries or territories	
Andorra (agricultural products – non-customs)	bilateral
Faroe Islands - (Denmark)	bilateral
Africa-Caribbean-Pacific	bilateral
South Africa	bilateral
Mexico	bilateral
Chile	bilateral
Autonomous Areas	
Countries and Territories Overseas	bilateral and total
System of General Preferences	bilateral, regional diagonal
West Balkan Countries	bilateral
(Albania, Bosnia-Herzegovina, Yugoslavia)	
Ceuta and Melilla	bilateral, diagonal, total

Note : Diagonal cumulation in the so-called pan European system, includes products that originate from the European Union, Bulgaria, Switzerland and Lichtenstein, Island, Norway, Romania and Turkey (with the exception of agricultural products included in Annex 1 of the EC Treaty, O.J. C100, 25.4.2002, p 5.). Cumulation of origin with South Africa, mentioned in the agreement, is not yet implemented. Cumulation of origin with the ACP countries is not implemented either. Diagonal cumulation applies between the EU and countries benefiting from the GSP; regional cumulation applies between the EU, Norway and the countries benefiting from the GSP; Regional cumulation applies to countries belonging to one of the four regional agreements identified in the EU GSP scheme (ASEAN, CARICOM, Andean group, ASEAN).

Source: Customs and Excise (2003).

Leaving aside the provisions of Articles V and XXIV of the GATT, the enabling clause allows non-reciprocal tariff concessions to be granted to goods from certain developing countries or groups of countries. They are tariff preferences given by the EU in the context of the Generalised System of Preferences (GSP). The GSP enables 112 developing countries, such as those of Asia and Latin America, to export agricultural products to the European Union at reduced rates of duty.

Since 1998, additional tariff reductions have been applied to certain developing countries under GSP incentive schemes. These programmes are applied to countries which comply with international agreements on environmental protection, child labour and forced labour. Special schemes are also granted to countries that carry out anti-drug campaigns (GSP Drugs, concerning 12 Andean and Central American countries plus Pakistan). In 2002, in the context of GSP, the EU introduced the "Everything But Arms" (EBA) initiative in favour of 49 LDCs.

The EU also gives non-reciprocal tariff preferences to the African, Caribbean and Pacific countries (ACP). The Lomé Convention, which covers the cooperation agreements with the ACP countries, was replaced in 2000 by the Cotonou agreements, which cover 77 countries. Non-reciprocal tariff preferences are maintained on an exceptional and transitional basis until the end of 2007, but must then be replaced by reciprocal Economic Partnership Agreements (EPAs). Concerning non-reciprocal autonomous preference schemes, an association arrangement, already included in the Treaty of Rome, binds the EU with OCTs in the Association of Overseas Countries and Territories. The EU also has unilateral arrangements with the western Balkan countries (Albania, Bosnia-Herzegovina), Ceuta and Melilla (Table 1.2).

Table 1.2. Grouping of EU preferential agreements

	Abbreviations
Group by agreement	
Africa, Caribbean, Pacific	ACP
Maghreb (Algeria, Morocco, Tunisia)	MGB
Balkan (Albania, Bosnia and Herzegovina, Yugoslavia)	BALK
European Economic (Iceland, Liechtenstein, Norway)	EEE
System of general preferences - General regime (Regulation EC- 01/2501)	GSP
GSP "Everything but Arms"- SPGA (Regulation EC- 01/2501- Annex I Column H)	EBA
GSP "Drug"- SPGE (Regulation EC- 01/2501- Annex I Column I)	GSPE
PECOS (Czech Republic, Hungary, Poland, Slovakia)	PECs
Association of Overseas Countries and Territories, OCT	OCT
MACHRAK (Egypt, Jordan, Lebanon, Syria)	MCH
Other specific EU agreements (Andorra, Bulgaria, Croatia, Cyprus, Estonia, Faroe Islands, Israel, Latvia, Lithuania, Malta, Mexico, Romania, San Marino, Slovenia, South Africa, Switzerland and-Liechtenstein, Turkey)	Other
Non-reciprocal agreements	
	GSP+EBA+GSPE
Balkans	BALK
Association of Overseas Countries and Territories, OCT	OCT
Africa, Caribbean, Pacific	ACP

This brief review of EU tariff preferences highlights the relative complexity of a tangle of schemes under which countries may simultaneously benefit from preferences that often apply to different products. Annex Table A1.1 shows which countries benefit from which EU agreements according to the classification of current schemes used by TARIC, the Integrated Tariff of the European Communities. Given the large number of agreements and the fact that this study focuses on non-reciprocal arrangements like GSP and ACP, we have adopted the following grouping of preferences.

Rules of origin in the European Union

The preferences granted by the European Union apply to most countries with the exception of a small group of developed countries. However, the various preference schemes never extend to all agricultural and food products. The complexity resulting from multiple eligibility makes it difficult to identify precisely the degree of preference actually granted. It may seem logical that a country should choose the most favourable preferential tariff but that is not necessarily the case because of administrative obstacles, specific conditions of eligibility and compliance requirements. Of course, preferential duties are applied only when the qualification conditions are met. Preferential rules of origin set the conditions relating to the origin of goods that must be met in order to benefit from preferential treatment. Origin of goods should not be confused with provenance. Provenance refers only to the conditions under which goods are shipped to the country of destination. The basic criteria for the origin of goods are those which distinguish "products wholly obtained in a country" from "processed products".

Products wholly obtained in a country. The term "products wholly obtained in a country", especially as it applies to agricultural and food products, means:

- vegetable products harvested therein,
- live animals born and raised therein,
- products derived from live animals raised therein,
- products of hunting or fishing carried on therein,
- products of sea-fishing and other products taken from the sea outside a country's territorial sea by vessels of that country and products made from fishery products on board factory ships of that country, [2]
- goods which are produced in the country exclusively from the goods listed above or from their derivatives.

These general principles concerning wholly obtained products may, in the case of criteria for preferential origin, be stated differently according to the protocols annexed to the different schemes. For the most part, wholly obtained goods are primary products.

Processed products. When products are obtained in the country and contain goods that have not been "wholly" obtained there, the question arises whether the obtained products can be deemed to have originated there. The assessment criterion is "manufacturing" or the "sufficient transformation" (a term used in official texts to describe the degree of processing) of materials that have not been wholly obtained in the country. The conditions for manufacturing or transformation depend on the protocols. They rely mainly on criteria for changes of tariff heading, but also on value added or the performance of a specific manufacturing operation. However, some processed products, such as fish or shellfish preparations, may be deemed "of origin" only if they have been obtained from materials

that are themselves wholly obtained (Grave, 2003). Certain operations are still deemed insufficient to confer origin, even if several of them are combined (sorting and packaging, for example).

Cumulation rules. In the context of a bilateral preference scheme where the products obtained in one of the contracting parties contain materials not wholly obtained there but using materials originating in the other contracting party, the latter are deemed original materials when they are incorporated into an obtained product. This principle is called “bilateral cumulation”. Only materials that do not originate in the zone formed by the two countries are taken into consideration in order to assess whether the manufacturing or transformation is sufficient or not. In additional to bilateral cumulation, other wider cumulation systems exist covering several zones of countries, referred to as "diagonal cumulation" (*e.g.* pan-European cumulation). In the case of GSP, a regional cumulation system has been instituted within three regional groups comprising GSP beneficiaries: the Association of South East Asian Nations, the Central American Common Market and the Andean Community, and the South Asian Association for Regional Cooperation.

Proof of origin. Proof of origin for products that comply with the rules of preferential origin is given either by a movement certificate (form EUR 1) or certificate of origin issued by the customs authorities, or by a simplified document (form EUR 2 or invoice declaration). The EUR 1 movement certificate applies to all Community trade preferences with the exception of certification of origin by GSP beneficiaries. In this case, proof of origin is furnished by the Form A certificate of origin, which is not a movement certificate since the situation is not one of free trade (Grave, 2003). It is important to note that although it is the importer who requests benefit of the preference (SAD Box 36), proof of origin is established in the beneficiary country (usually the exporting country). The customs authorities of the importing Member State carry out posterior control of proof of origin by sampling or on the grounds of substantiated doubt, and in all events the burden of proof of origin lies with the operators.

The first aim of this chapter is to identify the extent of actual utilisation of EU preference schemes, especially those that are non-reciprocal (mainly GSP, ACP). Secondly, taking account of how tariff preferences are applied, it will explore the reasons behind these utilisation rates. But first, let us consider the methodology used to carry out the study.

Sources and methods for analysing EU preferential imports

Goods may be imported entirely under the preferential treatment given to the country of origin or only partly, either in favour of another preference scheme for which the country is eligible or outside the preference system altogether. In the latter case, the importer waives benefit of preference in favour of multilateral MFN treatment. In what proportions are preferences utilised?

The question does not seem to pose any great difficulty at first sight, since it is enough to know the breakdown of the amount of imports by product and by tariff regime. However, this information is not directly available at European Union level. In the name of the principle of subsidiarity which applies to this area of taxation, the Member States continue to collect duty. As such, information about the duty paid and the amount (or quantity) of imports under the system (the base for calculating duty) is controlled by national governments. In other words, this type of statistic is not centralised at European level.

However, the declarations made by importers on clearance form the basis for statistics on internal and external European trade. Records for that operation are based on customs declarations using the Single Administrative Document (SAD). In addition to data (value, quantity, provenance, additional units, etc.) processed by national statistical offices and transferred to Eurostat, the

declaration includes information about the chosen tariff regime. To be more specific (and it is relatively important in order to understand), it is a declaration made under the importer's responsibility. Customs controls of the validity of the declaration are posterior.[3]

Estimating the utilisation of preferences thus means gathering data from customs declarations, in particular the information relating to the requested preference (SAD Box 36). This information, which can be treated as an intention on the part of the firm, must be checked to ensure that it complies with the regulations. In order to do so, the information from declarations (SAD) must be cross-referenced with the tariff data.

In order to give a correct answer to the question about preference utilisation rates, data about imports by preference scheme must be checked against data about duty, irrespective of features specific to the EU. Preferences cannot be utilised unless they have been granted. But while preferential treatment is granted to certain countries (under specific bilateral agreements) or groups of countries, it does not apply to all products. More generally, it is hardly relevant to measure the utilisation of a preference if a product is duty-free under MFN. While there is no preference by definition in this case, it must also be admitted that certain products are entirely denied the benefit of preferential tariffs.

The statistical treatment of imports by preference scheme. The utilisation of preferences is analysed on the basis of data taken from Single Administrative Documents (SAD Box 36). As the declarations are made by importers, the purpose of statistical treatment is to control and, where relevant, correct these data.[4] The nomenclature of the tariff measures used by SADs is rather different from that used in tariff setting. It allows for only a rather summary approach to preferences and the declarative status of these preferences relates to a tariff nomenclature that is not always "active" within the meaning of the regulations. That is why the information taken from SADs is supplemented by EU notifications to UNCTAD concerning the Generalised System of Preferences.

For all these reasons the statistics can be rendered consistent by comparing SAD data with tariff data from the TARIC database, meaning that information about preference schemes can be exploited more precisely. However, it is a relatively onerous process outside the framework of the European Commission because the TARIC data has to be prepared before it can be exploited (see below). This operation is necessary because it simplifies tariff setting in a way that is robust with regard to the regulations on preference schemes, since it distinguishes by product, country and preference scheme those items that are covered by customs law and its components (exceptions, prohibitions, duties and additive measures). The methodology produces statistics on imports by tariff regime[5] without introducing assumptions about allocation to a scheme according to levels of duty.[6]

The Integrated Tariff of the European Communities (TARIC). The TARIC contains a nomenclature in each of the 11 official languages with approximately 15 000 tariff lines (the harmonised system contains only 5 000 lines). It shows all current third country rates and preferential duties and all trade measures. The TARIC includes all elements of Community legislation published in the Official Journal of the European Communities (series C) and serves as the direct basis for the preparation of Member States' current tariffs.[7]

Based on the combined nomenclature (CN), the integrated tariff of the European Community includes:

- all customs regulations (Common Customs Tariff), 8-digit CN codes, a description of the goods and the amount of duty;

- the “TARIC sub-positions” identified by a ninth and tenth digit, which are required for the application of specific Community measures (tariff suspensions and quotas, tariff preferences, GSP, etc.). Together with the CN, these additional Community sub-divisions constitute the TARIC code;
- an additional 4-digit TARIC code beginning in the eleventh position can also be used to apply specific Community regulations. At present, for example, the code is used for anti-dumping elements and countervailing duties relating to enterprises, agricultural components and export refunds.

Considering here only measures relating to imports, the TARIC database, using CN codes and sub-divisions (9 and 10 digits or an additional code), contains all information relating to:

- tariff suspensions;
- tariff quotas (conventional, WTO);
- tariff preferences;
- preferential quotas;
- the generalised system of preferences (GSP) applicable to developing countries;
- anti-dumping duties and countervailing duties;
- countervailing charges;
- agricultural components;
- unit and flat-rate values for imports;
- reference and minimum prices;
- import bans;
- surveillance of imports.

The TARIC takes up regulatory variations in tariff measures that sometimes have several periods of validity within a given year. In addition, and more specifically for agricultural products, duties are sometimes specified with additional components or entry prices:

- agricultural components (AC), an additional duty applied to certain processed products using primary agricultural products subject to tariff protection (dairy products, for example);
- additional components on sugar (AD Z) or flour (AD F/M), the specific amount of which will differ according to the treatment (preferential or MFN);

Entry prices for fruit and vegetables (tomatoes, cucumbers, artichokes, courgettes, lemons, grapes, apples, apricots, cherries, peaches, plums, fruit juices) with seasonal variations (generally January, 1 February to 31 March, 1 to 20 April, 21 April to 31 May, 1 June to 31 July, 1 August to 30 September, 1 October to 31 December). Duties will naturally differ according to entry price levels, season and preferential origin. However, importers often use a simplified system based on a choice between unit values or flat-rate values.

Utilisation of EU tariff preferences for agricultural and food products

Under EU preference schemes, preferential treatment may be accorded to products imported from countries, either through regional economic integration agreements establishing free trade areas or customs unions or unilaterally, so as to favour the beneficiaries' development. There are some

forty preference schemes involving the EU and certain countries or groups of countries (European Commission Green Paper, 2004). In fact, only ten countries[8] do not have preferential relations with the EU, and imports of agricultural and food products from countries accorded preferential treatment accounted for 82% of all imports in 2002, compared with 78% in 2000 (Gallezot, 2002). However, imports for which a preference was requested represented only approximately 40% of imports from these countries (Table 1.3, ratio [4/1]) and just under a third of all EU imports.

Table 1.3. Imports from countries with or without preferential agreements

	Countries with preferential agreement [1]	Countries without preferential agreement [2]	Total Import [3]	Preferential import used [4]
Import 2001	40021742	11599325	51621067	18742892
Share 2001	78%	22%	100%	36%
Import 2002	54340654	12218198	66558853	21020331
Share 2002	82%	18%	100%	32%

Source: SAD-TARIC COMEXT and Gallezot, 2002 for year 2001.

The share of preferential imports is relatively low in relation to total imports from countries accorded preferential treatment. This raises questions about how preferences are used, for it is possible that the regulatory conditions imposed on products potentially eligible for preferential treatment are too restrictive, or that operators waive preferential treatment after setting off the expected benefit against the cost of obtaining it. The question of the preference utilisation rate is central to this issue and should first be clarified.

Preference utilisation

Firstly, tariff preference is measured in relation to the "all third countries" duty, which is the duty that complies with the MFN clause in the context of multilateral agreements. In other words, tariff preference generates a preferential margin which corresponds to the difference between the amount of the MFN duty and the amount of duty under the preference. Thus, imports at zero MFN duty must by definition not be included in the measurement of preference utilisation.

Secondly, there are countries or groups of countries that do not benefit from any preferential treatment and there are import bans (Table 1.4). Under international economic sanctions, the EU may interrupt or reduce all or some of its economic relations with one or more third countries for foreign policy and security reasons.[9] Two such countries are Myanmar and Iraq, where an embargo was imposed (Regulation 2465/96) after the European Union broke off economic and financial relations. Restrictive measures may be imposed because of failure to comply with health and hygiene controls.[10] For example, imports of fresh beef and pork from Albania have been banned.[11] Measures may also be taken to protect fish stocks as a depletable natural resource, such as the EU ban on imports of red tuna from Belize, Honduras and Equatorial Guinea.[12]

Lastly, preference schemes do not cover all products. Some products are excluded from the scope of a scheme and, especially for countries eligible for the GSP, whole sectors are "graduated" and hence excluded from preferential treatment (see below). So in order to assess how preferences

are utilised, it is necessary to consider the products and countries actually "eligible"[13] for preferential treatment.

Table 1.4. EU Import restrictions (2002)

Product and countries prohibited (with Iraq and Myanmar)	Number of products (10 digits)
Meat and edible meat offal Albania	79
Fish and crustaceans, molluscs, etc. Belize	34
Fish and crustaceans, molluscs, etc. Cambodia (Kampuchea)	7
Fish and crustaceans, molluscs, etc. Equatorial Guinea	44
Fish and crustaceans, molluscs, etc. Honduras	30
Fish and crustaceans, molluscs, etc. St Vincent	8

Source: *Source :* TARIC (DG-Taxation).

EU imports under preference schemes

These considerations enable us to define the scope of action for the utilisation of tariff preferences: in 2002, one third of agricultural and food products were imported duty-free and 29% were not eligible for preferential treatment. Altogether, eligible imports represented 38% of total EU imports. It is in relation to this potential for preference that actual preference utilisation must be measured. Thus, products imported under preference schemes accounted for 32% of total EU imports, showing that preference is more widely used for agricultural and food products than for EU imports as a whole, since only 21% of all EU imports benefited from preferential treatment in 2001 (European Commission Green Paper, 2004).

Imports under non-reciprocal preference schemes accounted for 65% of imports accorded preferential treatment, while the 89% utilisation rate for non-reciprocal schemes is higher than the figure for preference schemes as a whole.

Fifty-six per cent of MFN dutiable agricultural and food products were eligible to enter the EU under preference schemes and 47% did so (Table 1.5). Thus, the preference utilisation rate for the EU as a whole represented 83% of imports eligible for preferential treatment.

At first sight, the high utilisation rate for all EU preference schemes seems to contradict the argument that countries find it difficult to take up preferences (Oxfam, 2002; CEPS, 2002; World Bank, 2002). However, the use of preferences needs to be assessed in the light of the specific objectives of each scheme. In other words, an overall estimate of preference utilisation masks dissimilar situations.

Table 1.5. Imports eligible for preferential trade

	Zero MFN duty [1]	Non eligible to preferential Trade [2]	Eligible to Preferential Trade [3]	Total Import [1+2+3]	Imports under preferences [4]	Rate of utilisation of prefer-ences [4 / 3]
All preferential regimes						
Import Total EU (€'000)	21 713 889	19 624 565	25 220 398	66 558 853	21 020 331	83%
Share of Total EU Import (%)	33%	29%	38%	100%	32%	
Share of Total EU Import (%) MFN >0	-	44%	56%	44 844 964	47%	
Non reciprocal preferences only						
Import Total EU (1000 Euros)			15 351 417	66 558 853	13 711 072	89%
Share of Total EU Import (%)			23%	100%	21%	
Share of Total EU Import (%) MFN >0			34.0%	44 844 964	31.0%	

Source: TARIC-SAD, 2002.

Utilisation rates according to preference scheme

Table 1.6 shows preference utilisation rates in excess of 90% for a majority of schemes (ACP, MGB, BALK, GSP Drugs, OCT, MCH and, to a lesser extent, other regimes grouped in the "Other" category in column 3). The only schemes below this threshold are GSP and EBA (the scheme directed at LDCs), the EEA and the preferences granted to the central and Eastern Europe countries (CEEC).

Table 1.6. Utilisation of preferential regimes

Year 2002 Regime Used	Import Eligible by regime €'000 [1]	Actual Import Under regime €'000 [2]	Rate of utilisation by preferential regime % [3]=[2]/[1]	Share of Actual Import % [2]/(sum[2]
Non preferential Import		19 624 565		29.5
Duty free (under MFN)		21 713 889		32.6
MFN (tariff >0)	0	4 200 067		6.3
Cotonou (ACP)	5 926 849	5 500 091	92.8	8.3
Maghreb (MGB)	1 096 733	1 046 009	95.4	1.6
Balkan	356 428	329 575	92.5	0.5
E.B.A (GSPA)	1 682 244	293 527	17.4	0.4
European Economy (EEA)	1 973 938	1 085 880	55.1	1.6
GSP	8 754 532	4 385 644	50.1	6.6
GSP-Drug	1 833 684	1 714 354	93.5	2.6
PEC's	2 570 731	1 937 165	75.4	2.9
OCT	412 516	398 673	96.6	0.6
Machrak	112 473	106 928	95.1	0.2
Other preferences	5 270 602	4 222 484	80.1	6.3
Total EU preferential Import	25 220 398	21 020 330	83.3	31.6
Total Import EU		66 558 853		100

Note: As some countries adhere to a number of preferential regimes, total imports (column 1) of each regime are larger than total EU preferential imports.

Source: TARIC-SAD, 2002.

A simple explanation can be put forward for the EEA and CEEC schemes: almost 60% of eligible preferences by volume concern preferential quotas. If these quotas were filled, products from these countries would be imported under MFN.[14] Thus, as far as non-reciprocal preferences are concerned, only the GSP (for which there are no quotas) and the EBA initiative are under-utilised. The effectiveness of the EBA initiative, set up very recently (2001), is still difficult to assess.

Dual eligibility

Table 1.6 shows that a distinction can be drawn between two measurements of preference utilisation. One concerns the utilisation of a specific agreement, in which case we may speak of the GSP or Cotonou (ACP) utilisation rate. The other concerns the utilisation of EU preferences for all preference schemes. More specifically, taking the GSP as an example, imports that are eligible for GSP but do not use it may very well use a competing scheme. This is due to the fact that certain countries (and certain products) qualify for another scheme (Annex Table A.1). Consequently, double counting means that the eligible total per scheme (Table 1.6, col. 1) is higher than the eligible net accorded by the EU (Table 1.6, col. 2) for all preferences. To better illustrate this situation, and anticipating the continuation of the analysis, let us consider the utilisation of tariff preferences under GSP (Table 1.7).

This example shows that imports using GSP account for 50% of the possibilities accorded to the countries and products eligible for the scheme (GSP utilisation rate). It also shows that 36% of imports use other schemes due to their simultaneous eligibility for competing schemes (especially Cotonou). Whatever the difficulty of identifying the impact of dual eligibility, this situation raises the problem of the specific objectives of each regime: the needs that the GSP aims to satisfy, for example, are covered by other schemes. The criterion of origin required in order to benefit from GSP is thus diluted within rules of origin compatible with other schemes.

Table 1.7. Example of preferences used in the case of GSP

Regime Used	Import Eligible GSP	Share of preference used %
MFN (tariff >0)	1 234 717	14.1
Cotonou (ACP)	1 960 891	22.4
Maghreb (MGB)	524 029	6
GSP	4 385 644	50.1
OCT	84 072	1
Machrak	90 731	1
Other preferences	474 446	5.4
Total	8 754 532	100

Source: TARIC-SAD, 2002.

The importance of preference schemes by geographical zone

Almost one third of EU imports of agricultural and food products are from Africa (Annex Table A.9), especially East Africa (11%) and North Africa (8%). 25% are from European countries (including 11% from Eastern Europe), 20% from Latin America (including 12% from South America) and 20% from Asia.

Stripping out European imports at zero MFN duty, imports eligible for preferential treatment represent 47% of access to the EU market for agricultural products. Preferential treatment is particularly important for African countries, since 86% of their imports and 91% of their exports to the EU benefit from preferential treatment. To a lesser though still significant extent, almost half of MFN dutiable agricultural imports and 40% of those from Latin American countries qualify for preferential treatment and over 80% and 90% utilise a preference in that framework.

Annex Table A.2 underlines the importance of non-reciprocal preferences, which account for almost 61% of preferences accorded by the EU. Over 90% of preference schemes with the countries of Africa and Latin America are non-reciprocal, and the utilisation rate for non-reciprocal schemes is generally higher than for preference systems as a whole (89% compared with 83% for the EU as a whole).

Utilisation of the European GSP

Chief characteristics of the European GSP

During its first phase (1971-1981, renewed for ten years), the European GSP was reviewed each year. The European GSP subsequently moved onto a pluri-annual basis, the current programme, begun in 1995, being valid until the end of 2004. On 12 June 2001, the European Commission adopted a proposal for a revision to the EC scheme to be applied from 2002 to 2004 (Regulation 2501/2001). Due to the failure of the Doha round, the application of the GSP has been extended to 2005. In application of the 1995 guidelines, several important changes were made to the EC scheme, of which two key features were tariff modulation and graduation.[15]

Tariff modulation replaced the traditional approach of granting duty-free access for limited quantities of imports with a system of different preference margins for sets of products with different degrees of sensitivity. Under the new regulation, since 2002 there have been only two categories: "non-sensitive" products, obtaining duty-free treatment, and "sensitive" products, benefiting from the preferential rate. To help halt the erosion of preferences as MFN liberalisation proceeds, GSP rates for "sensitive" products are expressed as a reduction of 3.5 percentage points on *ad valorem* MFN rates and a 30% reduction on specific MFN rates.[16] For sensitive products with specific rates, if the duty is less than EUR 2 (compared with EUR 0.5 previously) there is an exemption from duty. Whenever there are mixed *ad valorem* and specific rates, only the *ad valorem* part is reduced.

Graduation (Box 1.1) leads to the exclusion of imports from certain countries[17] in respect of certain sectors or from the entire GSP scheme. The exclusion of countries is based on one of two criteria: the degree of export specialisation (the "specialisation index") and a development indicator (the "development index"). Exclusion on the grounds of export specialisation is based on a ratio between a country's share of total EC imports in a given sector and its share of total EC imports in all sectors, the so-called "lion's share" clause. The development indicator is based on an exporter's per capita income and total exports, compared with those of the EC.[18] To make graduation more neutral and automatic, the European Commission revises the list of beneficiaries by applying the criteria for graduation once a year. However, a country must meet either of the criteria for three consecutive years before being removed from the list of beneficiary countries. At present there is no provision for re-entry to the GSP scheme once a country has graduated.

GSP rules of origin are those applicable to all products and sources.[19] Under these rules, in order to qualify for GSP treatment a product must be either wholly obtained or "sufficiently worked or processed", if imported inputs are used in the manufacture. A product is considered to be wholly obtained in a beneficiary country when it does not contain any imported input. When imported inputs

are used in the manufacturing process of a finished product, the Community Customs Code requires that these non-originating materials be sufficiently worked or processed. This is defined as follows: "Products which are not wholly obtained in a beneficiary country or in the Community are considered to be sufficiently worked or processed when the conditions set out in the list in Annex 15 (*the new Single List*) are fulfilled." In the current scheme, the only general rule to be followed in order to determine the origin of a product is to establish its tariff classification in the Harmonised System (HS) and check if the conditions laid down in the Single List for that specific product are met. The proposed regulation for the 2002-2005 scheme does not affect the current rules of origin. Partial Regional Cumulation is granted to four regional groupings (the Andean Community, the Central American Common Market, the Association of South-East Asian Nations and the South Asian Association for Regional Cooperation). Derogation from rules of origin may be granted to LDC beneficiaries when the development of existing industries or the creation of new industries justifies them (derogations have been granted to Laos, Cambodia and Nepal for certain clothing products).

Box 1.1. Graduation in the European Union GSP

The graduation mechanism in the European Union GSP is based on the values of the development index (DI) and specialisation index (SI). Graduation does not apply to LDCs or countries with a DI of less than -2 or to beneficiary countries which account for less than 2% of imports of products in the sector concerned. The DI is measured using a formula based on per capita income and the value of manufactured exports, explained in Annex II of Regulation 2501/2001 of 10 December 2001. Graduation may be activated by two mechanisms, the "lion's share" test and the specialisation index. The "lion's share" clause is triggered if EU imports from a given country in a given sector exceed 25% of all imports of the product from all GSP qualifying countries. The specialisation index compares imports of a given product from a beneficiary country with all imports from that country. If the share in a given sector exceeds the SI thresholds below, and if the country enters into the ID category below, graduation is activated for that sector.

Development Index (DI)	Threshold for the SI
= or > -1.0	100%
< -1.0 and = or > -1.23	150%
< -1.23 and = or > -1.70	500%
< -1.70 and = or > -2.00	700%

Thus, the lower a country's development index, the less demands the system makes with regard to specialisation. The aim is to preserve the advantages of the GSP for less developed countries when a very efficient producer of a product could capture the entire EU import market.

Source: European Commission, responses to Trade Policy Review 2002 under the WTO procedure, 2002.

Another change in the current scheme since its introduction in 1995 was the introduction in 1998 of "additional preferences offered in the context of special incentive arrangements" intended to promote sustainable development, in particular the protection of labour rights and the environment. There are also special arrangements for Andean countries, Central American countries and Pakistan which are conducting anti-drug campaigns (GSP Drugs). The European Union changed the GSP scheme in 2001 by reducing all duty on exports from 48 LDCs to zero. This initiative, known as "Everything But Arms" (EBA), is also one of the special arrangements under GSP. These arrangements are being evaluated so as to determine whether they achieve their objectives and whether they are consistent with other schemes. Whether or not the scheme is continued beyond 2005 depends on the results of the evaluation. The European Commission (DG-Trade) is conducting an internal evaluation which has indicated the lack of utilisation of schemes special environmental schemes and of those in connection with labour rights. At the moment of writing this report, the European Commission has circulated a proposal to reform its system of trade preferences in favour of developing countries.[20] This will be followed soon by a legislative proposal (November 2004). This reform, proposing a framework for the next ten years (2006-2015), will simplify even more the GSP

and is based on three pillars: a general arrangement, the scheme "Everything but Arms" and a new GSP allotting additional tariff preferences to countries that need special development. It is also expected that the new GSP will be subject to a detailed evaluation every three years in order to bring about improvements by taking into account the evolution of trade negotiations.

Graduation in the GSP

Only non-graduated countries and sectors can use the GSP (Box 1.1). It is possible to identify the impact of graduation using TARIC-SAD data. The impact can be measured as the difference between the value of eligible imports in 2002 and the value of imports under GSP without taking account of graduation. The value of total graduated imports for the countries concerned is slightly more than the current amount of eligible imports (Table 1.8, col. 6), 15% more than dutiable imports for all GSP countries and almost 30% for just the countries concerned. Graduation applies to 18 countries and the amounts are greatest for Brazil, Indonesia, Thailand, Malaysia and Chile. The principal graduated sectors (Table 1.9) are "animal or vegetable fats or oil", "preparations of vegetables and fruit", "edible fruit" and "fish and crustaceans". These four sectors account for 77% of the total value of graduation products.

Developing countries' utilisation of GSP will therefore depend on the extent to which products qualify for the scheme, excluding graduated products. Graduation in GSP is extensive, which may conceptually offend the principles of non-discrimination and non-reciprocity and be a factor in limiting the scope of the system.

Table 1.8. GSP Graduation by country

GSP - No LDCs (GSPL)	Import Total	Import Dutiable (>0 duty MFN)	Import GSP			Values Graduated	Potential Covered (%) by values Graduated
			under	Eligible	Without		
Countries	€'000	€'000	GSP	GSP	Graduate	€'000	
	[1]	[2]	3	4	5	6=5-4	7=6/2
Argentina	4458271	1902566	770370	876029	959501	83472	4.4
Armenia	2000	1714	149	185	1666	1481	86.4
Azerbaijan	10829	10235	8458	9831	10213	382	3.7
Belarus	26010	22067	5352	16253	16266	13	0.1
Brazil	7241278	2324796	246070	344880	1122646	777766	33.5
Chile	1313332	1201868	136224	146595	510484	363889	30.3
China	1658126	1063025	592899	799876	814784	14908	1.4
Greenland	266533	266132	0	23	254856	254833	95.8
Indonesia	1382407	946373	256305	332189	900322	568133	60
Kazakhstan	42629	28387	483	656	687	31	0.1
Malaysia	696182	523705	117697	132329	522243	389914	74.5
Mexico	455946	256888	21477	193177	254000	60823	23.7
Moldova	51981	39640	858	1086	19213	18127	45.7
Philippines	386027	292801	61913	77099	210414	133315	45.5
Russian Federation	1018456	936043	13937	42072	154305	112233	12
Thailand	1276213	1218900	8697	53608	553485	499877	41
Ukraine	773850	711092	108677	133317	136141	2824	0.4
Uruguay	314912	234075	57393	61947	70680	8733	3.7
[1]							
Total Import graduation	21374982	11980307	2406959	3221152	6511906	3290754	27.5
[2]							
Total all GSP Countries	34691937	21508249	4385644	8754532	12045286	3290754	15.3

Source: TARIC-SAD, 2002.

Table 1.9. GSP Graduation by product

Graduation GSP 2002 Products (HS2)	Values imports product graduated €'000	 %
15-Animal or vegetable fats and oil	1 089 858	33.1
20-Preparations of vegetables, fruit, nuts or other parts of plants	636 623	19.3
8-Edible fruit and nuts; peel of citrus fruit or melons	407 300	12.4
3-Fish and crustaceans, etc.	406 087	12.3
24-Tobacco and manufactured tobacco substitutes	195 429	5.9
16-Preparations of meat, fish, crustaceans, molluscs…	174 812	5.3
2-Meat and edible meat offal	83 707	2.5
21-Miscellaneous edible preparations	80 587	2.4
7-Edible vegetables and certain roots and tubers	50 411	1.5
6-Live trees and other plants; bulbs, roots cut flowers	43 868	1.3
19-Preparations of cereals, flour, starch or milk; bakers' wares	34 031	1
23-Residues and waste from the food industries; prepared animal feed	20 030	0.6
12-Oil seeds and oleaginous fruits; misc. grains, seeds and fruits	17 661	0.5
9-Coffee, tea, mate and spices	16 862	0.5
22-Beverages, spirits and vinegar	12 989	0.4
17-Sugars and sugar confectionery	7 083	0.2
18-Cocoa and cocoa preparations	6429	0.2
1-Live animals	5 304	0.2
11-Products of the milling industry	1511	0
Total	**3 290 754**	**100**

Source: TARIC-SAD, 2002.

Utilisation rates of the European GSP

Table 1.10 shows that imports from countries benefiting from GSP account for over half of all EU imports of agricultural and food products in 2002. Eligible products account for only 41% of dutiable imports from GSP countries. Imports that actually use GSP account for only half of those that could do so.

Table 1.10. Utilisation of European GSP

GSP L Countries Import	Import Total €'000 [1]	Import Dutiable (>0 duty €'000 [2]	Import Received €'000 [3]	Import for GSP €'000 [4]	Potential Covered Rate % [4/2]	Rate of Utilisation GSP % [3/4]	Value of preferences as a % of dutiable [3/2]
GSP (general regime)							
Total	34691937	21508249	4385644	8754532	40.7	50.1	20.4
Total EU	66558853	41338454	21020330	25220398			
Part GSP	52.1	52	20.9	34.7			

Source: TARIC-SAD, 2002.

The GSP utilisation rate varies considerably according to the country and product. Some countries, like Argentina, Malaysia and Brazil,[21] make extensive use of the possibilities offered by the system, while other countries have utilisation rates of less than 5% even though they export substantial volumes to the EU.

What factors determine utilisation of the GSP and what reasons can be put forward for explaining under-utilisation?

Breakdown of GSP utilisation by country and by product

Imports from GSP beneficiaries account for over 50% of all EU imports of agricultural and food products. 106 GSP countries export eligible products to the EU. However, fewer than half of MFN dutiable products qualify for GSP (41%), and only half of GSP-eligible imports use the scheme. Figure 1.1 shows the breakdown of the preference utilisation rate by country and by product. It is apparent that the extent of utilisation is dissimilar.

- Over 60% of GSP beneficiaries use the system for less than 5% of their exports to the EU. Most of them are African and Latin American countries, in contrast to Asian countries.
- Less than 10% of GSP beneficiaries account for 90% of all imports using the system. The three countries representing the biggest proportion of agricultural and food imports under GSP are Argentina, China and India, which alone account for 43% of imports using GSP (Table 1.11).

Figure 1.1. Rate of utilisation and GSP import share

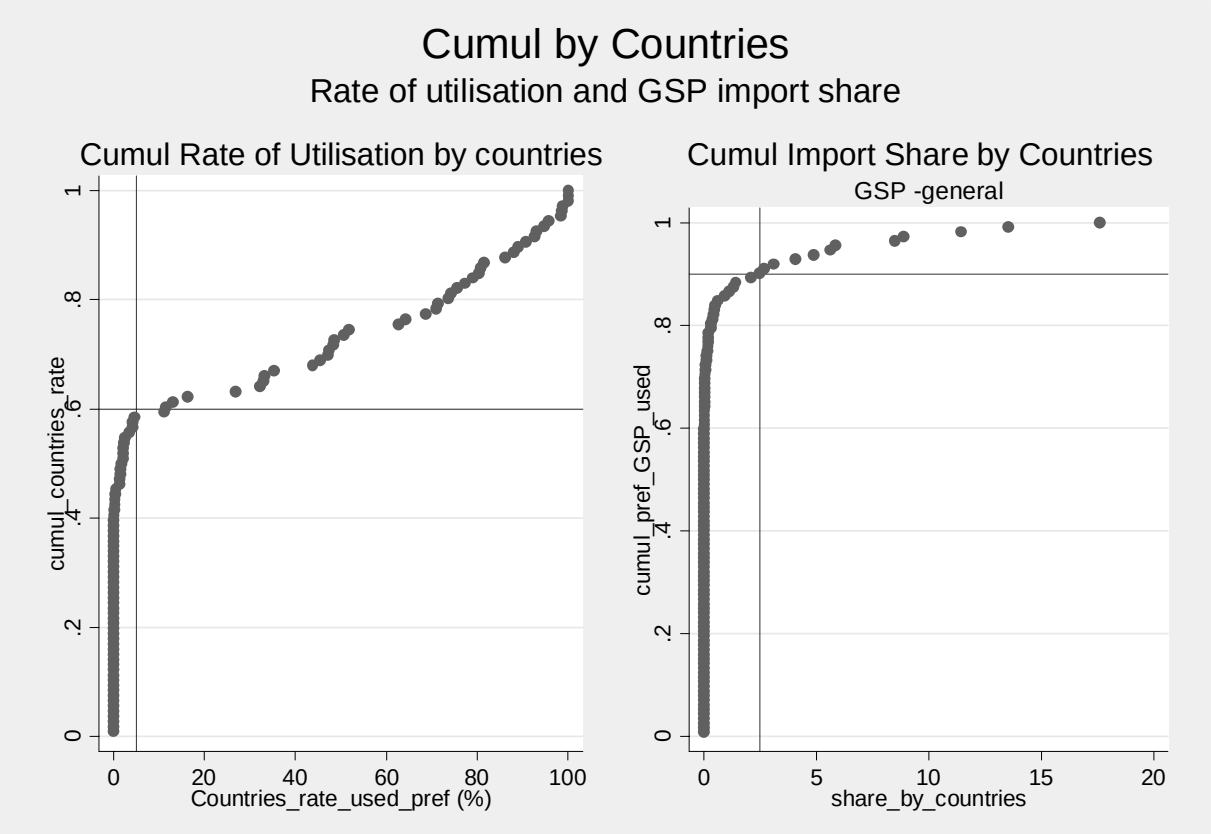


Table 1.11. Rate of utilisation and GSP import share

Region	Number of countries Rate of utilisation by countries Rate >5%	Rate <5%
Africa	4	16
Oceania	5	10
Northern America		3
Asia	24	7
Europe	4	2
Latin America, Caribbean	7	24
Total	44	62

Countries	Share of import received GSP In total received
Argentina	18
China	14
India	11
Total %	43

Source : TARIC-SAD, 2002.

As we shall see, this relative concentration in preference utilisation is common to many preference schemes. Some GSP schemes in fact benefit only a handful of developing countries, and often concentrate on a small number of products. The effects of GSP therefore appear to be considerably distorted as regards both the number of main beneficiaries and the range of products concerned (WTO, 2001).

Impact of dual eligibility on GSP

The fact that only half of GSP-eligible imports actually use the scheme does not mean that all the other imports do not enjoy preferential treatment. On the contrary, it is one of the reasons why GSP is under-utilised, since GSP-eligible imports may use another preference scheme. Many GSP beneficiaries (ACP, OCT, South Africa, etc.) often simultaneously use other preference schemes for certain products. Depending on the product, the preferential margin, the conditions to be met, etc., operators will choose the most favourable treatment. On this point, it should be emphasised that preference is given only if it is requested (CDC, Article 20.4). An operator can waive benefit of a preference by choice or through lack of information. Examination of the utilisation of schemes by GSP beneficiaries shows that 36% of imports use another scheme, mainly the Cotonou scheme for ACP countries, and that 14% are imported under MFN.

Thus, GSP beneficiaries appear to use competing schemes (Cotonou, OCT, etc.) because they offer better levels of preference and conditions. Before exploring this hypothesis, however, let us return to the question of dual eligibility.[22] Only certain products qualify for preferential treatment, and dual eligibility generates competition only for products that both systems have in common. Thus, preference utilisation for GSP-eligible products must be refined by drawing a distinction between GSP-only products and products common to both GSP and ACP, or both GSP and OCT, etc. (Tables 1.12 and 1.13).

This distinction between GSP-only products and those common to another system helps to further refine the conditions under which GSP is used. 99% of imports under GSP are GSP-only products, representing 62% of total GSP-eligible imports (Table 1.14). Thus, the GSP utilisation rate is relatively high (80%) when there is no competing scheme for the products. The situation is quite different when products qualify for both GSP and Cotonou. In these cases, the GSP utilisation rate is only 2.6%, and 94% of imports use the Cotonou scheme. When countries have products that qualify for both GSP and other schemes, operators plainly choose the latter (Cotonou, OCT, etc.).

Table 1.12. Utilisation of preferences in the case of GSP

Regime Used	Import Eligible GSP	Share of Preferences used %
MFN (tariff >0)	1 234 717	14.1
Cotonou (ACP)	1 960 891	22.4
Maghreb (MGB)	524 029	6
GSP	4 385 644	50.1
OCT	84 072	1
Machrak	90 731	1
Other preferences	474 446	5.4
Total	8 754 532	100

Source : TARIC-SAD, 2002.

Table 1.13. Major imported products eligible for GSP by country

HS2	HS8 Code	Countries	Regime Used	Import €'000
3-Fish and crustaceans, molluscs, etc.	3074938	Falkland Islands	PTOM	48 490
7-Edible vegetables, etc.	7019050	Egypt	MCH	47 521
8-Edible fruit and nuts; etc.	8061010	South Africa	Other	104 754
8-Edible fruit and nuts, etc	8101000	Morocco	MGB	61 922
10-Cereals	10062098	India	MFN	87 179
15-Animal or vegetable fats	15121191	Argentina	GPSL	205 672
24-Tobacco,etc.	24012010	Zimbabwe	ACP	168 731

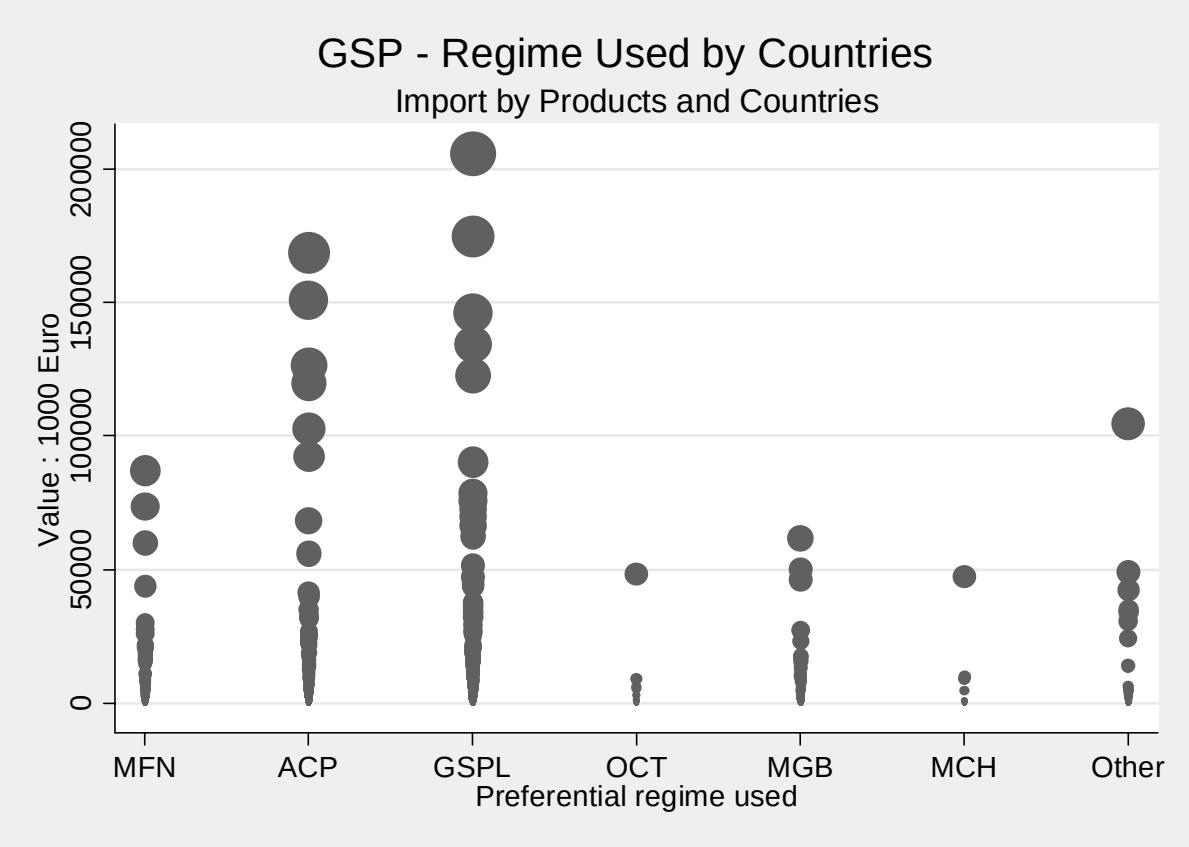
Source : TARIC-SAD, 2002.

Table 1.14. Impact of dual eligibility on GSP

Preferential Regime Used	Eligible GSPL	%	Only GSP	%	GSP ACP	%	GSP MGB	%	GSP OCT	%	GSP MCH	%	GSP Other	%
MFN	1234717	14.1	1094374	20.2	72562	3.5	31918	5.7	1492	1.7			34372	6.8
Cotonou	1960891	22.4			1960891	93.9								
MGB	524029	6					524029	94						
GSPL	4385644	**50.1**	4331605	**79.8**	54011	**2.6**		**0**	28	**0**		**0**		**0**
OCT	84072	1							84072	98.2				
MCH	90731	1									90731	100		
Other	474446	5.4											474446	93.2
Total	8754532	100	5425979	100	2087464	100	555947	100	85592	100	90731	100	508818	100
% of Total		*100*		*62*		*23.8*		*6.4*		*1*		*1*		*5.8*

Source : TARIC-SAD, 2002.

Figure 1.2. Imports by products and countries



Source: Calculations by the authors.

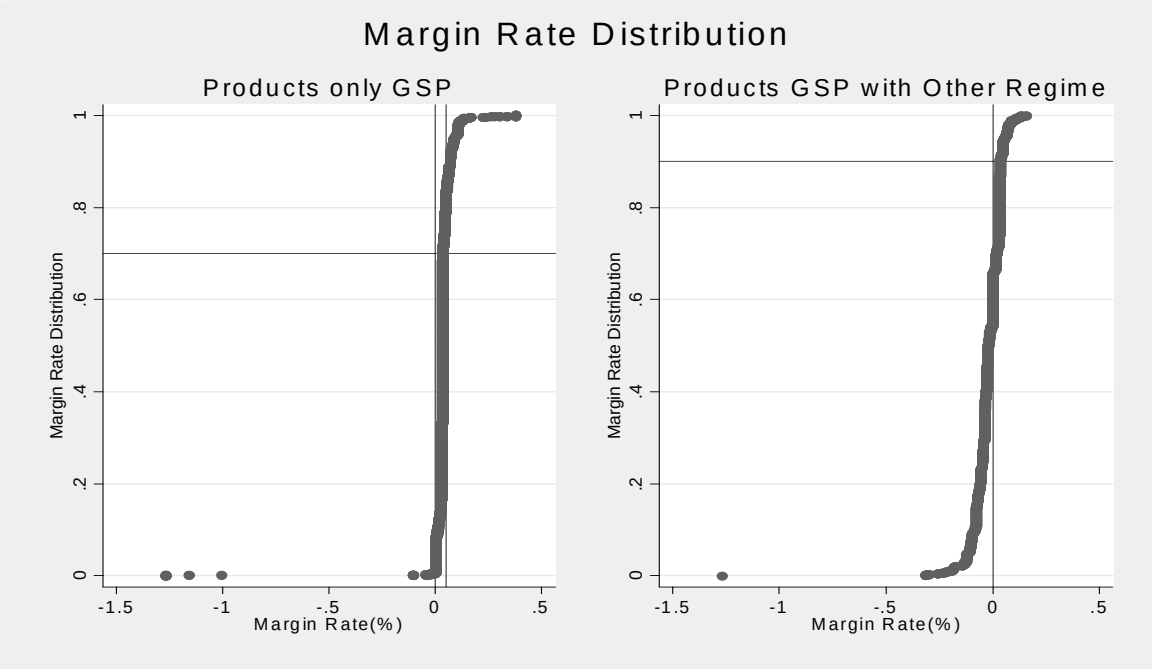
Reasons explaining the use of the GSP

So what factors drive the operators' choice? The choice may be based on the level of duty: the preferential margin, expressed as the difference between the MFN duty and the preference given, may be a major incentive for using the scheme. Expressed in relation to another preference, it may also be a reason for choosing one scheme rather than another. Other, more fundamental criteria relating to the origin of products also play a very important part in operators' decisions. As we saw in the introduction, rules of origin appear to be less restrictive for a country's primary products than for processed products. Generally speaking, the strictness of rules of origin for imports under a preference scheme in comparison with the conventional multilateral system (MFN) will be an important factor for operators' choices.

The preferential margin. The transformation of complex and specific duties effected when tariff data are processed provides the basis for estimating the preferential margin available to beneficiaries for GSP-eligible products. Traditionally, this margin is assessed in relation to the MFN duty.[23] However, a country's dual eligibility for GSP and another scheme shows that, while the margin relative to the MFN duty is an important factor in choosing the preference, duties in relation to the other preferences also need to be taken into account. In cases where countries have products common to both GSP and Cotonou (ACP), the margin will be defined in relation to Cotonou. Consequently, a negative margin may appear when the duty under Cotonou is lower than under GSP. For GSP-only products, the preferential margin will always be positive. However, there are situations where the

existence of WTO quotas means that the MFN duty used in this context may be lower than the preferential duty. The charts in Figure 1.3 illustrate these situations.[24] For just over 75% of import flows from GSP countries, the preferential margin is less than 5%, which makes the system sensitive to multilateral reductions of MFN duties (margin erosion).

Figure 1.3. Preferential Margin Distribution



Source: Calculations by the authors.

Operators' decisions to use GSP. Some countries are eligible for preference schemes other than GSP. There appears to be an incentive to use GSP when countries do not benefit from any other preferences for the products concerned, and not to use it in other cases. Many reasons can be advanced to explain the utilisation of a preference. The first is the size of the preferential margin but, as we have seen, rules of origin (which are intrinsically linked to preference) may be restrictive. The more a product has been "worked", the more restrictive the rules of origin are likely to be (Carrere and de Melo, 2003). Other considerations relating to the scale of operations may also affect preference utilisation. Many products that potentially benefit from preferential treatment are imported in small quantities (Figure 1.1). In the absence of information about the size of firms, it may be supposed that the administrative cost of compliance with rules of origin is a more important constraint for smaller-scale imports.

Box 1.2 GSP utilisation and the cost of compliance

Here, we test the decision of importers of GSP-eligible products whether or not to use the scheme. This decision variable takes the value 1 if the GSP is used and 0 if not (*GSP*_Used variable in the regression). The independent variables used to explain this choice are the GSP preferential margin (*Margin_GSP*) – the bigger the margin the more favourable it is to GSP – and a size variable which takes the value 1 for all import flows of less than EUR 20 000 and 0 for all other flows. These small-scale transactions (for a country of origin and a product) account for 48% of GSP data (products-country-scheme). The (*Size*) variable is designed to capture the influence of transaction size on GSP utilisation. The existence of a competing Cotonou scheme for a large number of GSP-eligible products is taken into account by a discrete variable which takes the value 1 if the product and the country use Cotonou rather than GSP.

$\Pr(y_j \neq 0 \mid x_j) = \Phi(x_j \beta)$ where Φ is the distribution function. The model expresses the probability that the event $y_j = 1$ (utilisation of the preference) will occur conditionally on the influence of the exogenous variables: $\Pr_j(y_j = 1) = \Phi(\alpha.\text{marge}_j + \varepsilon.\text{size}_j + \eta.\text{cotonou} + \mu.\text{const})$

Probit estimate : GSP utilisation	
***GSP* Used**	1=Yes and 0 Otherwise
preference margin	7.580713**
	(1.628)
size	-.359034**
	(.0467)
Cotonou_impact	-1.002163**
	(.1395)
constant	-.3025494**
	(.1492)
Obs	10540
Pseudo-R2	0.12
Standard deviation in parenthesis	
Size : dummies for import <€20 000	
** and * respectively significant at the 5% and 10% level	

The cost of compliance is estimated using the preceding model but the dependent variable (*GSP*-Used) is limited to situations where GSP is used 100% (*GSP*-Used=1) and 0 otherwise but, where (*GSP*-Used=0), only GSP-eligible imports that enter under MFN are considered. This approach, which differs significantly from that of Carrere and de Melo (2003), is justified by the utilisation of competing schemes (Cotonou in particular) for GSP-eligible products. The estimate uses the coefficient applicable to the margin in situations between the highest cost (100% utilisation of GSP) and the lowest cost (use of MFN and *GSP*=0) inclusive.

GSP compliance cost

Agriculture and food products	***Ad valorum* of compliance costs**
Total EU	2.9%
Primary products	1.5%
Processed products	4.1%

Sources: TARIC-SAD, 2002, Broad Economic Categories (UN).

Taking these considerations into account, a formal representation of the decision to use GSP (Box 1.2) shows the positive influence of the size of the preferential margin. In contrast, small-scale transactions would tend to have a negative influence on GSP utilisation. Likewise, the dual eligibility of countries (and products) for both Cotonou and GSP has a negative influence on GSP utilisation.

This confirms the previously identified impact (Table 1.14) of Cotonou on the utilisation of GSP by ACP countries.[25]

Although the preferential margin provides an ex post explanation of operators' choices, these still depend on the cost and the constraints inherent in complying with rules of origin (Estevadeordal and Suominen, 2003). Anson *et al.* (2003) and Carrere and de Melo (2004) explore the idea that preference utilisation rates reveal the upper and lower limits of the cost of access to preferences. The preferential margin for products with a 100% utilisation rate would be the upper limit of this cost and the preferential margin for products with a 0% utilisation rate would be the lower limit. These authors suggest that if compliance costs are homogeneous between exporters, exporters will be indifferent to exporting under a preference scheme or paying the full MFN duty. In this case, the preferential margin rate would reveal the cost of compliance for utilisation of the preference. This cost appears to vary considerably according to the beneficiary (Brenton and Ikezuki, 2004). In the case of GSP, we have estimated that the cost of compliance would be equivalent, for all countries and products, to 2.9% of the margin (Box 1.2). Distinguishing between agricultural products and processed food products, the cost of access to GSP would be higher for the latter (4.1%), and only 1.5% for primary agricultural products.

The scheme in favour of least developed countries: Everything But Arms

In 2001, the European Union modified the Generalised System of Preferences by reducing to zero all duty on exports from 48 least developed countries. This initiative, known as "Everything But Arms" or EBA, took effect in March 2001. However, there is a transition phase for three sensitive products: sugar, bananas and rice. Sugar imports will not be liberalised until 2009.[26] For rice and sugar, until total suspension of MFN duty, a global duty-free quota is opened for each marketing year. The initial quotas for 2001/2002 were set at 2 517 tonnes for rice and 74 185 tonnes for sugar (white sugar equivalent). These quotas are increased by 15% for each subsequent marketing year.

EBA utilisation rates

Imports from LDCs benefiting from the EBA scheme account for 3.4% of all EU agricultural imports (Table 1.15). Exports from these countries enter the European market at a zero MFN rate or are entirely covered by the scheme. Nevertheless, only 17.4% of eligible imports have used this special scheme. The relative under-utilisation of EBA is highlighted elsewhere (Candau *et al.*, 2004; CEPII, 2004, UNCTAD, 2003; Brenton, 2003). Since the initiative was only introduced in 2001, any review is bound to be provisional. There is a learning phase during which information and familiarity have a decisive influence on operators' behaviour, as does the assurance that the initiative will last.[27] Certainty generates local investment or leads to relocations which take time.[28] However the reactions, even incomplete, of operators on the market need to be taken into account.

Table 1.15. Use of Everything but Arms

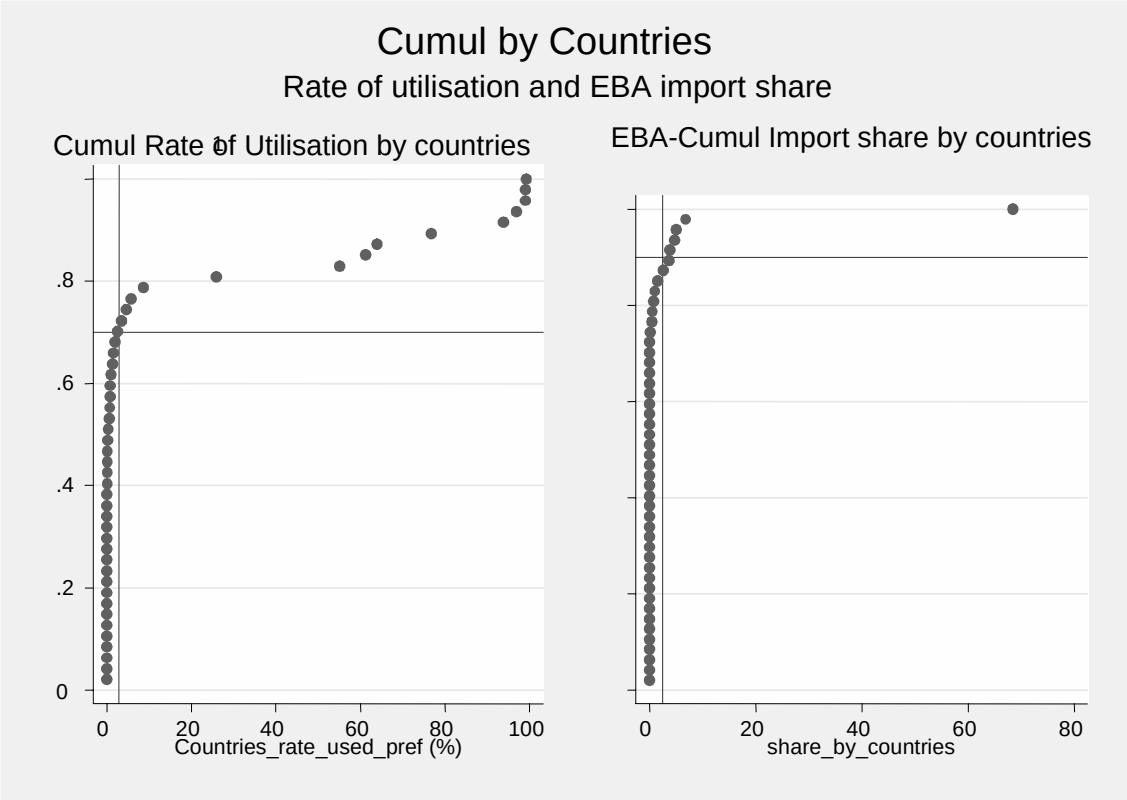
EBA Countries IMPORT	Import Total €'000 [1]	Import Dutiable (>0 duty MFN) €'000 [2]	Import EBA Received €'000 [3]	Import for EBA €'000 [4]	Potential Covered rate % [4/2]	Rate of Utilisation EBA % [3/4]	Value of preferences as a % of dutiable [3/2]
EBA							
Total	2241118	1682244	293527	1682244	100	17.4	17.4
Total EU	66558853	41338454	21020330	25220398			
Share EBA %	3.4	4.1	1.4	6.7			

Source: TARIC–SAD, 2002.

EBA utilisation by country and by product

The breakdown of utilisation rates shows that 70% of LDCs, most of them African, have hardly ever used the EBA scheme (utilisation rate of less than 3%, see Annex Table A.6 and Table 1.16). In contrast, Asian LDCs made much greater use of EBA since, unlike the African countries, they do not benefit from another preference scheme. That being said, Bangladesh alone accounts for 63% of imports entering under EBA. The breakdown of imports under EBA for agricultural and food products (tables by branch) shows that the products for which the scheme is most used are fish (73%) and sugar (11%).

Figure 1.4. Rate of utilisation and "Everything but arms" import share



Source: Calculations by the authors.

Table 1.16. Rate of utilisation and "Everything but Arms" import share

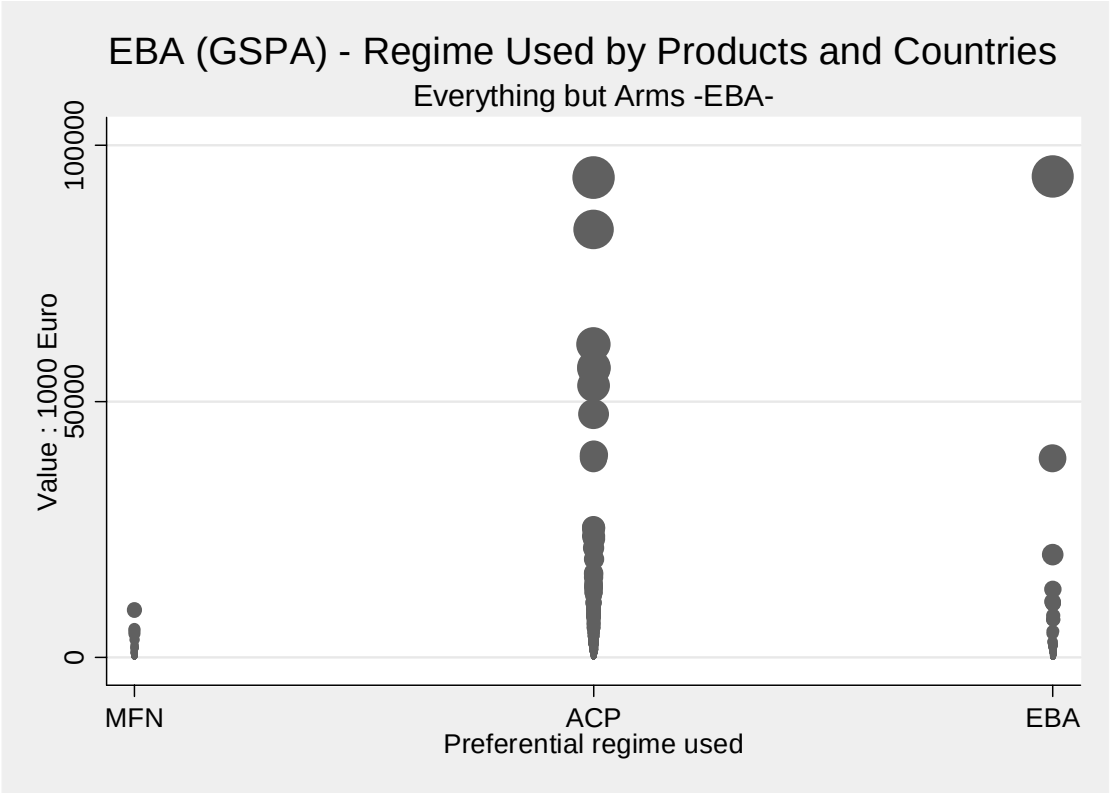
	Number of countries Rate of utilisation by countries		Countries	Share of Import received EBA
Region	**rate >5%**	**rate <5%**		**In total received**
Africa	5	29	Bangladesh	68.3
Oceania		4	Total %	68.3
Asia	6	2		
Latina America, Caribbean	1			
Total	12	35		

Source: TARIC-SAD, 2002.

Impact of dual eligibility on EBA

We drew attention earlier to the relative concentration of imports in a handful of countries, depending on the scheme. The same phenomenon occurs in relation to the utilisation of EBA (Figure 1.5). Imports from Bangladesh under EBA in fact concern only a single product (prawns), which accounts for 63% of imports under the scheme. ACP LDCs, which qualify for Cotonou as well as EBA, use Cotonou preferences for 78% of their EBA-eligible imports. In total, only 4.5% of EBA-eligible imports use MFN. The impact of dual eligibility is even clearer when a distinction is drawn between EBA-only products and countries and those that are eligible for both EBA and Cotonou. Table 1.17 shows an EBA utilisation rate of 99% when products and countries qualify for EBA only. However, this situation applies to only 14% of eligible imports. When Cotonou is in competition with EBA (86% of GSP-eligible imports), the EBA utilisation rate is only 4%.

Figure 1.5. Imports "Everything but Arms" by product and country



Source : Calculations by the authors.

Table 1.17. Impact on "Everything but Arms" initiative

Preferential Used	Eligible EBA	%	Only EBA	%	EBA ACP	%
MFN	75015	4.5	3109	1.3	71906	5
ACP	1313700	78.1			1313700	91.1
EBA	293527	**17.4**	237356	**98.7**	56171	**3.9**
Total	1682242	100	240465	100	1441777	100
% of Total		*100*		*14*		*86*

Source: TARIC-SAD, 2002.

Table 1.18. Products eligible for 'Everything but Arms' initiative, imports by country

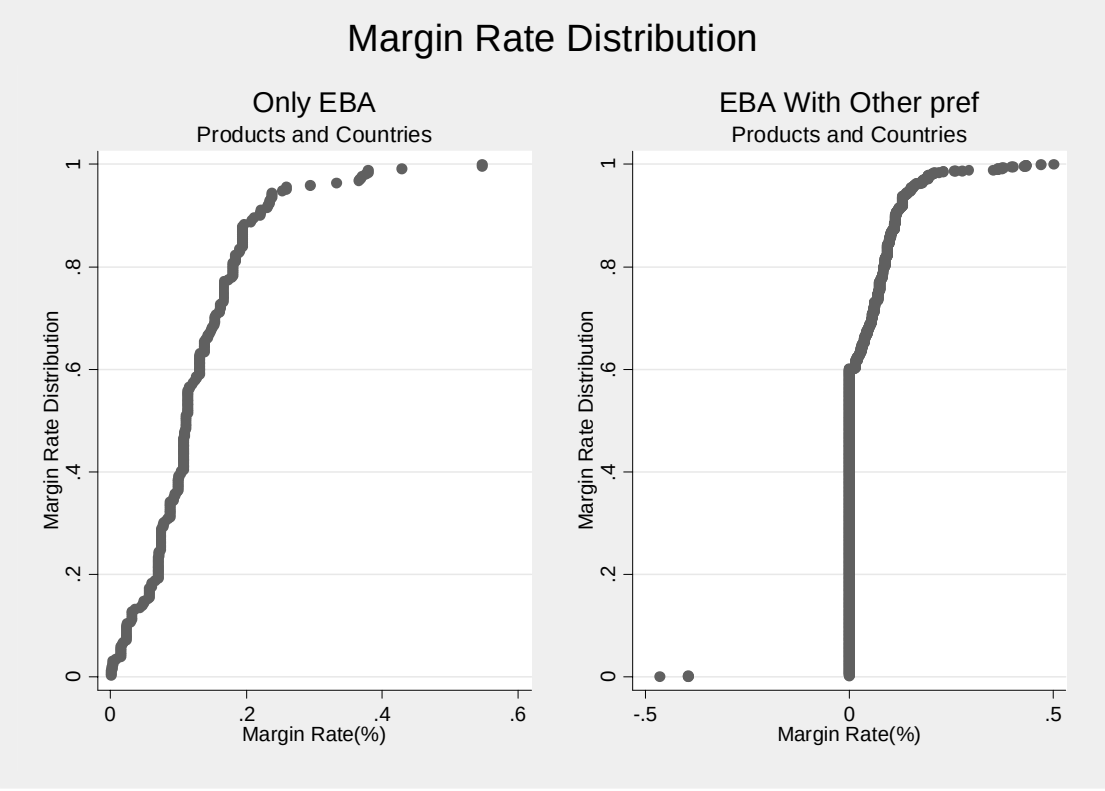
HS2	HS8 Code	Countries	Regime Used	Import 1000 E
3-Fish and Crustaceans, Molluscs, etc.	3 061 350	Madagascar	ACP	93 735
3-Fish and Crustaceans, Molluscs, etc.	3 061 380	Bangladesh	EBA	93 985
17-Sugars and Sugar Confectionery	17 031 000	Sudan	MFN	9 332

Source: TARIC-SAD, 2002.

EBA preference margin

In contrast to GSP, EBA-eligible products and countries which do not benefit from any other preference have a relatively large and positive preference margin (defined here only in relation to MFN duty). The situation is quite different when products and countries (mainly ACP) qualify for both EBA and another scheme (Cotonou). In 60% of cases (products and countries), the EBA preference margin is very low in relation to the margin under Cotonou and turns negative when countries use Cotonou preferential quotas (0% ACP banana quota).

Figure 1.6. Preferential margin rate distribution



Source: Calculations by the authors.

Reasons why operators decide to use EBA

These results suggest that the incentive to use EBA is greater when the countries concerned do not enjoy any other preference. In this case the EBA utilisation rate is 99% and the preferential margin appears to be a reason why the figure is so high. In contrast, situations where EBA is in competition with Cotonou, which apply to 86% of EBA-eligible imports, are more complex. In 60% of EBA-eligible import operations (products and countries), the LDCs' preferential margin in relation to Cotonou is low.[29] So the choice of a scheme must be based on other factors. The requirements of compliance with rules of origin (cumulation is more extensive under Cotonou) appear to be decisive, especially for processed products. However, it is possible, as noted by UNCTAD (2003), that the use of declarations of origin under Cotonou (EUR 1 form) has continued to the detriment of the Form A type declarations needed for EBA.

Returning to the formal representation described earlier (Box 1.2), the preferential margin under EBA appears to have a positive effect on utilisation of the scheme, whereas dual eligibility for EBA and Cotonou appears to have a negative effect. Likewise, low-value imports (less than EUR 20 000) seem to have a negative effect on EBA utilisation. The estimate of the *ad valorem* equivalent of compliance costs for access to EBA is relatively high (Table 1.19). It is the average preference margin for countries and products whose EBA utilisation rate is between 0% (use of MFN) and 100% (EBA). The cost of access for LDCs is 10.9% overall and 6.8% for primary agricultural products, compared with 13.6% for processed food products. Although the size of this cost reveals the greater difficulties encountered by LDCs in meeting administrative and rule of origin requirements (Benson, 2003), the excessive value of the estimate should be treated with great caution.[30]

Table 1.19. Use of Everything but Arms initiative

Probit estimate: EBA utilisation

	1=Yes		EBA *ad valorem* equivalent of compliance costs	
EBA Used	and 0 Otherwise			
preference margin	5.82421**		agricultural agro food products	*ad-valorem* equivalent of compliance costs
		(.9719)		
size	-.2200088**		Total EU	10.9%
		(.1395)	primary products	6.8%
Cotonou_impact	-1.515552**		processed products	13.6%
		(.1347)		
constant	-.0052216**			
		(.1920)		
Obs		1756		
Pseudo-R2	0.33			
Standard deviation in parenthesis				
Size : dummies for import <20 000 Euros				
** and * respectively significant at the 5% and 10% level				

Model $\Pr(y_j \neq 0 \mid x_j) = \Phi(x_j \beta)$ where Φ is the distribution function. The model expresses the probability that the event $y_j = 1$ (utilisation of the preference) will occur conditionally on the influence of the exogenous variables:

$$\Pr_j(y_j = 1) = \Phi(\alpha.\text{marge}_j + \varepsilon.\text{size}_j + \eta.\text{cotonou} + \mu.\text{const})$$

Source: Calculations by the authors.

GSP Drugs: against drug production and trafficking

Special schemes also exist for Andean and Central American countries which conduct anti-drug campaigns. In 1990, the European Union gave preferences to the least developed South American countries (Bolivia, Colombia, Ecuador, and Peru). The preferences were extended to Central American countries, also on a temporary basis, and only for agricultural products. The 1995 GSP placed these arrangements on a more permanent footing and extended them to Venezuela. They were then included in specific anti-drug trafficking agreements. The list now also includes Pakistan. Under the scheme, *ad valorem* duties are entirely removed for eligible products,[31] as are specific duties,[32] but when there are mixed duties only the *ad valorem* part is removed. However, these exemptions are subject to review and are conditional on compliance with international agreements on drugs and money-laundering.

India recently challenged GSP Drugs before the WTO's Dispute Settlement Body (DSB) for introducing discrimination between developing countries, since Pakistan qualified for GSP Drugs whereas India did not. The DSB rejected this argument, considering that GSP beneficiaries could be differentiated in order to meet the specific needs of certain developing countries. However, the DSB also found that GSP Drugs is not entirely consistent with the Enabling Clause, which allows for derogation from the principles of non-discrimination between GATT signatories (findings of the DSB appeal body on 20 April 2004).

Utilisation rate of GSP Drugs

Imports from the 12 beneficiaries of GSP Drugs represent just under 9% of the EU's dutiable imports of agricultural and food products. 51% of imports from beneficiaries qualify for the scheme. The utilisation rate of 93.5% is one of the highest for EU non-reciprocal preferences (Table 1.20).

Table 1.20. Utilisation of GSP-Drugs

GSPE-Drug Countries Import	Import total	Import Dutiable (>0 duty MFN)	Import GSPE Received	Import Eligible for GSPE	Potential Covered rate	Rate of Utilisation GSPE	Value of preferences as a % of dutiable
	€'000	€'000	€'000	€'000	%	%	
	[1]	[2]	[3]	[4]	[4/2]	[3/4]	[3/2]
GSPE							
Total	4 946 481	3 599 403	1 714 355	1 833 684	50.9	93.5	47.6
Total EU	66 558 853	41 338 454	21 020 330	25 220 398			
Share GSPE	7.4	8.7	8.2	7.3			

Source: TARIC-SAD, 2002.

GSP Drugs utilisation by country and by product

Figure 1.7 shows that four countries (Ecuador, Costa Rica, Colombia, and Peru) account for almost 80% of imports eligible for GSP Drugs and that all countries have a utilisation rate in excess of 90% with the exception of Pakistan (67%). The main products benefiting from GSP Drugs are fish and crustaceans (21.3%), preparations of meat and fish (15.3%), plants and flowers (18.9%) and fruit (18.4%).

Utilisation of GSP Drugs

There are no competing preference schemes available to countries benefiting from GSP Drugs, and qualifying products are imported either under the scheme (93.5%) or under MFN (6.5%). The GSP Drugs preference margin is over 10% in 50% of cases where the scheme is used. It is negative only when products are imported under MFN quotas (Pakistan and Venezuela) for carrots (7061000) and lemons (Pakistan and Peru).[33]

The utilisation rate for the EU's GSP Drugs scheme is over 93% and, unlike other non-reciprocal schemes, it does not encounter competition from other schemes. Cases where GSP-eligible products enter under MFN seem to involve either MFN quotas or small shipments. The positive effect of the preference margin is confirmed in the utilisation of GSP Drugs, and small-scale operations seem to have a negative effect in this respect. The cost of compliance with rules of origin and administrative requirements (Box 1.2) appears to be 3.2% of the margin for all agricultural and food products imported under the scheme, broken down into 0.5% for primary products and 5.2% for processed products (Table 1.21).

Figure 1.7. Rate of utilisation and GSP drug import share

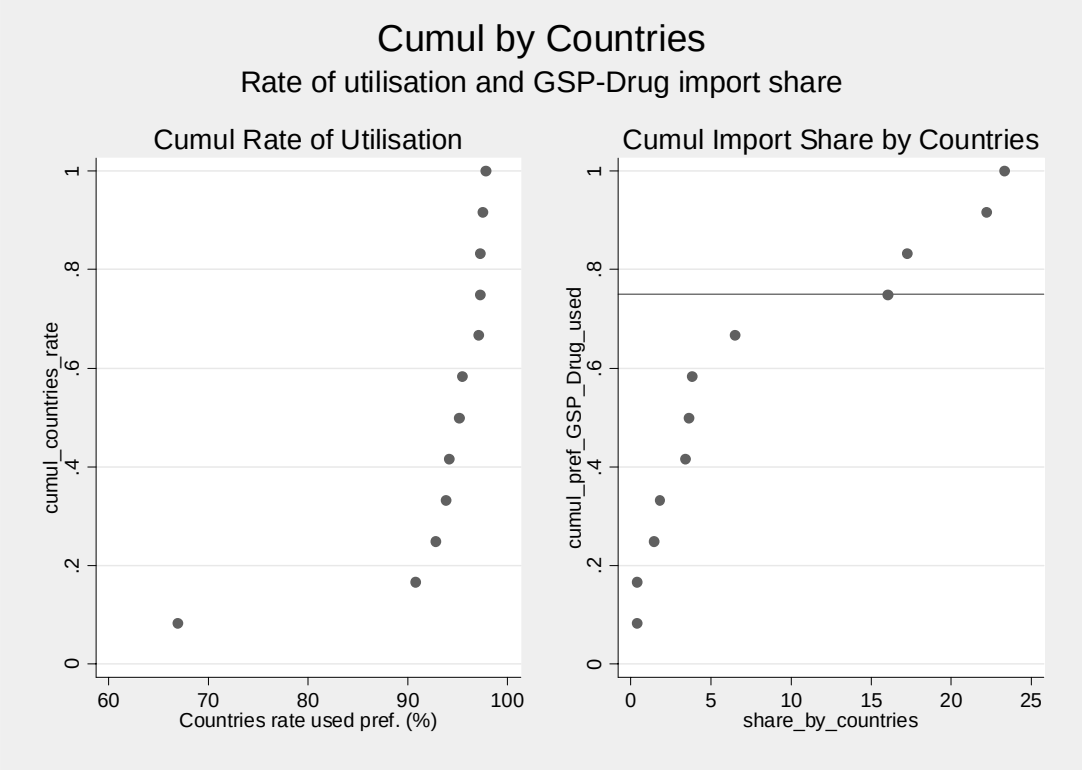


Figure 1.8. GSP drug preferential margin rate distribution

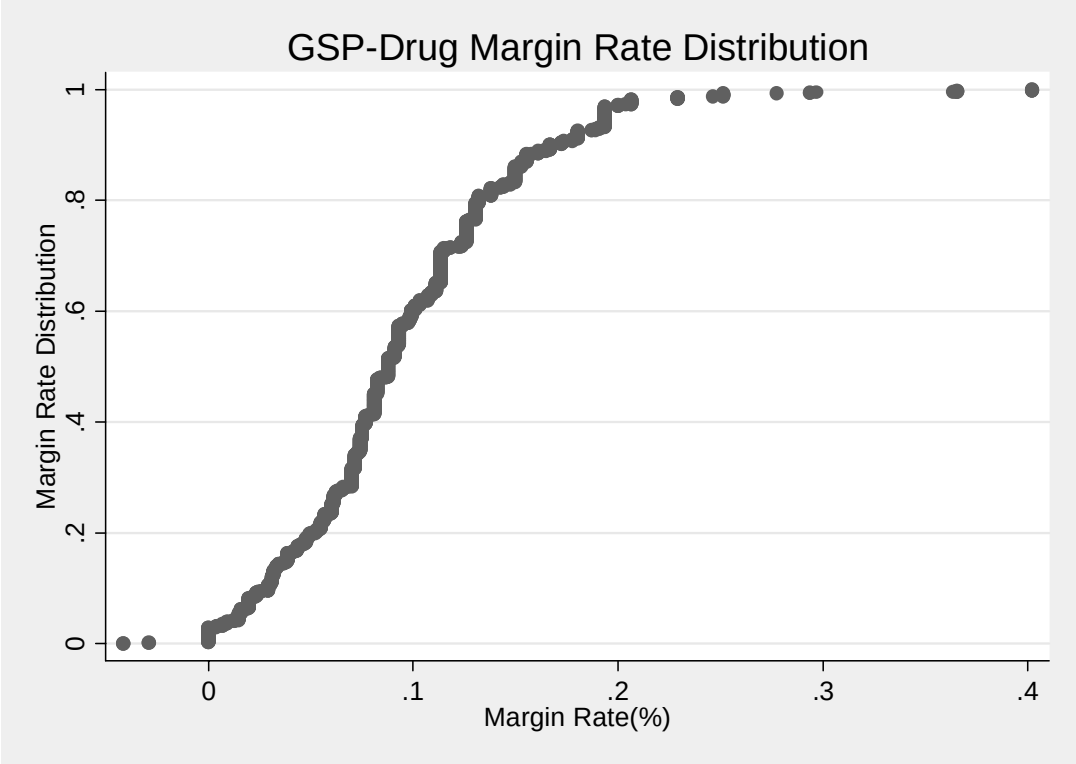


Table 1.21. Average cost for GSP-Drugs

Probit estimation : GSP-Drug utilization		
	1=Yes	
GSP-Drug Used	and 0 Otherwise	
Preference margin	1.363*	
		(.477)
Size	-.5966**	
		(.0416)
Constant	.5827**	
		(.0647)
Obs		1826
Pseudo-R2	0.08	
Standard deviation in parenthesis		
Size : dummies for import <€20 000		
Quota : dummies if quota import		
** and * respectively significant at the 5% and 10% level		

GSP-Drug *ad valorem* equivalent of compliance costs	
Agricultural and agro food products	Total GSP-Drug
Total EU	3.20%
primary products	0.50%
processed products	5.20%

Note: Model $\Pr(y_j \neq 0 | x_j) = \Phi(x_j \beta)$ where Φ is the distribution function. The model expresses the probability that the event $y_j = 1$ (utilisation of the preference) will occur conditionally on the influence of the exogenous variables:

$$\Pr_j(y_j = 1) = \Phi(\alpha.\text{marge}_j + \varepsilon.\text{size}_j + \mu.\text{const})$$

Source: TARIC-SAD, 2002.

Agreements with the ACP countries: from Lomé to Cotonou

The Yaoundé Convention in 1963 and the four successive Lomé agreements between 1975 and 2000 introduced a system of unilateral European Union preferences for exports from the ACP countries. As far as agricultural products are concerned, trade preferences have concerned few products that compete with European products subject to a common organisation of the market, with the exception of fruit and vegetables (though at different times of the year from European products), sugar, beef and bananas. The sugar protocol to the Lomé agreements gives preferential access to the European market for 1.7 million tonnes of sugar and the banana protocol for 875 000 tonnes, while the beef protocol exempts almost all ACP exports from duty, albeit with limited quotas.[34] Other arrangements, including quotas, apply to horticultural produce, tobacco and rice.

The unilateral preferences granted to ACP countries only were not consistent with multilateral rules. In addition, the European Union wanted greater selectivity in the treatment granted to the countries concerned and tended to tie aid to good governance and the involvement of the private sector and civil society. As a result, in 2000 a reform of the ACP scheme led to a new agreement, the Cotonou Economic Partnership between the EU and the 77 countries concerned. The new agreement was signed for a 20-year period, subject to revision every five years, and provided for a budget of EUR 13.5 billion over the first five years. It takes up certain aspects of the Lomé IV convention, based not only on trade preferences but also on cooperation and development aid. The coverage of tariff lines benefiting from preference under Cotonou is greater than before (+32%, see Tangermann, 2000). Non-reciprocal tariff preferences have been kept on a derogatory and transitory basis until the end of 2007, but will then be replaced by Economic Partnership Agreements (EPAs). These agreements will include trade preferences but will be reciprocal and, to comply with GATT rules, must cover all trade.

Cotonou utilisation rate

Imports under Cotonou represent only 13% of the EU's imports of agricultural and food products but 26% of all EU imports enjoying preferential treatment in 2002 (Table 1.22). Almost 100% of qualifying products are imported under the scheme and the utilisation rate for the preferences given is over 90%, for both ACP LDCs and non-LDCs. Although a significantly different methodology has been used here, these utilisation rates are fairly close to those found in 2001 by the United Nations (UNCTAD, 2003) and CEPII (Candau *et al.*, 2004).

Table 1.22. Cotonou utilisation rates

Cotonou Countries IMPORT	Import Total €'000 [1]	Import Dutiable (>0 duty MFN) €'000 [2]	Import Received €'000 [3]	Import for Cotonou €'000 [4]	Potential Covered Rate % [4/2]	Rate of Utilisation Cotonou % [3/4]	Value of preferences as a % of dutiable [3/2]
ACP no LDCs	6 721 683	4 491 430	4 186 391	4 485 071	99.9	93.3	93.2
ACP LDCs	1 989 625	1 441 870	1 313 700	1 441 778	100	91.1	91.1
Total Cotonou	8 711 308	5 933 300	5 500 091	5 926 849	99.9	92.8	92.7
Total EU	66 558 853	41 338 454	21 020 330	25 220 398			
Part Cotonou	13.1	14.4	26.2	23.5			

Source: TARIC-SAD, 2002.

Cotonou utilisation by country and by product

Although utilisation rates for all Cotonou eligible LDCs and non-LDCs are relatively high overall, there are significant differences between countries (Brenton and Ikezuki, 2004):

- 60% of LDCs have a utilisation rate in excess of 80% and 20% have a rate below 20% (Chad, Djibouti, Kiribati, Solomon Islands, Sierra Leone);
- 80% of non-LDCs have an utilisation rate in excess of 80% and 20% have a rate below 20% (Trinidad and Tobago, Tonga, Marshall Islands, and Micronesia Federation).

As regards the volume of preferences used by ACP countries:

- for 80% of ACP LDCs, the proportion of imports enjoying preferential treatment is less than 10%, and three LDCs (Madagascar, Senegal and Tanzania) account for over 50% of the preferences used by LDCs,
- for approximately 60% of ACP non-LDCs, the proportion of imports enjoying preferential treatment is less than 10%, and five countries (Ivory Coast, Kenya, Mauritius, Bahamas, Zimbabwe) account for almost 60% of imports enjoying preferential treatment.

For ACP LDCs, fish accounts for almost 60% of preferential imports (Annex Table A.11). For non-LDCs, the range of products is greater: sugar (16%), fruit (15%), preparations of meat and fish (12%), cocoa (11%) and fish (11%).

The charts in Figure 1.10 show the share of the biggest operations by product and by country under the schemes used. Preference utilisation may concentrate on a small number of products. For example, imports of prawns from Madagascar represent almost 8% of ACP LDC preferential imports and imports of rum from the Bahamas for 9% of ACP non-LDC preferential imports.

Utilisation rate of Cotonou preferences

There is relatively little difference in the utilisation of Cotonou preferences according to whether countries are LDCs or not. For non-LDCs, imports under Cotonou account for 93.3% of Cotonou-eligible imports (for those countries), with 5.5% entering under MFN and the rest under GSP (Table 1.23).

Table 1.23. Utilisation of Cotonou preferences

Regime Used	Eligible ACP - no LDC	Share of Preferences Used	Regime Used	Eligible ACP-LDCs	Share of Preferences Used
MFN	244 669	5.5	MFN	71 906	5
Cotonou	4 186 391	93.3	Cotonou	1 313 700	91.1
GSP	54 011	1.2	EBA	56 171	3.9
Total	4 485 071	100	Total	1 441 777	100

Source: TARIC-SAD, 2002.

For ACP LDCs, imports under Cotonou account for 91.1% of eligible imports (for those countries), with 4% entering under EBA and 5% under MFN. LDCs make extensive use of the Cotonou scheme because in comparison with EBA it still includes many specific duties, entry price

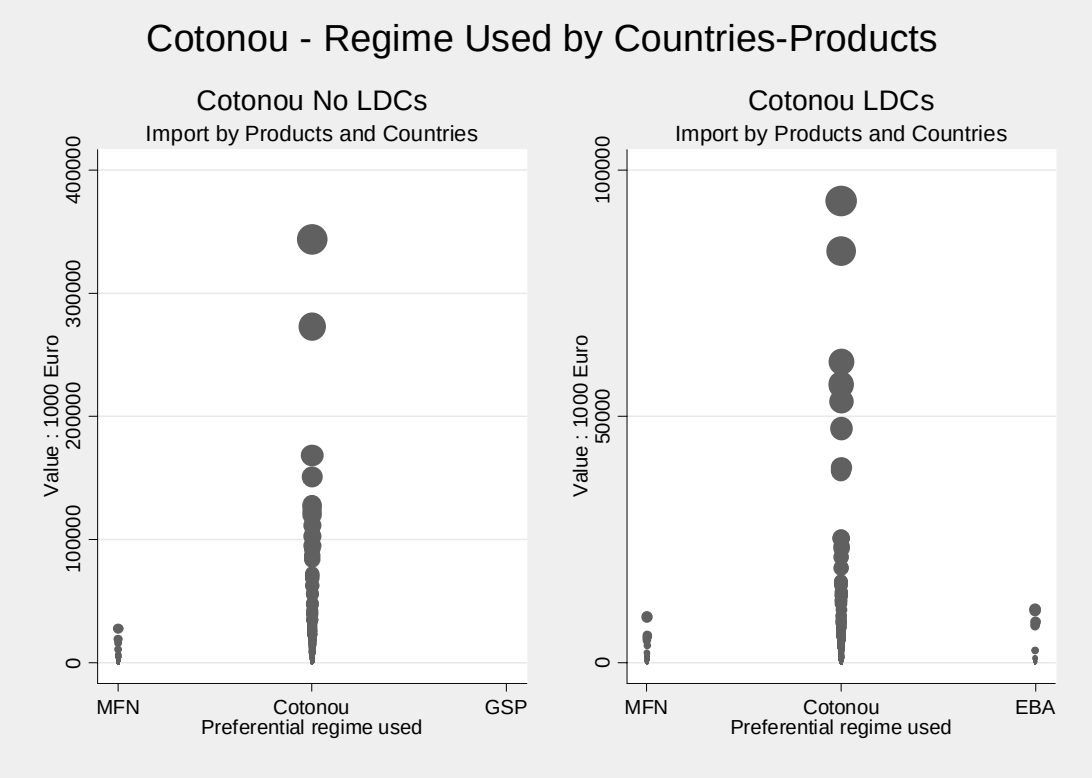
systems (fruit and vegetables) and quotas. Certification of ACP countries that have been using EUR1-type forms for many years, rather than the A-type form for EBA, could be another factor (UNCTAD, 2003). Taking account of the declarations made by importers and their verified compliance with TARIC, products that qualify for both GSP and EBA appear to have only a small effect on utilisation of the Cotonou scheme (Table 1.24).

Table 1.24. Products eligible under Cotonou regime (imports by country)

HS2	HS8 Code	Countries	Regime Used	Import €'000
Cotonou : No LDCs				
17-Sugars and sugar confectionery	17011110	Trinidad and Tobago	MFN	27 790
22-Beverages, spirits..	22084091	Bahamas	ACP	343 632
18-Cocoa and cocoa preparations	18031000	Ivory Coast	GSP	13 801
Cotonou : LDC's				
17-Sugars and sugar confectionery	17031000	Sudan	MFN	9 332
3-Fish and crustaceans, molluscs, etc	3061350	Madagascar	ACP	93 735
17-Sugars and sugar confectionery	17011110	Malawi	EBA	10 996

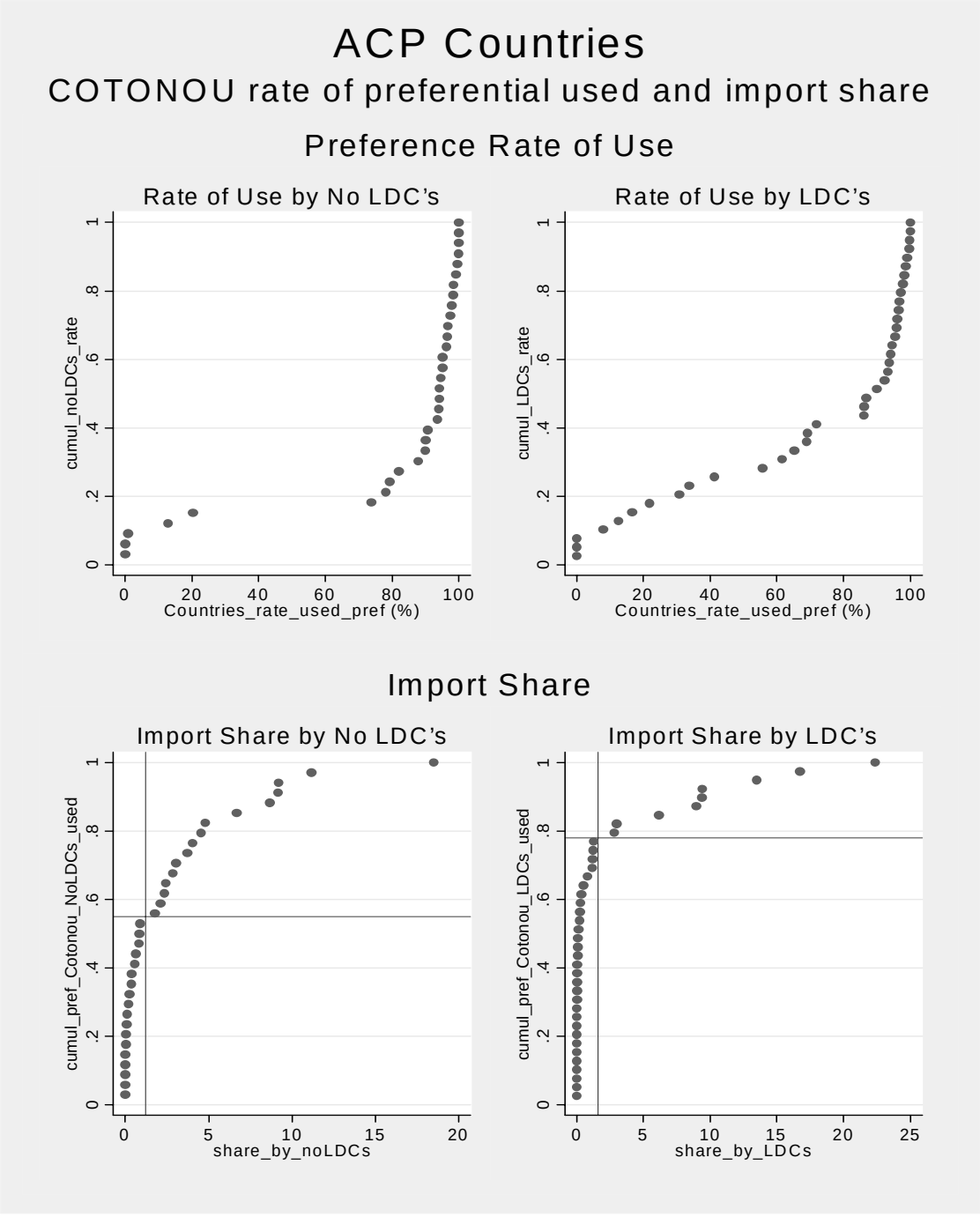
Source: Calculations by the authors.

Figure 1.9. Cotonou regime used by countries – products



Source: Calculations by the authors.

Figure 1.10. Rate of preferential used and import share of countries ACP, LDC, and non-LDC



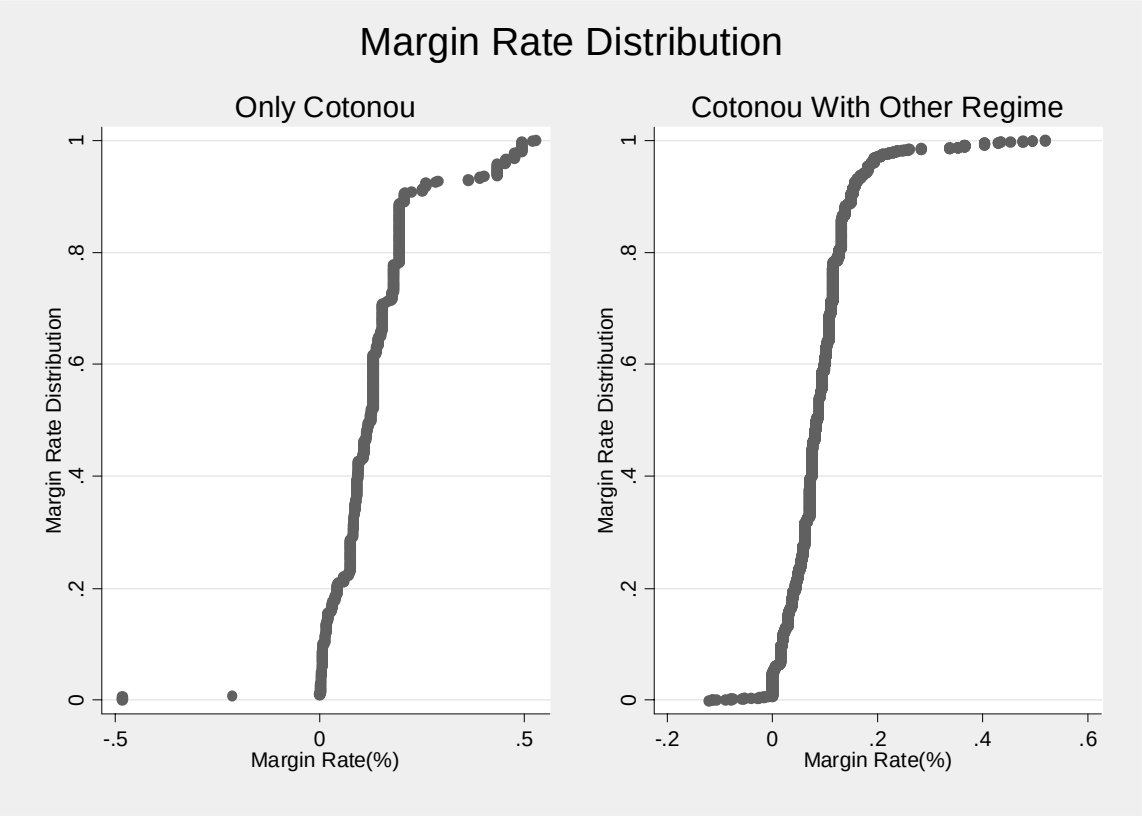
Source : Calculations by the authors.

Cotonou preference margin

Products and countries that are eligible only for Cotonou (excluding LDCs and products not covered by GSP) represent 41% of imports under the scheme. Those that qualify for Cotonou and EBA and those that qualify for Cotonou and GSP represent 24% and 35% respectively of Cotonou-

eligible imports. The existence of negative margins for products and countries that qualify only for Cotonou is due to the use of certain MFN quotas, for imports of rice from Guyana, for example. The quota tariff for the product is 88% whereas it is subject to a preference ceiling of 89% under Cotonou (there is no GSP preference for this product). Beef from Namibia is also imported under MFN quotas with a 20% tariff.[35] Where countries and products are eligible for both Cotonou and another scheme (EBA or GSP), the existence of a negative margin is due to utilisation essentially of EBA (mainly for fruit and vegetables).

Figure 1.11. Preferential margin rate distribution



Source: Calculations by the authors.

Table 1.25. Countries eligible for both schemes

Preferential used	Eligible Cotonou	%	Only Cotonou	%	Cotonou EBA	%	Cotonou GSP	%
MFN	316575	5.3	172107	7.2	71906	5	72562	3.5
Cotonou	5500091	92.8	2225499	92.8	1313700	91.1	1960891	94
EBA	56171	0.9			56171	3.9		
GSP	54011	0.9					54011	2.6
Total	5926848	100	2397606	100	1441777	100	2087464	100
% of Total	*100*		*40.5*		24.*3*		35.*2*	

Source: TARIC-SAD, 2002.

Reasons why operators decide to use Cotonou

Import declarations show the extent to which ACP countries use Cotonou, which is one of the main reasons for the relative under-utilisation of GSP and EBA (Table 1.25). ACP LDCs eligible for EBA continue to choose Cotonou, even though the preference margin is low for a substantial proportion of imports. Why should that be so?

First, the preference margin has a significant and positive effect on Cotonou utilisation. In contrast, small-scale imports appear to have a negative effect. Such imports, with a threshold set empirically at 20 000 euros, represent 51% of Cotonou-eligible operations (countries and products).

By estimating the cost of compliance with Cotonou it is possible to estimate the effect of constraints imposed by rules of origin (Box 1.2). For the Cotonou scheme as a whole, this cost appears to be equivalent to 3.8% of the margin (2.0% for primary agricultural products and 5.3% for processed products). It would be greater for LDCs because they find it more difficult to meet the administrative requirements of compliance with rules of origin. The overall cost appears to be 7.8%, and appears to be greater for processed products (9.4%) than for primary products (5.5%). This estimate suggests that the conditions for access to Cotonou preferences are more favourable than for EBA, the cost of which (Table 1.26) appears to be greater (10.5% overall and 13.5% for processed products). However, this ex post result, appearing to explain the under-utilisation of EBA, should be examined more closely as regards the relative costs to third country operators.[36]

Table 1.26. Estimated cost of compliance with Cotonou

Probit estimate: Cotonou utilisation 1=Yes and 0 Otherwise		
Cotonou Used preference margin	3.067**	
		(.4043)
Size	-.4408**	
		(.0569)
Constant	.2841**	
		(.0517)
Obs		3997
Pseudo-R2	0.46	
Standard deviation in parenthesis		
Size : dummies for import <€20 000		
quota : dummies if quota import		
** and * respectively significant at the 5% and 10% level		

Cotonou ad valorem equivalent of compliance costs			
agricultural and agro-food products	*Total Cotonou*	*Non-PMA*	*PMA*
Total EU	3.80%	3.30%	7.80%
primary products	2.00%	2.20%	5.50%
processed products	5.30%	4.00%	9.40%

Note: Model $\Pr(y_j \neq 0 | x_j) = \Phi(x_j \beta)$ where Φ is the distribution function. The model expresses the probability that the event $y_j = 1$ (utilisation of the preference) will occur conditionally on the influence of the exogenous variables:

$\Pr_j(y_j = 1) = \Phi(\alpha.\text{marge}_j + \varepsilon.\text{size}_j + \mu.\text{const})$.

Source: TARIC-SAD, 2002.

Summary of non-reciprocal preferences

The aim of the preceding sections was to specify the extent of the utilisation of preferences, especially EU non-reciprocal preferences for agricultural and food products (GSP, EBA, GSP Drugs and Cotonou). Preference utilisation is traditionally assessed by comparing the volume of EU imports enjoying preferential treatment with the total volume of imports eligible for preferential treatment.

Although relatively trivial, this question involves correctly identifying the components of the estimate. However, the available statistics in the matter concern the "duty requested" by the operators and not the “duty obtained”. Consequently, customs regulations have to be used in order to explore the determining factors for the utilisation of preferences and to verify the measurement of the utilisation rate. The approach used in this study[37] involves backing up data from importer declarations (SAD-Eurostat) with data from TARIC, the Integrated Tariff of the European Communities (DG Taxation and Customs).

The processed data reveal the scale of preferential imports into Europe under all EU schemes. In 2002, they accounted for 47% of total imports of dutiable agricultural and food products, of which 31% entered under non-reciprocal preferences.

The debate about the preference utilisation rate suggests a relative under-utilisation of preference schemes by developing countries. The reasons put forward include the constraints of complying with rules of origin (Brenton and Manchin, 2002; Brenton, 2003, Augier *et al*, 2003) especially in the framework of non-reciprocal schemes (Inama, 2003), the costs of complying with requirements relating to certification, traceability, administrative documentation, (Estevadeordal and Suominen, 2003), uncertainty about the long-term future of the scheme, etc.

The results of this study confirm the under-utilisation of certain non-reciprocal schemes like GSP (50.1%) and EBA (17.4%). However, third countries use the full range of preferences available to them through their eligibility for another system. In the case of EBA, for example, 78% of imports of eligible products enter under the Cotonou agreement; only 4% enter under MFN. The utilisation rate for non-reciprocal preferences as a whole is over 89%.

In the case of imports eligible for preferential treatment that enter under MFN (10.7%), half of those which waive preferential treatment do so not because of constraints related to origin but because they take advantage of a more favourable MFN quota (mostly duty-free) or a tariff suspension for certain products (Table 1.27).

Table 1.27. Utilisation rate of non-reciprocal preferences

	Eligible to Preferential Trade [1]	Imports under preferences [2]	Rate of utilisation of preferences [2 / 1]	MFN used under eligible [1-2]	MFN used under eligible share [1-2] / [1]
Non reciprocal preferences only					
Import Total EU (€'000)	15 351 417	13 711 072	89.3%	1 640 345	10.7%
MFN quota used under eligible				565 337	4.7%
MFN suspension used under eligible				119 092	0.8%

Source: TARIC-SAD, 2002.

Analysis of individual preference schemes shows that a particular scheme is under-utilised because a competing scheme is preferred. With GSP and EBA, Cotonou is the preferred scheme. Utilisation rates for countries with products eligible only for GSP or EBA are 80% and 98% respectively. In contrast, in the most important cases where products are eligible for both Cotonou and EBA, the utilisation rates are 2.9% and 3.9% respectively.

Our formal representation of operators' decisions to use a non-reciprocal scheme confirms that the preference margin has a positive effect and that the presence of a competing scheme, MFN quotas and the scale of import operations have a negative effect. Ultimately, the problem raised by dual eligibility for preferential treatment is that of harmonisation of the various systems or dilution of the objectives pursued by each. However, the results of the study do not point to under-utilisation of European preference schemes for agricultural and food products.

Box 1.3 Interviews with European importers of agricultural and food products*

Following the statistical treatment of the utilisation of European preferences for agricultural and food products, a series of interviews took place with fifteen or so firms that import products under preferential schemes. Of course, the aim of these interviews was not to conduct a systematic survey but simply to test differences in business practices between one sector and another. All the respondents said that they encountered no major difficulty in complying with rules of origin or in meeting administrative requirements. Most agreed that there was an important difference on this point between primary and processed products, but specified that a clear distinction had to be made between constraints relating to health, hygiene and standards in general and those relating to the use of preference schemes. Compliance with hygiene and production standards is a necessary step for anyone wishing to export to the EU, regardless of any use of a scheme (MFN or preference). That appears to be the biggest constraint. Using a preference scheme merely implies additional conditions that pose few difficulties except in situations where local primary materials are less readily available (use of cumulation rules). The operators' economic calculation is relatively simple, especially for primary products: they compare product prices by zone of production and then incorporate the effects of duties (MFN and preferential) and exchange rates. Some importers said that in their business the difference in duty between schemes often corrected the competition between production zones (Asia / ACP for example). From this standpoint, a change to preference schemes could have an effect on investment or sourcing policy. However, it seemed that this apparent ease in using preference schemes reflected an ex post situation after a more or less lengthy period of investment and time spent bedding in their operating routines with suppliers. It can be expensive to build relations with third country partners so as to establish a network of well-trained suppliers, local factories, etc.

* We would like to thank the firms that agreed to answer our questions (Cobrecot, Lesieur, Marée Fraîche, Nord Cacao, Pêche and Froid, Unicom, Saupiquet, Saint-Louis Sucre) and all the respondents who preferred to remain anonymous.

Actual and potential utilisation rate: the case of Africa

In this section, we extend our analysis of the utilisation of European preference schemes with a study of the preferences given to African countries. The aim is to quantify preference utilisation by a selection of countries and to use case studies to give a more qualitative illustration of the conditions encountered. This approach is also an opportunity to enlarge the conditions for preference utilisation by taking into account all African exports, not just EU imports.

The countries selected are developing countries and LDCs which enjoy European non-reciprocal preferences. The selection rules out North African countries and South Africa, leaving 47 countries in all.

Utilisation of non-reciprocal preferences for importable agricultural products

Table 1.28 shows that 34% of imports from African countries enter duty-free. Products eligible for a preference represented 66% of total imports of agricultural and food products in 2002. On this basis, imports entering under a preference scheme represented almost 96% of qualifying products and 82% of tariff lines.[38] These figures show that operators make extensive use of preferences, especially Cotonou, since 93% of qualifying imports enter under the Cotonou scheme.

Table 1.28. EU tariffs used by African countries

Regime Used	Import Eligible GSP	Share of regime used %	Frequency Eligibles *	Share of frequency used %
MFN (tariff >0)	209 317	4.5	920	29.9
Cotonou (ACP)	4 289 623	93.1	1951	63.3
EBA (GSP)	54 581	1.2	106	3.4
GSP	54 010	1.2	100	3.2
OCT	196		4	0.1
Total	4 607 728	100	3081	100

Source: TARIC-SAD, 2002.

Qualifying imports which enter under MFN, and hence waive the benefit of preferential treatment, are both small-scale imports and, in some cases, imports under a MFN quota. 50% of imports of African agricultural products enter in flows with a value of less than 7,000 euros and 75% in flows with a value of less than EUR 48 000 (Table 1.29). MFN quotas are used in many cases, especially for bananas (code 08 030 019) from Cameroon (EUR 16 537 000) and the Ivory Coast (EUR 5 553 000). MFN tariff suspensions are used for sugar-cane molasses (EUR 17 031 000) from Sudan (EUR 9 332 000) and Senegal (EUR 1 987 000). Thus, over 20% of qualifying imports enter under MFN because it offers a tariff advantage in relation to preference schemes (quotas and suspension). Altogether, only 3% of eligible imports waive preferential treatment; there is no explanation, but most of them involve low-value operations.

Table 1.29. Import statistics MFN

Statistic	Number	Mean	Min	Max	P50	P75	Sd.	Sum
Total Eligibles under MFN	920	229	.01	16537	7.005	48.275	1022,5	209 317
Eligibles under MFN quotas	40	1056	.03	16537	21	494	3040	42220

Source: TARIC-SAD, 2002

Utilisation of non-reciprocal preferences versus African exports

The estimated utilisation rate of European preferences based on actual imports highlights the extensive use of preferences for all imports of agricultural and food products, especially from African countries. However, this approach, traditionally used to assess preference utilisation, is limited to actual imports. The analysis gains by being extended to the exports of developing countries eligible for preferential treatment that are not imported into the EU (on this point, see Stevens and Kennan, 2004). Is it not the case that compliance criteria restrict the utilisation of preference schemes upstream of the decision to opt for a preference?

Taking exports into consideration: methodology. Extending the measurement of the preference utilisation rate to the potential utilisation rate of third countries involves comparing exports to all destinations from these countries with the conditions offered by EU preference schemes. The aim is to explore the features of restrictions on access to preference which could, for certain products, affect developing country surpluses. This exercise is limited both by the available export data for developing countries (COMTRADE) and the detail of export flows, which are taken at SH6 level. In

many cases, export statistics (COMTRADE) do not match EU import data (COMEXT) or are not available for 2002. In order to fill this gap, we have used mirror declarations (exports to the EU are in fact recognised from EU imports from third countries). In addition, as European preferences are defined at 8- and 10-digit level, aggregation at SH6 level involves some loss of information, especially as to the application of duty. This explains why the measurement of preference utilisation rates in terms of the frequency of the number of tariff lines used is highly sensitive to this level of aggregation.

From the actual preference utilisation rate to the potential preference utilisation rate. The European market absorbs almost 72% of exports of agricultural and food products from Africa.

Imports eligible for preferential treatment actually imported in 2002 accounted for almost 71% of potential exportables, assuming that all African exports are destined for the European market. The preference utilisation rate for actual EU imports is almost 96%, but would be only 68% taking into account all eligible products exported by African countries. The difference would be even greater if frequencies of utilisation (tariff lines multiplied by the number of countries) were compared with exportables eligible for preferential treatment: 82% for actual imports and only 30% in relation to eligible exports. As we shall see later, the difference between actual and potential preference utilisation is due both to products that are partially exported and eligible products not exported to the EU by African countries.

In terms of products (Annex Table A.11), the most obvious differences between actual and potential utilisation rates are to be found in oleaginous products (Chapter 12), cereals (Chapter 10), products of milling (Chapter 11), non-alcoholic and alcoholic beverages (Chapter 22) and animal feedstuffs (Chapter 23). They represent a pool of potential exports eligible for European preference but not imported into the EU.

Table 1.30. Actual and potential preference utilisation rate of African countries

	EU Import 2002							
				Not reciprocal agreements				
African countries	Total	Import duty 0% MFN	Eligible right>0	Preference Used	Rate of utilisation value	Eligible import	Preference Used	Rate of utilisation
	€'000	€'000	€'000	€'000	%	lines	lines	lines
	[1]	[2]	[3]	[4]	[4 / 3]	[5]	[6]	[6 / 5]
Total Import	6 988 353	2 380 622	4 607 727	4 398 411	95.5	1 468	1 202	81.9

	Countries Export							
				Not reciprocal agreements				
African Countries	Total Export World	Export to EU 0% duty MFN	Eligible Potential right>0	Preference Used	Rate of utilisation value	Eligible Potential	Preference Used	Rate of Potential utilisation
	€'000	€'000	€'000	€'000	%	lines	Lines	lines
	[7]	[8]	[9]	[4]	[4 / 9]	[10]	[6]	[6 / 10]
Total Export	9 725 671	3 211 749	6 513 919	4 398 411	67.5	3 990	1 202	30.1

Note: Eligible potential : eligible export from African countries to the world.

Source: TARIC –SAD- Comtrade, 2002, estimation to 6 digits.

Case study and typical features

At first sight, three categories of country can be distinguished from the information in Table 31:

- those for which a fraction of exports to the EU enter under a preference scheme (high utilisation rate by value and by frequency). However, these countries have surplus capacity

that is eligible for European preference but is not exported to the EU (Namibia, Tanzania, Togo, Zimbabwe);

- those which find it more difficult to use EU preference schemes and have eligible surplus capacity that is exported to other destinations. Most of them are LDCs (Sudan);
- those which have very high utilisation rates that are very close to their potential utilisation. The specialisation of these countries is well-suited to surplus European demand (Cameroon, Ghana).

Taking only eligible products not imported into Europe, it is instructive to note that in comparison with actual imports they tend to be processed products. The proportion of qualifying processed products not imported is 70% (compared with 56% for actual imports in 2002).

This could be due to protection mechanisms within preference schemes (Gallezot, 2003)[39] or it could lend support to the idea that rules of origin are more restrictive with regard to processed products. The first hypothesis, of progressive duty linked to the level of processing, does not seem to hold up in relation to the average duty (preferential and MFN) applied to these products (Table 1.31). In contrast, the average duty on non-imported eligible products seems to be higher (12.3%) than that applied to imported eligible products (6.7%).

Table 1.31. Agricultural preferential products import and non-import

African Products	Products Eligible Non Imports	Products Eligible Import	BEC	Eligible Products Non Imports		Eligible Products Imports	
				Average duty MFN >0 %	Average Preferential duty	Average Duty MFN >0 %	Average preferential Duty
Primary Products	30%	44%	BIP	20.7	13.3	9.3	3.8
Processed Products	70%	56%	BIT	19.2	11.8	20.1	11.2
Total	100%	100%	BFT	23.3	13.8	15.5	7.8
			BFP	13.5	7.1	10.9	4.7
			Total %	20.8	12.3	13.8	6.7

Source: TARIC- SAD – COMTRADE, 2002.

In fact, a comparison of actual and potential utilisation rates shows that there are two types of situation: eligible products not exported to the EU by developing countries, and products of which only a fraction are destined for the EU. Tables 1.32-1.34 show these situations by country and by product. Products only partially exported to the EU include fish products (Namibia, Tanzania, Togo), for which fishery and health restrictions may operate.[40] The 6-digit nomenclature is approximate as regards the nature of products. For example, code 30420 (frozen fillets) covers almost 65 different products in 10-digit nomenclature. The health (and transport) argument could also be advanced for exports of live sheep from Sudan. However, the majority of these products are also liable to high levels of preferential duty or depend on quotas (ACP, refined sugar, 170191, 170199), thus limiting outlets in the EU.

Extending the effective conditions for preference utilisation to all potential exports from African countries, the analysis suggests greater under-utilisation of preference schemes. However, the approach deserves closer examination, especially in the case of countries that do not export certain eligible products to the EU, in order to draw a distinction between general conditions relating to the

standards for access to the European market whatever the scheme, and specific conditions relating to the use of preferences (rules of origin, administrative requirements, *etc.*).

Table 1.32. African countries according to utilisation of preference (typical cases)

Cases Africa Countries	Eligible Duty>0	Preference Used	Rate of utilisation value	Eligible Potential duty>0	Rate of utilisation value	Eligible Products not Only import UE	Eligible Not Import
	€'000	€'000	%	€'000	%		
	[1]	[2]	[2 / 1]	[3]=[1+4+5]	[2 / 3]	[4]	[5]
Malawi	143570	134714	93.8	320537	42	167921	9045
Namibia	293493	285793	97.4	536083	53.3	194008	48581
Tanzania	191932	188240	98.1	324451	58	96578	35940
Togo	17090	16628	97.3	52436	31.7	11274	24071
Zimbabwe	375948	369333	98.2	667290	55.3	160026	131316
Sudan	25709	15886	61.8	167621	9.5	3886	138025
Cameroon	186175	168934	90.7	199282	84.8	12567	539
Ghana	208310	202574	97.2	227251	89.1	17494	1446

Note: Eligible potential eligible export from African countries to the world.
Source: TARIC- SAD- COMTRADE, 2002.

Table 1.33. Major products eligible for exports to the EU

Countries Cases	Sh6 Code	Eligible products	Export World	Export UE	Export Rest World
Malawi	240120	Tobacco, unmanufactured, stemmed, etc.	178686	107966	70720
Namibia	30378	Hake, frozen, whole	98906	35457	63449
Tanzania	30420	Fish fillets, frozen	55921	20836	35085
Togo	30379	Fish, frozen, whole	7639	3917	3722
Zimbabwe	240310	Cigarette or pipe tobacco, etc.	31829	28	31801
Sudan	170310	Cane molasses	10890	9332	1558
Cameroon	80300	Bananas, including plantains, fresh ,etc.	141064	139607	1457
Ghana	180400	Cocoa butter, fat, oil	31429	28318	3111

Note: Estimated to 6 digits
Source: TARIC-SAD-COMTRADE, 2002.

Table 1.34; Major products eligible and non-export to the EU

Countries Cases	Sh6 Code	Eligible products	Export World	Export EU	Export Rest World
Malawi	170191	Refined sugar, in solid form, flavoured	2789	0	2789
Namibia	220290	Non-alcoholic beverages, except fruit	8028	0	8028
Tanzania	170199	Refined sugar, in solid form, pure	7709	0	7709
Togo	110100	Wheat or meslin flour	9808	0	9808
Zimbabwe	170191	Refined sugar, in solid form, flavoured	23990	0	23990
Sudan	10410	Sheep, live	114123	0	114123
Cameroon	240120	Tobacco, unmanufactured, stemmed, etc.	113	0	113
Ghana	230230	Wheat bran, sharps, other residues	1013	0	1013

Note: Estimated to 6 digits.
Source: TARIC- SAD- COMTRADE, 2002.

NOTES

1. Malta and Cyprus, for example, are notified by the EU under the heading of customs unions but the arrangement is an association agreement which concerns only manufactured products.

2. The criteria relating to marine products are generally more extensive in the preferential framework (and to a variable degree according to the regime at issue) as regards the attachment of vessels or factory-ships to the countries concerned (Grave, 2003).

3. Without going into too much detail, there are two very different systems at this level which depend on the size of the firm. Large-scale importers provide a grouped declaration of their transactions while others complete the operation directly with customs. Differences still remain between the computer systems used by the Member States for this purpose. However, customs administrations say that previous difficulties encountered in harmonising this procedure (differences of tariff nomenclatures, updates of regulations in computer systems) have diminished considerably.

4. Only 3% of information about imports of agricultural and food products from SADs in 2002 concerned "non-active", non-compliant or non-defined measures (Code ZZZ). The data for 2002 available since 2003 are of much better quality than those relating to prior periods. In 1999 and 2000, almost 20% of the information had indeterminate status at source. However, the fact that SAD data do not display these prior contradictions does not necessarily mean that they comply with the legislation. 17% of the data, corresponding to 6% of imports, had to be corrected. In an initial treatment carried out in 2000, it was noted (Gallezot, 2002) that almost 30% of declarations had to be corrected (for example, some importers asked for GSP treatment for a product from the US). The control is carried out by validating only the SAD data that complies with current regulations. The correction is made by adjusting non-compliant information. This is done conditionally on the probability of allocation to preference schemes obtained from previously validated information. The operation is made easier by the fact that the experience of the 15 EU Member States has been preserved in the treatment. Overall, only 0.6% of total EU imports by value in 2002 could not be allocated to a preference scheme. On the basis of this result, it is possible not only to obtain a precise and verified allocation of import flows by tariff regime and by third country but also to know the amount of applicable duty per measure (including duties under preferential and MFN quotas).

5. The method for merging the TARIC database and SAD data covers 99.4% of the value of flows in 2002.

6. In WTO studies (WT/COMTD/W/93, 2003) imports of a product from a country eligible for GSP for which GSP rates are lower than MFN rates have been classified in the GSP imports category and specific duties have been left out of the estimates.

7. TARIC codes are also used for automated customs clearance. TARIC codes are mandatory in customs and for statistical declarations in trade with third countries (Article 5.2 of Regulation 2658/87).

8. Australia, Canada, Hong Kong, Japan, New Zealand, North and South Korea, Singapore, Taiwan, United States.

9. Article 301 of the EU Treaty resulting from the Amsterdam Treaty.

10. Article 5 of directive 72/462/EEC.

11. OJ L 073 of 17/03/1989.

12. Council Regulation (EC) 2092/2000 of 28 September 2000. The International Commission for the Conservation of Atlantic Tuna (ICCAT) identified Belize, Honduras and Equatorial Guinea as countries whose vessels fish Atlantic red tuna in a way that undermines the effectiveness of the measures taken by ICCAT to preserve the type of fish in question, backing up its finding with data on catches, trade and observations of vessels.

13. Eligible countries and products are those covered by a preference scheme. In estimating the utilisation of preferences, eligible products will be those that have been imported (including the quotas used). The question of eligible products that are not imported is considered in the case of Africa (see below).

14. The measurement of preference utilisation rates could be further refined by including only the preferential quotas for a given product in the eligibility estimate.

15. GSP – Handbook on the Scheme of the European Community 1998 (UNCTAD/TBS/Misc.25).

16. There are exceptions to this rule for textiles which, when not subject to graduation, benefit from a 20% reduction, and for ethyl alcohol (15%).

17. Developing countries are not defined in the WTO, but such status is largely self-determined (WT/COMTD/W/93). This does not mean that all countries which consider themselves to be developing are necessarily accepted as such by GSP preference givers, and the list of developing countries receiving GSP benefits varies between preference givers. This ambiguity, linked with the unilateral nature of the schemes, appears to open the possibility for selection or graduation of GSP beneficiaries. Moreover, even countries which are designated beneficiaries under the various GSP schemes do not necessarily obtain GSP treatment for all their exports: for example, some products may be excluded or eliminated from GSP treatment because they are considered by the preference giver to be "competitive", because the preference giver has concerns about the effects on domestic industry or for other reasons. On the other hand, LDCs, which are eligible for special treatment under the Enabling Clause, are defined by the United Nations system, and this definition is accepted by the WTO. However, the lists of LDC beneficiaries applied by the United States and Japan diverge slightly from the UN list. Japan considers Zambia as a developing country, and hence a GSP beneficiary, not an LDC, whereas the UN classifies Zambia in the LDC category. Again, the United States considers Mauritius to be an LDC, although Mauritius is not in the UN group.

18. For graduation of a country, it is envisaged to use the threshold according to which the World Bank classifies countries as “high income”. This aims to improve predictability and objectivity.

19. In accordance with Commission Regulation (EC) No. 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EC) No. 2913/92 establishing the Community Customs Code as amended by Commission Regulation (EC) No. 1602/2000.

20. http://europa.eu.int/comm/trade/issues/global/gsp/pr070704_fr.htm

21. Although, as we have seen, these three countries are graduated for a certain number of sectors.

22. There is no triple eligibility in this context (Table 1.3).

23. When MFN or GSP is used, the margin rate is measured as follows: [(MFN rate-GSP rate)/(1+MFN) rate], and for a competing utilisation of the Cotonou type: [(ACP rate-GSP rate)/(1+ACP rate)].

24. For example, in 2002 imports of mushrooms (codes 2003103000 2003102000) were dutiable under MFN at 18.4% +EUR 222 per 100 kg net compared with 14.9% + EUR 222 per 100 kg under GSP, whereas the duty under the MFN quota was only 23%.

25. As UNCTAD and the WTO have noted (WT/COMTD/W/93, 2001): Imports under contractual or unilateral preferences, subject to emergency safeguards or zero-duty quotas have negative effects on preference schemes. On the role of MFN quotas, see Figure 1.3 concerning the preferential margin under GSP.

26. More specifically, duty on rice exports from LDCs will be reduced by 20% on 1 September 2006, 50% on 1 September 2007 and 80% on 1 September 2008 and will be entirely eliminated by 1 September 2009 at the latest. Duty on sugar will be reduced by 20% on 1 July 2006, 50% on 1 July 2007 and 80% on 1 July 2008 and will be entirely eliminated by 1 July 2009 at the latest. This figure will increase by 15% a year during the transition period. Duty on bananas will be reduced by 20% a year from 1 January 2002 and will be entirely eliminated by 1 January 2006 at the latest. However, the European Union will monitor imports and may apply safeguard measures in the event of any sudden sharp increase.

27. The GSP utilisation rate of developing countries fell from 60% in 1996 to around 40% in 1997 and of LDCs from 70% to 30% over the same period. This was attributed to uncertainty about whether the scheme would be extended beyond May 1997 and underlines the importance of certainty and stability where trade preferences are concerned.

28. Our interviews with operators confirmed, for example, that it took 4 to 5 years to set up GSP Drugs.

29. The margin turns negative for ACP banana quotas.

30. The composition of products within the outer limits of the estimate (MFN and EBA) is very different and may bias the measurement. In addition, we have no convincing explanation for the low cost obtained when the same countries use Cotonou.

31. An exception is made for prawns, code HS 0306 13, which are still liable to a 3.6% duty.

32. Sugar products (preparations not containing cocoa) under codes NC 17041091 and 17041099 are an exception, the specific duty being limited to 16%. For products with code 030613 the duty is reduced to 3.6%.

33. The GSP Drugs preference tariff for carrots was 10.1% in 2002 and the MFN rate was 13.6%, whereas the MFN quota rate was 7%.

34. 19 000 tonnes for Botswana, 13 000 tonnes for Namibia, 9 000 tonnes for Zimbabwe, 7 500 tonnes for Madagascar, 3 400 tonnes for Swaziland and 142 tonnes for Kenya.

35. There is a preference quota for this product under Cotonou at 0%+EUR 304/100kg but its exhaustion (mainly by Botswana) justifies use of the MFN quota.

36. Leaving aside the fact that the parameters for the measurement of the cost of compliance carried out here should be more closely controlled, the estimate is sensitive to the measurement of *ad valorem* equivalents at the level of disaggregated nomenclatures and to the method used to give a statistical assessment of imports using each preference.

37. This study is similar to that used by CEPII (MacMaps).

38 However, frequencies of utilisation per scheme are rather different according to whether 6-digit or 8-digit product nomenclatures are used. This is an important point which shows the extent to which frequency measurements of coverage rates are sensitive to the degree of nomenclature disaggregation. Thus, almost 30% of eligible frequencies (8-digit) enter under MFN compared with only 18% when SH6 is used (Table 1.2).

39. The level of protection of processed products being higher in this case than that of the primary products used to make them.

40. In parallel to negotiations on the agricultural agreement, agreements on sanitary and phytosanitary measures (SPS), measures relating to technical barriers to trade (WTO) and measures relating to labour and environmental standards are becoming increasingly important for African countries. The issue of sanitary and phytosanitary measures is of the utmost importance for ACP countries, even though they are ill-prepared to tackle the subject (Ribier and Blein, 2002). Their lack of representation in international forums, the complexity of sanitary standards and the frequent changes they have undergone in recent years are the reasons most often put forward.

Chapter 2

UNITED STATES PREFERENCE SCHEMES

Abstract

The study shows that the utilisation rate for US non-reciprocal preferences is high. Developing countries make considerable use of preference schemes for their exports to the US. Cases where relatively little use is made of certain schemes in proportion to eligible imports are generally because the product can enter the US duty-free under a competing scheme. When eligible goods are exported under Most-Favoured Nation rules it is partly due to compliance costs and rules of origin. These costs can exceed the preference margin and result in goods being imported under Most-Favoured Nation rules, which are much less administratively complex. Constraints imposed by rules of origin or inspection and certification procedures may be dissuasive for countries, and the infrastructure and the skilled labour needed for countries to benefit from the tariff opportunities created by preference generally exceed the local investment capability.

Overall, the low level of exports to the US has its origins in problems that go beyond the question of preference utilisation. It is less a matter of the requirements for making use of preferences than of the wider difficulties these countries encounter in exporting to the US.

Reciprocal and non-reciprocal agreements

Generally speaking, the United States applies WTO consolidated duties to products covered by the Uruguay Round agricultural agreement when the products are imported under the most favoured nation (MFN) clause. There are exceptions to this principle, since the US applies less favourable treatment than MFN to certain countries such as Cuba and non-members of the WTO. However, some non-members of the WTO enjoy MFN treatment, sometimes on the basis of an annual authorisation.

Not all imported products are liable to MFN duty. The US applies lower duties than WTO consolidated duties under reciprocal preferential arrangements (free trade agreements or customs unions), tariff quotas and non-reciprocal preference schemes.

Reciprocal preference schemes include bilateral and regional agreements, like free trade agreements with Israel (1985) and Canada (1988) and the North American Free Trade Agreement (NAFTA, 1994) with Mexico and Canada. More recently, the US has concluded agreements with Australia and Morocco that are currently being ratified (Box 2.1).

Box 2.1. US preferential agreements

Reciprocal agreements

- US-Chile Free Trade Agreement (US-CFTA)
- US-Singapore Free Trade Agreement (US-SFTA) (took effect at the beginning of 2004)
- Permanent Normal Trade Relations Status for Afghanistan (2002)
- US-Jordan Free Trade Agreement (JFTA)
- US-Vietnam Bilateral Trade Agreement
- North American Free Trade Agreement (NAFTA)
- West Bank And Gaza Duty-Free Treatment of Products

Non-reciprocal agreements

- AGOA (African Growth and Opportunity Act)
- GSP (Generalised System of Preferences)
- Andean Trade Preference Act (ATPA)/Andean Trade Promotion and Drug Eradication Act (ATPDEA)
- Beneficiary Countries of the Caribbean Basin Trade Partnership Act (CBTPA)
- CBERA Trade & Development Act of 2000

Other agreements govern trade relations in a bilateral framework without giving rise to tariff concessions.

Non-reciprocal preferences include several separate schemes, notably the Generalised System of Preferences (GSP) and regional preference systems. Under GSP, the US grants preferences to most developing and transition countries. The US GSP contains specific conditions for a list of least developed countries (LDCs), giving them access to a more generous scheme in terms of the products covered. Non-reciprocal preferences granted on a regional basis include the CBI-CBERA (Caribbean Basin Initiative, which includes a trade part now called the Caribbean Basin Economic Recovery Act,

though both terms are used in practice), the ATPA (Andean Trade Preference Act), and the 2000 Trade and Development Act. The latter is in two parts, the AGOA (African Growth and Opportunity Act) and the CBTPA (Caribbean Basin Trade Partnership Act).

However, these non-reciprocal preferences do not apply uniformly to all agricultural and food products. In the case of GSP, so-called "import-sensitive" products are excluded from preference. Thus, a country can be entirely excluded from GSP, for example if it is considered to be sufficiently advanced. In other cases, a series of goods may be excluded from the preference granted to a country (a “graduation” system, described in greater detail below).

The preferences granted on a geographical basis differ from GSP in certain ways. As in the GSP framework, agricultural and food products that qualify for non-reciprocal preference (AGOA, ATPA, CBERA, CBTPA) can enter duty-free unless otherwise provided. As in GSP, preferences can also be queried and modified unilaterally by the US government. Unlike GSP, there is no graduation mechanism under which preference would be withdrawn from a country because it had reached a sufficiently advanced state of development.

US GSP

Description. The US GSP was introduced on 1 January 1976 for a 10-year period which Congress has extended six times since 1993. The system is revised every year. It aims to give developing countries easier access to the US market by granting a preference margin on their exports. The US GSP covers about 5 000 products from developing and transitioning countries. The least developed countries enjoy more favourable treatment, since they can export a supplementary list of 1 780 products under preference (these figures include non-agricultural products). To qualify for GSP, an export must come from an eligible country, be on the list of eligible products and comply with rules of origin requirements.

One hundred and forty-three developing countries, including territories regarded by the US as non-independent, qualified for GSP in 2003. In March 2004, ten countries, including future members of the European Union (Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland and Slovakia) and some Caribbean islands (Antigua, Barbados) were excluded. Algeria was added to the list, giving a total of 134 beneficiary countries and territories (Proclamation 7758 of March 2004).

Some developing countries are excluded from GSP for political reasons, or because they are covered by a free trade agreement (Mexico) or a unilateral preference (Nicaragua, under the Caribbean Basin Initiative), or because they are deemed to be sufficiently developed (South Korea, Singapore, Taipei, Malaysia). As a result of periodic revisions, certain countries have ceased to be eligible for GSP for economic reasons (French Polynesia, Malta, New Caledonia, Slovenia and the European and Caribbean countries mentioned above), while others have been excluded.

Beneficiary countries must meet specific conditions. In contrast with the EU GSP, a country's eligibility does not depend on compliance with environmental conditions. The human rights criterion has led to preference being withdrawn from certain countries, such as Myanmar, Sudan and Mauritania. Eligibility is also subject to a number of commercial and political conditions, such as compliance with intellectual property rights vis-à-vis American firms (Argentina has been temporarily excluded from GSP for intellectual property reasons in the past) and dispute settlement procedures. The US trade representative can grant additional benefits to countries that cooperate with the United States and the GSP sub-committee also takes decisions about a country's access to the US market.

The GSP generally allows for duty-free access. This is the case for imports of food products.

The GSP mainly concerns manufactured goods, since agricultural products represent only 15% of the list of eligible products (UNCTAD, 2000). Most textiles and leather goods are also excluded. Any product may be declared import-sensitive by the GSP sub-committee, which can thus unilaterally modify the list of eligible products.

The list of eligible goods is defined at 8-digit level in the US classification (Harmonized Tariff Schedule of the United States or HTSUS, see USITC 2003).[1]

Graduation. A product or a group of products from a beneficiary country may be excluded from GSP under the graduation rules. The aim is to prevent a single, particularly competitive country from supplying the market on its own. A criterion is defined, that of "competitive need limitation" or CNL, with a ceiling which, if it is reached, means that the product no longer qualifies for GSP the following year. There are two ceilings depending on the country. In the general case, an "upper" ceiling means that, when the value of a country's imports represents more than half of US imports of the product in question, or exceeds a value set annually (USD 110 million in 2003), graduation is activated. There is a lower ceiling for a group of countries that the US authorities consider to be sufficiently competitive. For these countries, graduation is activated when the value of imports exceeds 25% of total US imports of the product, or 40% of the "upper" ceiling mentioned above. When one of these ceilings is reached, the product (for the country concerned) may be excluded from GSP, exclusion being at the discretion of the US authorities (imports from LDCs and countries covered by the AGOA are not subject to these percentage criteria). A country whose exports have been graduated may request a *de minimis* waiver if total imports of the product (including outside GSP) are lower than an amount set annually (USD 14 million in 2002). The decision whether or not to grant the waiver lies with the GSP sub-committee.

Rules of origin. The rules of origin in some free trade agreements involving the United States can be complex. This is the case in particular with NAFTA, the North American Free Trade Agreement. Rules of origin in the US GSP are much simpler. In order to qualify for exemption from duty under GSP, a product must be included in the list of eligible products, come from a country that is itself eligible for that product, and meet value-added conditions.

Goods imported by the beneficiary country must be "substantially transformed" and constitute new products. In other words, they must originate entirely in the country enjoying preference or contain a local value (the sum of the value of the transformation and the inputs originating in the country) that exceeds 35% of the price of the finished product. A list of exemptions stipulates that a certain number of primary operations (assembly, disassembly, repackaging, dilution, etc.) are not sufficient to make a product eligible for preference.

As regards cumulation (*i.e.* allowing a country to export under a preference scheme goods produced with inputs from another country that is itself eligible for the preference scheme, see Box 2.2), the US GSP allows diagonal cumulation for certain associations of countries. However, there is not total cumulation for all GSP-eligible countries. When goods are imported from a regional association of GSP-eligible countries, the 35% may be shared between the different members. Currently recognised associations are the Andean Group, the Association of Southeast Asian Nations (ASEAN) except for Singapore and Brunei, the Caribbean Common Market (CARICOM), the Southern Africa Development Community (SADC), the West African Economic and Monetary Union (WAEMU) and the Tripartite Commission on East African Cooperation (EAC).

Box 2.2. Cumulation rules in trade agreements

Let us assume that a country A concludes a preferential agreement with two countries or groups of countries, X and Y, with identical rules of origin in both cases. A product originating in country X, for example, will have duty-free access to A's market and so will a product from country Y. However, a transformed product made in country X using intermediate inputs from country Y will not necessarily enjoy exemption from duty. It will do so only if country A's rules of origin allow for "cumulation" in the utilisation of raw materials and other inputs, plus transformation and movement between countries which have preferential agreements with country A. In that case, cumulation will allow country X to include the intermediate inputs from country Y and to export the transformed product duty-free to country A. Cumulation thus encourages the cross-utilisation of intermediate goods and transformation between countries enjoying preferential treatment while maintaining a different treatment for inputs from third countries.

Cumulation in the preceding case is bilateral. Cumulation can also be diagonal (between three countries or more that have preferential agreements between each other and are recognised by country A) or total, between all countries of a group recognised as having an extension of preferences (Augier *et al*., 2003).

The principle of "absorption" means that when a product meets the conditions for being deemed to originate in a given country, the non-originating part of the product (inputs from a country that does not enjoy preferential treatment) is not taken into account in the context of an additional transformation process. In other words, if the product is recognised as eligible under rules of origin (for example, if it contains few components from a non-eligible country), it is considered to originate entirely in the beneficiary country even if it is re-exported, for example to another country benefiting from cumulation. Non-originating components thus become "absorbed" into the product's status.

AGOA

The African Growth and Opportunity Act (AGOA) was signed in May 2000 with the aim of helping the sub-Saharan African countries by facilitating development based on market forces and trade. In 2004, 37 countries met the qualifying conditions for tariff preferences.[2] AGOA extends the GSP scheme by granting the countries of sub-Saharan Africa duty-free access to the US market for a bigger list of products than GSP (about 1 800 additional products giving a total of about 6 400 products).

AGOA's stated objectives are *i)* to institutionalise economic relations between the United States and African countries so as to favour both growth and political and economic reform; *ii*) to offer the countries of sub-Saharan Africa duty- and quota-free market access for practically all products; *iii)* to offer additional security to investors and traders by guaranteeing these countries enjoyment of GSP until 2008; *iv)* to eliminate competitive need limitations for the countries of sub-Saharan Africa; *v)* to establish a forum for economic cooperation so as to facilitate discussions on trade and investment; *vi)* to promote technical assistance as a means of strengthening reforms and development, in particular through partnerships between American and African firms (an extensive description of the agreement may be found in USTR, 2003).

Eligibility. To benefit from the trade preferences accorded under AGOA, countries must meet the eligibility conditions for GSP and some additional conditions. They include criteria relating to economic policy (a market economy, poverty reduction policies), justice (anti-corruption measures, anti-child labour measures) and the elimination of barriers to exports and to inward investment from the United States. In addition, the countries must not engage in activities harmful to the national security and foreign policy interests of the United States, must not support terrorist activities, and must have introduced effective controls against smuggling, re-exportation and the use of false trade documents consistent with the rules of the US administration. For that reason AGOA covers fewer African countries than GSP (37 rather than 45). All AGOA beneficiaries with the exception of Gabon, Botswana, Mauritius, Namibia, Seychelles and South Africa are LDCs.

AGOA covers most non-agricultural products but few textiles products (textiles and clothing subject to quotas are excluded from preferential treatment) and only a list of specific agricultural products can enter the US market duty-free under the AGOA agreement.

As with GSP, import-sensitive products are excluded from preference. Products benefiting from a tariff quota are excluded from duty-free access. Preferences can also be called into question unilaterally.

Rules of origin. AGOA extends GSP preferences to all of sub-Saharan Africa and expands the list of eligible products. It is therefore not surprising that the rules of origin should be rather similar to GSP rules. However, they are more flexible for textiles under temporary provisions which eliminate most restrictions, especially for LDCs, Namibia and Botswana (see CFC, 2003).

For agricultural and food products, the rule of origin implies that the product must be grown or manufactured in an AGOA beneficiary. Documentation must be available on the production process, certification and other aspects of production (employees, machines and their identification, etc.). There are also rules to prevent the re-export of products after minimum transformation and the misuse of preferences. The penalty is a 5-year exclusion from AGOA for the exporter, or for all the country's exports. Products must be exported directly from the beneficiary country, and for products containing inputs imported from non-beneficiaries, the value of local materials and direct transformation costs must represent at least 35% of the customs value assessed on entry into the United States. Inputs imported from the US may be added to this figure (up to 15%).

Impact of AGOA. Although the AGOA scheme offers beneficiaries duty-free access for almost all GSP-eligible products, the main additional benefit is that the countries concerned are not subject to competitive need limitation. In addition, AGOA offers additional benefits for textiles by eliminating quotas for all countries that have a re-export control system.[3]

However, several studies have highlighted the limits of AGOA (Olarreaga and Ozden, 2003; Stern and Netshitomboni 2002; Mattoo *et al*, 2002). These authors point out that very few eligible countries export significant quantities to the US under AGOA. In practice, AGOA mainly gives preference to non-agricultural primary products, especially oil products, which accounted for over 80% of imports by value under AGOA in 2002, with textiles accounting for 10%.[4] Exports of other products are limited and mainly concern South Africa and Malawi. Agricultural products that are not duty-free under MFN are often excluded as "import-sensitive". However, some African countries could progressively take advantage of the agreement to export more rum, fruit juices, grapefruit, dates and dried fruit (CFC, 2003).

CBI-CBERA, Puerto Rico CBI and CBTPA

CBERA. The 1993 Caribbean Basin Economic Recovery Act (CBERA) is the trade component of the Caribbean Basin Initiative (CBI). In practice, the two terms are used synonymously, especially in international databases. The aim of the two measures is to promote growth in the countries of the Caribbean and Central America, in particular by expanding their exports and encouraging them to diversify into exports other than primary agricultural products and raw materials.

Twenty-four Caribbean and Central American countries are eligible for CBERA.[5] CBERA has not had a statutory expiry date since 1990, making it the United States' only non-reciprocal preferential agreement not to have a limited lifetime. One particular provision includes the duty-free entry of products from Puerto Rico themselves originally imported from countries eligible for CBERA

Since 2000, products like textiles, footwear, oil products and food products like tinned tuna have been added to the list of duty-free products. The conditions for eligibility include compliance with trade policy criteria, judicial criteria, the protection of intellectual property rights, labour rights, the openness and transparency of public procurement and anti-drug trafficking measures. In contrast to GSP, there is no graduation mechanism whereby preference could be withdrawn if a country were deemed to have reached a sufficiently high level of development (countries classed as high-income by the World Bank such as Aruba, the Bahamas and the Dutch Antilles are eligible for CBERA).

CBERA rules of origin state that products must come directly from the beneficiary country and must either originate entirely in the country or have been substantially transformed there in such a way as to constitute a different product from the imported raw material. Thus, at least 35% of the value of the imported product must result from transformation or consist of inputs from the country of origin. Inputs from the United States can be counted in this percentage, though only up to 15%. The 35% value-added rule does not apply to goods manufactured entirely from components from the United States.

The Caribbean Basin Trade Partnership Act (CBTPA). The second part of the 2000 Trade and Development Act consists of the Caribbean Basin Trade Partnership Act (CBTPA), which came into effect in October 2000. The trade provisions of the Act apply to the countries of the Caribbean basin.[6] Textiles are exempt from duty and from quotas. Other products not eligible for the CBERA scheme are covered, but most of them are non-agricultural.[7]

In the following discussion, CBERA, CBTPA and the Puerto Rico scheme are grouped together and treated as a single scheme referred to as CBI.

Impact of the CBI agreements. The CBI agreements give significant preferences to eligible countries (USITC 2003b; Pollard 2003). CBERA extends GSP preferences by offering either duty-free or reduced duty entry for most products from the region. It also abolishes GSP competitive need limitations. Rules of origin are extended by authorising cumulation between CBERA beneficiaries for all eligible products and the incorporation of inputs from the United States for up to 35% of the local value added.

For non-agricultural products, CBERA goes further than the GSP preferences by eliminating certain quota and tariff restrictions on textiles. Leather goods benefit from greater access to US markets than under GSP. Despite this the list of eligible agricultural products is limited. Globally the treatment accorded to beneficiaries is similar to that accorded to LDCs under GSP, or in some cases (citrus fruit) more favourable.

CBTPA has had little practical impact on agricultural products. Under CBTPA a list of products became eligible for tariff preferences in 2001, but they are chiefly textiles (mostly made from material originating in the United States, which has little effect on the agricultural sector of eligible countries) and oil products. The evidence from trade flows indicates that textiles and oil products account for the majority of imports under CBTPA (as for imports under CBERA). In practice, imports of agricultural and maritime products under CBTPA in 2002 seemed to be limited to imports of tuna from Costa Rica.

ATPA-ATPDEA

Description. The Andean pact (Andean Trade Preference Act, ATPA), which came into effect in December 1991, is a unilateral preference scheme for exports from Bolivia, Colombia, Ecuador and Peru designed to encourage local alternatives to the growing of coca by offering access to the US

market for other goods. ATPA covered some 5,600 products. Although it formally ended in 2001, it was continued by the Andean Trade Promotion and Drug Eradication Act (ATPDEA, August 2002), which renewed the ATPA preferences, extending their scope (another 700 eligible products were added) and their duration (until 2006). In particular, ATPDEA allowed new products to enter the US duty-free, such as textiles and clothing, processed tuna, oil products, watches and leather goods (previously accorded preferential treatment but still dutiable).

International databases have continued to use the ATPA acronym, and we shall also use it in the statistical studies below to describe preferential flows post-ATPDEA.

The target countries' eligibility for preferential treatment depends on compliance with intellectual property rights, anti-drug campaigns and active participation in negotiations for a free trade zone spanning the Americas. The list of eligible products includes a wide range of agricultural products, though a number of sensitive products are excluded, especially those subject to tariff quotas under WTO rules.

Rules of origin. ATPDEA accords preferential treatment to goods that have been entirely produced in the beneficiaries or sufficiently transformed there and that qualify as "originating" in one of the four ATPDEA countries. A series of primary transformation operations (dilution, repackaging, etc.) is deemed insufficient to qualify for preference. Sufficient transformation means that the value of local materials plus the value added by transformation in the country must represent 35% of the customs value on entry into the United States.

The geographical cumulation rule is such that a country can use inputs from CBI-eligible countries plus Puerto Rico and the Virgin Islands and benefit from preferential treatment if the product is exported from an ATPDEA country to the United States. Inputs from the United States may be included in this percentage up to a limit of 15%. Product traceability, with a specific process for certification of ATPDEA origin, is required.

Impact of ATPA-ATPDEA. According to the US administration, the agreement generated significant exports over the period 1991-99. Copper products and textiles are the main goods imported under ATPDEA, but cut flowers (roses), cigarettes, asparagus, guava and mango occupy a significant place among agricultural goods.

However, USITC finds that the overall impact of the agreement on the US economy is small, even if one agricultural sector (asparagus) came under competition from preferential imports. Administrative factors seem to have limited the benefits in recent years (imports under ATPA fell by 40% in 2002 in comparison with the previous year because of a delay in the renewal of the agreement between December 2001 and August 2002). In addition, a number of products imported in significant quantity from eligible countries are excluded from the agreement (for example, tinned tuna is excluded since ATPDEA only covers tuna in plastic packaging; see Guth, 2003).

Customs duties and flows under preference schemes in the United States

The tariff taxation system in the United States

Customs duty is levied at the 8-digit level of the US nomenclature, which uses the UN harmonised system up to 6-digit level. An additional 10-digit code is defined for the purposes of statistical aggregation, but duty is common to all levels below the 8-digit level and the last two digits of the 10-digit code do not therefore affect the duty on a given product.

Ad valorem duties in the United States are calculated on the assessed value of imported products using various methods when the transaction value does not produce an immediate value.[8] The value is based on the customs value, not the CIF value. The customs value is the value of imports as assessed by the US Customs Service. It is generally the price actually paid or payable for the merchandise, excluding customs duty, transport costs, insurance and other costs incurred as a result of shipping the merchandise to the United States. In contrast, CIF (cost, insurance, freight) represents the value of the product at the quayside at the first port of entry into the United States and is computed by adding import costs but excluding duty. For the sake of consistency with the European data in Chapter 1, our convention here is to use CIF values for imports.

Customs duties are set out in the US Harmonized Tariff Schedule (USITC, 2004). For any given tariff line, a distinction is drawn between three types of duty:

- "general" duty, under normal trade relations (NTR) where there is no preferential treatment. It is therefore in fact the MFN duty, which is generally the consolidated duty;
- "special" duty, which includes preferential rates under various schemes, reciprocal or non-reciprocal;
- discriminatory duty applied to countries like Cuba, Laos and North Korea.

The special duty which applies under a preference scheme varies according to the tariff line. Whereas non-reciprocal preference schemes allow for duty-free imports except where provided otherwise, that is not the case for all reciprocal agreements. For each tariff line, the duty is specified for the various schemes, such as A for GSP (A+ for the LDC GSP and A* when certain countries are excluded from GSP for the tariff line in question), D for AGOA, J for ATPA, E for CBERA, *etc*. The Harmonized Tariff Schedule gives a list of tariff lines and countries for which benefit of GSP has been withdrawn.

Sources used and limitations

The US tariff system is complex, not least due to specific provisions reflected in a large number of notes, which may be general or relate to particular chapters, products, countries or schemes, and in the combination of specific and *ad valorem* duties. Nevertheless, the US tariff and trade system is particularly transparent inasmuch as the information is entirely accessible, which is not the case for European data, especially for trade flows under preference schemes.

The source for the information in the following paragraphs is the US International Trade Commission. Some data have already been processed by the World Trade Organisation for its Integrated Data Base,[9] or by the US Department of Agriculture's Economic Research Service. The duties and the eligibility of products for this or that scheme are taken from the Harmonized Tariff Schedule of the United States published annually by the US International Trade Commission (USITC). Import flows under each scheme are taken from USITC.

The US data are for the most part of high quality.

For products subject to tariff quotas under WTO rules, preferences are generally granted in relation to the duty levied on the "in quota" part, but preference ceases to apply if the quota is filled. Products subject to a tariff quota are excluded from GSP (see Harmonized Tariff Schedule 2003, notes GN4c) and from ATPA (see HTS 2003, notes GN11d), for the part outside the quota (USITC 2003).

Preferential margins

For the countries that are accorded preferences, preferential margins can be defined as the difference between the preference duty and the MFN duty. Given that for agricultural and food products, unless there are exceptions, preferential treatment under US non-reciprocal agreements generally corresponds to duty-free access, the preferential margin is in fact the MFN duty.

Thus, there is no preferential margin between two preference schemes that can explain why one is used rather than another, since the preferences given in the non-reciprocal agreements described here are essentially duty-free (except when an agreement provides for a quantitative limit). So there must be other factors that determine why one scheme is used rather than another when the product qualifies for several preference schemes (cost of compliance, rules of origin, etc.).

The size of preferential margins gives an idea of the advantage there is in using a given scheme rather than importing the product under MFN, in which case it would be dutiable. Nevertheless, these margins do not really correspond to the rent benefiting a country eligible for preference. There are several contributory factors for this (Brenton and Ikezuki, 2004; Brenton and Imagawa, 2004). Low levels of competition in the sector can mean that the preferential margin does not really translate into a rent captured by the exporter.[10] In such a case, it is theoretically possible that it is not in the exporter's interest to use preferences. High costs of access to preference (administration, traceability, compliance with rules of origin) may cancel out the effects of several percentage points of preferential margin.

Box 2.3. Methodology for computing *ad valorem* equivalents for specific duty

USITC has computed *ad valorem* equivalents for specific duties or duties containing a specific component at the 8-digit level of the US Harmonized Tariff System. Several methods are combined to cover all observed cases.

1) When there are imports under MFN for the tariff line in question, the *ad valorem* equivalent is estimated by dividing the duties by the dutiable import values (imports under preferential schemes are not counted).

2) When there are no imports under MFN for the tariff line in question, the quantity and customs value of all imports under that tariff line are used and the specific and composite MFN duties (specific + percentage) are applied in order to compute the duty that would have been collected if the product had entered under MFN rather than under a preference scheme. The duty computed in this way is then divided by the customs value to give the *ad valorem* equivalent.

3) When there are no imports of a given product in a given year, the quantity and customs value of imports (under MFN if any, otherwise under all schemes) for previous years are used. The specific and composite MFN rates are used to compute the duty that would have been collected if the product had entered under MFN during the year. The duty computed in this way is then divided by the customs value to give the *ad valorem* equivalent.

4) When there have been no imports in recent years, the *ad valorem* equivalent is assessed by the Office of Tariff Affairs and Trade Agreements of the US International Trade Commission.

Source: USITC.

In the following paragraphs, preferential margins are computed on the basis of the *ad valorem* equivalents provided by USITC to the WTO, which appear in the IDB. The methodology is described in Box 2.3 above. USITC computes *ad valorem* equivalents using a method which, like any equivalent, depends on the choice of a reference unit value (proxy for the international price), which is therefore open to debate. Although USITC's calculations have no official value in commitments with regard to the WTO, they nonetheless provide an entirely satisfactory working basis.[11]

Differences with other studies

Because of the data and the conventions used here, not all the results are perfectly comparable with other studies. The differences, in particular with the studies by the USDA Economic Research Service, CEPII and the World Bank may be due to the following factors.

- The import values used to compute preference utilisation rates are imports for all uses. Some authors only count imports for end-consumption.
- Significant differences with the USDA ERS studies (Gibson and Wainio 2003) are due to the fact that the values considered here are CIF values. The ERS bases its calculations on the customs value, which differs from the CIF value because of the importance of transport costs. Insofar as it is that value which is used to compute the duty levied, the ERS's choice is entirely appropriate. Nevertheless, as the only available value in the EU is the CIF value, the decision was taken for this study to use the CIF value for the United States for the sake of consistency.
- The basket of goods covered here differs from that used in other studies (Gibson and Wainio 2003, Brenton 2003). It includes the goods covered by the Agricultural Agreement of the Uruguay Round (*i.e.* those in Chapters 1, 2 and 4 to 24 of the Harmonized System and agricultural products for non-food use which include specific tariff lines between Chapters 29 and 53). But unlike the authors mentioned above, it also includes marine products (*i.e*. Chapter 3 of the HS nomenclature).

The importance of preferences in US trade

Beneficiaries from preferential treatment

Some 145 countries and territories qualify for a non-reciprocal agreement. Some developing countries, such as Sudan, Iran, North Korea, Cuba, Laos, Vietnam, Myanmar and Liberia, are excluded from preference for political reasons.

GSP is of course the scheme which covers the largest number of countries. US GSP covers countries that are now relatively advanced, like Russia (and Hungary and Poland until 2004) and territories that are formally part of developed countries. Nevertheless, certain countries like Nicaragua, Ukraine and Malaysia that are not sanctioned by a special regime are excluded from GSP. China is also excluded.

Some countries are not recognised as LDCs in US preference arrangements even though they are deemed to be LDCs by other countries or international institutions. Senegal, the Solomon Islands, Surinam and Eritrea fall into that category.

US preferences do not entirely overlap with the status of countries in WTO negotiations on agricultural trade. South Korea, for example, which is deemed to be a developing country under WTO agricultural rules, is not covered by US GSP.

Some countries excluded from GSP are covered by other non-reciprocal agreements, especially the relatively rich Caribbean islands and Nicaragua.

Some countries qualify for several preference schemes, in particular GSP and CBI (Guatemala, Costa Rica, Haiti, etc.), CBERA and CBTPA (Barbados, Dominican Republic). The four ATPA countries (Ecuador, Peru, Bolivia and Colombia) also qualify for GSP. Most African countries are

eligible for both GSP and AGOA. These overlaps between preference schemes suggest that countries will sometimes choose between different schemes according to the cost of compliance, the rules of origin and the risk of exclusion as a result of graduation.

Annex Table A.15 shows that the trade preferences accorded to Asia and the Pacific countries are limited to Asia, whereas the countries of Central America and the Caribbean seem to have more opportunities for access to the US market.

Imports from a country accorded preferential treatment

The figures in the following paragraphs are for 2002 except where otherwise stated. 208 countries and territories exported food products to the United States in 2002, 143 of them benefiting from preferential treatment, whether reciprocal (NAFTA, USA-Israel, etc.) or non-reciprocal (GSP, AGOA, CBI, ATPA, etc.).

Of countries exporting agricultural and food products to the United States (*i.e.* with non-zero exports of the goods concerned in the year concerned), 140 benefited from non-reciprocal preference in 2002 (GSP, AGOA, CBI, ATPA). Thus, 67% of countries exporting food products to the United States benefited from a non-reciprocal preference (Annex Table A.16). However, total exports of agricultural and food products from these countries accounted for only 31% of US imports. The remaining 69%, worth about USD 41.3 billion, came from countries that did not benefit from any preference (Australia, New Zealand, European Union, etc.) or benefited from reciprocal agreements (Canada, Mexico, Israel).

Countries benefiting from non-reciprocal preference accounted for only 25% of dutiable imports of agricultural and food products into the United States. Here again, only some of their exports qualify for preference schemes.

Imports under preference schemes

Table 2.1 shows that half of US imports of agricultural and food products in 2002 consisted of duty-free goods, for which preference is irrelevant. Half of the other dutiable goods, representing 27% of total imports by value, qualified for preference schemes. On the whole they are schemes under free trade agreements, NAFTA first among them. Only 7% of imports by value qualified for preference under a non-reciprocal agreement (GSP, AGOA, CBI, ATPA including Puerto Rico, CBI and CBTPA).[12]

Altogether, non-reciprocal preferences thus cover only 6% of US imports of agricultural and food products, or 12% of dutiable imports.

Table 2.1 also shows that the preference utilisation rate is very high overall, especially if reciprocal free trade agreements are included. It is 88% for non-reciprocal agreements when the rate is defined as the ratio of actual volumes imported under a non-reciprocal scheme to those eligible under normal circumstances.

This high figure may seem inconsistent with the low individual utilisation rates for ATPA and GSP. It is due to the fact that, while the same product is often eligible for several preference schemes, it is imported under only one of them.

Only 12% of imports eligible for a non-reciprocal scheme are imported under MFN, *i.e.* without using any preference at all. The preferential utilisation rate which reports eligible imports to imports

under a preferential scheme is accordingly high - about 88% However, this high percentage is defined only in relation to imports eligible for preferential treatment, which do not represent a very high proportion of importable goods as a whole (see the sections on the different schemes).

Table 2.1. Imports eligible for US preferential agreement, 2002

	Zero MFN duty	Not eligible to Preferential Trade	Eligible to Preferential Trade	Total Import	Imports under preferences	Rate of utilisation of preferences
	[1]	[2]	[3]	[1+2+3]	[4]	[4 / 3]
All preferential regimes						
Import (1000 USD)	30 051 026	13 924 463	15 934 724	59 910 213	15 325 212	96%
Share of Total Import (%)	50%	23%	27%	100%	26%	
Non reciprocal preferences only						
Import (1000 USD)	30 051 026	25 682 491	4 176 696	59 910 213	3 658 426	88%
Share of Total Import (%)	50%	43%	7%	100%	6%	

Source: Calculations by authors.

Not all preference schemes are equally important. Table 2.2 shows, for actual imports, the value of those eligible for NAFTA (imports from Canada and Mexico) is higher than those under GSP (from developing or transition countries). The volume of GSP-eligible imports was 15 times greater than that of AGOA-eligible products, even though some countries are beneficiaries of both schemes.[13]

Imports under NAFTA account for approximately 20% of US imports of agricultural and food products. Imports under GSP account for only 2.5%, and imports under non-reciprocal preference schemes as a whole account for 6%.

Table 2.2. Imports under different US preferential regimes (USD'000)

Regime	Eligible Imports	Actual imports	Share of actual imports	Rate of utilisation
	[1]	[2]	[2]/sum[2]	[2]/[1]
Duty free (under MFN)	29769869	29769869	49.7%	irr
MFN (tariff >0)	14725814	14725814	24.6%	irr
NAFTA	11607911	11583780	19.3%	100%
Israel-US	150334	144970	0.2%	96%
Jordan-US	981	358	0.0%	37%
Marshall Islands	n.a	35	0.0%	n.a
West Bank and Gaza	n.a	27	0.0%	n.a
AGOA	164230	139207	0.2%	85%
ATPA	961395	410202	0.7%	43%
CBI	1677673	1630902	2.7%	97%
CBTPA	n.a	409	0.0%	n.a
GSP	2575546	1504380	2.5%	58%
Puerto Rico-CBI	n.a	260	0.0%	n.a
Total		59910213		

Note: for goods subject to a strictly positive MFN tariff.
Source: Calculations by authors.

Importance of preference schemes by geographical zone

Annex Table A.16 provides information about the breakdown of preferences by geographical zone, distinguishing six regions and 21 sub-regions. Annex Table A.17 recapitulates this information as a percentage of the total by column.

Imports eligible for non-reciprocal preference. Mexico and Canada naturally account for most imports eligible for reciprocal preference, which mainly correspond to the NAFTA scheme.

The combination of GSP and the CBI schemes (including the Puerto Rico scheme and CBPTA, which benefit Central American countries) means that exports of agricultural and food products from Latin America represent three-quarters of imports eligible for non-reciprocal preferences. The breakdown by sub-region shows that Central American and Caribbean countries benefit most from preference schemes, since their exports represent 28% and 13% respectively of imports eligible for non-reciprocal preference (Annex Table A.18).

Although tropical products are often duty-free, Africa accounts for only a small fraction (2.4%) of these duty-free imports. Likewise, Africa accounts for only 1% of US imports under MFN. Whatever the scope of the preferences accorded to Africa by AGOA and GSP, it is clearly not sufficient to generate significant exports to the United States.

Imports under non-reciprocal preference schemes. Latin America again takes the lion's share of actual imports (rather than eligible imports) under preference schemes. Africa accounts for only 7.7% of imports under these schemes, and even then most of them are from a handful of countries in the south and east of the continent. Annex Table A.17 shows that, while Latin America and the Caribbean are by definition the only zones to benefit from ATPA and CBI, the benefits of GSP are shared between Asia and Latin America. Exports from Asian countries represent over a third of imports entering under GSP. Most of them are imports from South-East Asia.

As regards the utilisation of preference schemes, defined as the ratio between the volume of actual imports into the United States under non-reciprocal preference schemes and the volume of eligible imports (Annex Table A.17), utilisation rates are very high for the few preferences accorded to Africa through GSP and AGOA (90%) and to Asia through GSP (89%).[14] The Caribbean and Central American countries make full use of these preferences, though South American countries import some products eligible for GSP or ATPA under MFN.

Imports under GSP

Scope of GSP

In terms of product coverage, the preferences accorded by the US under GSP are less extensive than those accorded under other non-reciprocal agreements like CBI and ATPA. Only 30% of tariff lines in the agricultural and food sector (including marine products) are eligible for US GSP (Annex Table A.19). GSP covers 67% of tariff lines, including seafood from LDCs and 33% of agricultural and food products from other developing countries.

Annex Table A.19 shows that qualification for GSP does not mean that a product is necessarily imported under the scheme. Although GSP offers LDCs extensive coverage, only 211 tariff lines representing 12% of protected products are imported from LDCs under GSP (only 30% of protected tariff lines are imported from developing countries under GSP). In terms of the number of products, about twice as many products are eligible for GSP as are actually imported.

Imports under GSP represent only 2.5% of total US imports of agricultural and food products. Those from LDCs represent only 0.03% of US imports (0.06% for imports of dutiable products). Thus, although GSP offers extensive coverage for LDCs in terms of the number of lines, it actually generates very small flows, worth only about USD 18 million from LDCs and USD 1.5 billion from developing countries.

Impact of graduation in GSP

A certain number of products, or even all products from a given country, may be excluded from preference under GSP. The result may be no imports at all, imports under other preference schemes (CBI, ATPA), or imports under MFN.

The graduation mechanism is described earlier. As a result of graduation, countries that have attained a given level of wealth or joined economic unions like the EU are excluded from the preference scheme. Certain products from certain clearly identified countries may also be excluded after the annual revision of GSP.

The list of graduated products for each country, published in the Harmonized Tariff Schedule, shows that for India a considerable number of tariff lines are excluded, but most of them are non-food products (Chapter 28 of the HS). For agricultural products, graduation mostly concerns Latin America, Argentina, the Dominican Republic, Brazil, India (a dozen products excluded), Turkey and Pakistan.

The main products affected are in Chapters 7 (vegetables), 18 (cocoa products), 29 (organic chemicals) and 41 (hides, skins and leather).

Annex Table A.20 shows that in 2002 the Dominican Republic exported substantial volumes of products excluded from GSP by graduation under other schemes (exports of products excluded from GSP were 3.5 times higher than exports eligible for GSP), as did Argentina and Brazil (two-thirds of the amount of eligible exports). However, graduation has little effect on Caribbean, Central American and Andean countries because they export graduated products under other schemes (ATPA and CBI) which give them equally advantageous access to the US market. Annex Table A.20 shows that all the exports from the Dominican Republic, Guatemala, Jamaica, Costa Rica and El Salvador excluded from GSP enter the US under CBI and that all exports from Peru enter under ATPA. However, only half of Colombia's and Ecuador's exports excluded from GSP enter the US under ATPA.

Overall, graduation therefore mainly affects Argentina, Brazil, Turkey and India and, to a lesser extent, Colombia and Ecuador.

Utilisation of GSP

The GSP utilisation rate is relatively low if the volume of products eligible for GSP is compared with the volume of products actually imported under the scheme. The rate is given in the third line of Table 2.3. Defined as the ratio of imports that actually entered under GSP to those eligible for GSP, it is 58% on average. It is particularly low for the Latin American countries (43%).

The countries of Asia and Oceania, North Africa and the Mercosur group do not have access to any other preference scheme. For these countries, the apparent under-utilisation of GSP means that products have to be exported under MFN.

But for other countries, the low apparent utilisation rate masks the fact that GSP-eligible goods may be imported duty-free under other preference schemes. This goes a long way to explaining the apparent under-utilisation of GSP. Most Caribbean and Central American countries can export under the CBI schemes (CBERA, CBPTA and Puerto Rico CBI), many African countries have access to AGOA and four South American countries have access to ATPA. Thus, in Africa only 22% of GSP-eligible imports are not eligible for another scheme, while the corresponding figure for Latin America and the Caribbean is 27%.

The proportion of GSP-eligible products that enter neither under GSP nor under a competing preference scheme and therefore enter under MFN is relatively small: 5% for Latin America and the Caribbean, but 11% for Asia, 24% for Europe and 22% for the South Pacific countries.

The GSP utilisation rate for products eligible solely for GSP is over 80%, except for Europe and Oceania (Table 2.3). Overall, the utilisation rate for GSP, defined as imports under GSP or other replacement schemes in relation to GSP-eligible imports, is high. 95% of GSP-eligible products exported from Latin America and the Caribbean enter duty-free, albeit not always under GSP. The equivalent figures for Africa and Asia are 92% and 89% respectively.

Table 2.3. Utilisation of US GSP by region

		Total world	Africa	Asia	Europe	Latin America, Caribbean	Oceania
Imports eligible to GSP¨	[1]	2 575 546	204 681	575 854	180 288	1 580 402	34 320
Actual imports under GSP	[2]	1 491 859	143 106	511 094	137 200	673 736	26 723
Apparent utilisation of GSP	[2]/[1]	58%	70%	89%	76%	43%	78%
Imports eligible to GSP only	[3]	1 269 477	44 800	57 585	180 288	434 215	34 320
Imports under other regimes of goods eligible to GSP	[1]-[2]	1 083 687	61 575	64 760	43 089	906 667	7 597
Imports under CBI	[4]	683 930	0	0	0	683 930	0
Imports under AGOA	[5]	45 148	45148	0	0	0	0
Imports under ATPA	[6]	138 578	0	0	0	138 578	0
Imports under other preferential regimes	[7]	455	-	-	-	-	
MFN Imports of GSP eligible goods	[8]	215 576	16 427	64 525	43 089	83 938	7597
Rate of non utilisation of GSP eligible imports by any preference	[8]/[1]	8%	8%	11%	24%	5%	22%
Share of GSP not eligible to other NRPR	[3]/[1]	49%	22%	100%	100%	27%	100%
Imports eligible to GSP only imported under GSP	[9]	1 129 385	42 956	511 094	137 200	411 413	26723
GSP Utilisation for GSP eligible goods only	[9]/[3]	89%	96%	89%	76%	95%	78%

Source: Calculations by authors.

Of course, this provides no information about the utilisation of GSP in relation to potential imports (see below). For example, the volume of imports under GSP from Africa is particularly small (USD 143 million) in relation to a system designed to encourage exports. This is not due to the

existence of competing schemes, since GSP-eligible imports entering under AGOA represent only USD 45 million. It is due either to a lack of coverage under GSP for products for which African countries have a real export potential, or to technical standards, or to a chronic inability on the part of these countries to gain access to the US market despite the introduction of preference schemes.

GSP country by country and GSP for LDCs

For some forty countries, exports under GSP represent over 50% by value of exports of agricultural and food products to the United States. The figures in Annex Table A.21, which relate to 2002, show that GSP was particularly important for countries like Poland, Hungary and the Czech Republic, which were excluded at the beginning of 2004. But it was also important for Pakistan (60%), Venezuela (92%), Bulgaria (71%), Lebanon, Swaziland (87%), Mozambique (99%), Ghana (92%) and Madagascar (98%).

By volume, the main beneficiaries of US GSP for agricultural and food products are Thailand (USD 210 million of exports under GSP, accounting for 14% of all US imports under GSP), Brazil and Chile.

The LDCs that benefit most from US GSP are Mozambique, Malawi, Madagascar and Ethiopia. Imports from these countries are still very small, of the order of USD 6 million a year for Mozambique and USD 1 million for Ethiopia. Nevertheless, most of these countries' exports to the United States take place under GSP. It is entirely possible that without the special GSP for LDCs, these exports, however small, would not happen at all.

GSP by product

The main products covered by GSP are in Chapter 7 (vegetables), Chapter 20 (preparations of vegetables and fruit), Chapter 8 (fruit), Chapter 11 (milling industry products), Chapter 17 (sugars), Chapter 9 (coffee) and Chapter 16 (preparations of meat and fish) (Annex Tables A.22 and A.23).

Coffee, marine products and sugar are the products that benefit most from GSP (Annex Table A.22). Initial duty on coffee and marine products is generally very low, at least for unprocessed products (CFC 2003).

Imports under GSP account for a very substantial proportion of Chapter 16 imports (preparations of meat and fish), but for the other chapters there is considerable variation between different lines within the chapter. GSP accounts for a substantial proportion of imports of certain products in Chapter 7 (vegetables), Chapter 11 (milling industry products), Chapter 20 (preparations of vegetables and fruit) and Chapter 21 (miscellaneous edible preparations), for example, but for only a small proportion of other lines within these chapters.

GSP preferential margins

As GSP gives eligible products duty-free access except where otherwise provided, the preferential margin in relation to MFN is the same as the *ad valorem* equivalent of the MFN duty. There is no real competition between GSP and reciprocal preference schemes except in a few limited cases (Chile, Jordan). When GSP is in competition with other non-reciprocal preference schemes (ATPA, AGOA, CBI), insofar as the latter also enable duty-free access, the GSP preferential margin in relation to the scheme is zero.

GSP gives access with substantial preferential margins (over 5% on average) to prepared products (Chapters 21, 19, 20, 16), even though the protection afforded to different tariff lines within the same chapter may vary considerably (Chapter 21, for example; see Annex Table A.23). However, GSP is especially important for sugar, where products worth USD 340 million were imported into the US in 2002, and preparations of meat, vegetables and fruit, since these sectors combine significant import flows with high preferential margins. GSP also confers significant trade advantages in horticulture and fruit, since MFN duties for GSP-eligible products are over 4% on average (and as much as 30% for some products) and flows under GSP are substantial: USD 94 million for Chapter 6 (products of horticulture) and USD 128 million for Chapter 8 (fruit and nuts) (Annex Table A.24).

Focusing on preferences accorded to the LDCs, Annex Table A.24 shows that sugar is the main commodity having significant GSP exports.

Preferential imports under AGOA

AGOA covers only a limited number of tariff lines (39% of tariff lines for dutiable agricultural and food products and marine products). Furthermore, imports under AGOA concern only 135 tariff lines, some 8% of the total. The scheme's impact of LDCs is even smaller, since exports from such countries concern only 31 tariff lines.

Imports under AGOA account for only 0.2% of total US imports of agricultural and food products, representing a mere USD 139 million in 2002 (Annex Table A.25). This accounts for less than 4% of imports under non-reciprocal preference schemes and suggests that flows under AGOA are much lower than under GSP. Imports under AGOA from LDCs account for a mere 0.15% of US imports.

Nevertheless, the utilisation rate is high in relation to actual imports under AGOA of products eligible for the scheme, representing some USD 164 million. About 85% of AGOA-eligible products were imported under the scheme in 2002. The small impact of AGOA in terms of import flows is therefore due not so much to the utilisation rate of the scheme *per se* as to the lack of exports of products eligible for the scheme.

This does not mean that it is easy for African countries to export to the United States, merely that AGOA is well-used for the eligible products they export (Table 2.4)

AGOA-eligible products that enter under other schemes are mainly imported under MFN, which implies that importers prefer to pay duty on certain products, probably because procedures are more restrictive under AGOA and the preferential margin is small.

Southern African countries benefit most from AGOA, especially South Africa, which accounts for 65% of US imports under AGOA, and Malawi, with 32%. Kenya, Tanzania and Swaziland are the only other countries to benefit noticeably from the scheme. Exports of agricultural and food products from western Africa under AGOA are negligible. Significant exporters like Côte d'Ivoire do not export under AGOA, partly because the scheme does not cover their exports but above all because the products they export to the United States are duty-free under MFN (Table 2.4 and Annex Table A.26).

Table 2.4. Utilisation of AGOA by region

		Total	Eastern Africa	Southern Africa	Western Africa
Imports eligible to AGOA	[1]	164 230	60 439	103 544	247
Actual imports under AGOA	[2]	139 207	47 710	91 462	34
Apparent utilisation of AGOA	[2]/[1]	85%	79%	88%	14%
Imports under other regimes of goods eligible to AGOA	[1]-[2]	25 023	12 729	12 082	212
Imports under GSP of goods eligible to AGOA		976	916	0	60
Imports under MFN of goods eligible to AGOA	[3]	24 047	11 813	12 082	153
Rate of non utilisation of AGOA eligible imports by any preference	[3]/[1]	15%	20%	12%	62%

Source: Calculations by authors.

Imports under AGOA concern a small number of products, mainly fresh and dried fruit, tobacco products and preparations of fruit and vegetables. These three chapters (HST Chapters 8, 20 and 24) account for almost 85% of US imports under AGOA (Annex Table A.27). Pears, nuts, oranges and peaches are some of the products mostly imported from Africa (especially South Africa) under AGOA.

Among the products imported into the United States under AGOA, preferential margins are high for vegetables, flowers and tobacco (Annex Table A.28), but volumes are small except for tobacco (USD 44 million).

Preferential imports under ATPA

ATPA-ATPDEA covers most agricultural and food products, since almost 70% of dutiable products from the four countries concerned are eligible for the ATPA scheme. Here again, however, imports under the scheme are relatively concentrated, concerning only 228 tariff lines. Altogether, products imported under ATPA account for only 0.7% of US imports of agricultural and food products, or around 10% of imports under non-reciprocal preference schemes (Annex Table A.29). Certain products are excluded from ATPA, including most tuna products, sugar, rum, tafia (rum) and a list of so-called “sensitive” products.

As ATPA gives duty-free access to the US market, the preferential margin in relation to MFN is equivalent to the MFN duty. There is no competition between ATPA and reciprocal preference schemes, since the countries eligible for ATPA do not benefit from any free-trade agreement, though for a certain number of products there is an overlap with GSP, which also accords duty-free access.

The apparent utilisation rate of ATPA is rather low in relation to other non-reciprocal preference schemes: only 43% of ATPA-eligible imports enter the United States under the scheme. 20% enter under GSP. Otherwise, ATPA-eligible products (coffee, fresh fruit, cocoa products that have undergone little processing) enter under MFN, which suggests that the preferential margin is small (Table 2.5).

Table 2.5. Utilisation of ATPA

		Total	Bolivia	Colombia	Ecuador	Peru
Imports eligible to ATPA	[1]	961 395	8202	491 980	226 486	234 726
Actual imports under ATPA	[2]	410 202	3959	205 850	81 723	118 670
Apparent utilisation of ATPA	[2]/[1]	43%	48%	42%	36%	51%
Imports under other regimes of goods eligible to ATPA	[1]-[2]	551 193	4244	286 130	144 763	116 056
Imports under GSP of goods eligible to ATPA		215 014	223	90 115	49 647	75 029
Imports under MFN of goods eligible to ATPA	[3]	336 178	4020	196 015	95 116	41 027
Rate of non utilisation of ATPA eligible imports by any preference	[3]/[1]	35%	49%	40%	42%	17%

Source: Calculations by authors.

Of the four beneficiaries, Colombia is the one that exports the most under ATPA, with exports worth around USD 200 million a year, followed by Peru. Ecuador exports a relatively small proportion of ATPA-eligible products under the scheme, while Bolivia's exports under ATPA barely attain USD 8 million (Annex Table A.30).

Cut flowers, pot plants and vegetables account for over 80% of total imports under ATPA (Annex Table A.31). Imports of flowers and plants alone represent USD 19 million. However, ATPA preferences are only partly used, since an equivalent amount was eligible for ATPA but imported under other schemes, mainly MFN (Annex Table A..31). ATPA seems to permit imports in specific segments, such as certain vegetables (asparagus) and flowers (chrysanthemums, carnations), since a substantial proportion of US imports use the scheme (for example, 92% of US imports of asparagus enter under ATPA, for a value of USD 32 million).

The preferences accorded by ATPA seem to be particularly significant for flowers and vegetables, since the scheme allows for duty-free exports of products that would otherwise attract significant MFN duty (over 5%). Preferential margins for processed products are also high but import flows are small (Annex Table A.32).

Preferential imports under CBI

The CBI agreements (including CBERA, CBTPA, and CBI Puerto Rico) cover most agricultural and food products, since 66% of dutiable products are eligible for CBI. Here again, however, imports under the scheme are relatively concentrated, concerning only 398 tariff lines or 20% of all agricultural and food products. Altogether, products imported under CBI represent 2.7% of US imports of agricultural and food products, corresponding to approximately 44% of imports under non-reciprocal preference schemes. As a result, CBI seems to be a highly significant preference scheme whose effects on trade flows greatly exceed those of ATPA or AGOA (Annex Table A.33).

The CBI utilisation rate is very high. Moreover, even though the scheme is sometimes in competition with GSP, the option of exporting duty-free under CBI seems to be taken up systematically. Of the USD 1.7 billion of US imports eligible for the CBI scheme, only 1% enter

under MFN. Almost all exports from the 22 beneficiaries enter the US under CBI (only 3% enter under GSP, see Table 2.6).

Table 2.6. Utilisation of CBI

		Total
Imports eligible to CBI	[1]	1678082
Actual imports under CBI (incl. CBERA and PR CBI)	[2]	1617158
Including imports under Puerto Rico CBI	[3]	260
Apparent utilisation of CBI	[2]/[1]	96%
Imports under other regimes of goods eligible to CBI	[1-2]	60924
Imports under GSP of goods eligible to CBI	[4]	47309
Imports under MFN of goods eligible to CBI	[5]	13616
Rate of non utilisation of CBI eligible imports by any preference	[5]/[1]	1%

Source: Calculations by authors.

Costa Rica is the biggest beneficiary from preferential access, since its exports under CBI account for 31% of total US imports under the scheme. The other major beneficiaries are the Dominican Republic and Guatemala (Annex Table A.34).

Fruit accounts for 31% of imports under CBI, especially pineapples, followed by tobacco (cigars), raw sugar, vegetables and dried fruit (Annex Table A.35).

CBI, or more precisely CBERA, excludes certain products (beef products, products of sugar, syrup and molasses) from certain Caribbean islands (Antigua and Barbuda, Montserrat, the Dutch Antilles, Santa Lucia, Saint Vincent and the Grenadines).

Preferential margins (Annex Table A.36) show that preferential agreements with the Central American and Caribbean zone allow substantial tariff concessions for flowers and vegetables. These products combine significant import flows with high preferential margins, since Chapter 7 and 8 products imported duty-free under CBI attract MFN duty of over 7% on average and as much as 30% for certain tariff lines.

Overall utilisation of non-reciprocal preferences

Apparent utilisation of schemes and overall utilisation rates

Taken individually, utilisation of US non-reciprocal preference schemes seems relatively modest, with the exception of CBI and, to a lesser extent, AGOA. Only 58% of GSP-eligible imports into the United States actually enter under the scheme, and the equivalent figure for ATPA is 43%.

However, Annex Table A.37 shows that the overall utilisation rate for all non-reciprocal preference schemes is almost 89%. This means that most imports that qualify for non-reciprocal preference (*i.e.* that are not excluded from preference schemes or graduated under GSP) are imported into the United States duty-free under one scheme or another.

These figures show that when preferences are accorded, products exported to the United States do in fact enter under preference schemes. The potential constraints that could impede preference utilisation (administrative rules or rules of origin) do not result in substantial flows under MFN.

The low volumes of imports under certain apparently generous schemes raise questions which indicators based on actual imports, like the utilisation rates in Annex Table A.37, are unable to answer. There are many reasons why a product eligible for preference is not imported at all (see below). The beneficiary of the preference may not be able to produce or export the product for technical reasons or for reasons of natural advantage. In the latter case, the problem is not only specific to the utilisation of preferences but much wider. In order to identify such cases, the approach to apparent preference utilisation needs to be extended to include considerations relating to the overall export capacities of the countries concerned. This issue will be considered later in relation to African countries.

Factors determining the decision to import under a preference scheme

Factors that may explain under-utilisation of preferences

Annex Table A.37 shows that although the overall utilisation rate of non-reciprocal preferences is high, some countries export a significant quantity of agricultural and food products to the United States under MFN even though the products are normally eligible for non-reciprocal preferences and can enter duty-free.

This is the case with Bolivia, Colombia, Kenya, Peru, Malawi, the Philippines and Ecuador, to mention only the countries with relatively large export flows. Many countries which export very small quantities of agricultural and food products to the United States, especially African countries, do not use AGOA or GSP. Various explanations have been put forward to explain why.

- **Rules of origin.** Rules of origin are imposed to ensure that a country benefiting from preferential treatment does not merely re-export merchandise. In US non-reciprocal preference schemes, rules of origin are often based on a minimum level of transformation expressed in terms of value added. Restrictive rules seem to be a major obstacle to the utilisation of preferences (Brenton and Manchin, 2002; Brenton, 2003, Augier *et al,* 2003), especially in countries whose export industries are relatively unstructured. It is often expensive for small firms to set up downstream information gathering procedures so as to prove their compliance with rules of origin. These rules could be restrictive where US preferences are concerned (Mattoo *et al,* 2002). In US non-reciprocal schemes, the effects can be compounded by the fact that cumulation is limited. Yet the countries concerned cannot always find all the raw materials and intermediate inputs on the local market.[15] In addition, the rules are more restrictive than in reciprocal schemes and less adaptable because less easily negotiable (Inama, 2003).[16]
- **Compliance costs.** Compliance costs (certification, traceability, administrative documentation, etc.) may be high in relation to preferential margins. The induced cost is particularly high when rules of origin are restrictive, because of the need to prove that products meet criteria for local value-added or sufficient transformation. Overall, administrative costs often correspond to a tax (*i.e.* a duty) estimated at between 2% and 5.7% (Estevadeordal and Suominen, 2003). This could explain why, if the preferential margin is small, countries prefer to export without administrative restrictions under MFN rather than benefit from preferences.

- **Uncertainty about the durability of the scheme.** Uncertainty about the long-term future of preference schemes can contribute to their under-utilisation. Changes to GSP are considered annually by a sub-committee whose members are drawn from several institutions, which then makes proposals to the President. The list of eligible products can be extended or reduced. More generally, most US preference schemes have time limits, which may discourage the investment needed to develop an export capacity. Of course, in such cases there is little reason to expect flows under MFN. However, for countries which export small quantities under MFN, like the African countries identified in Annex Table A.37, it is possible that the specific costs of compliance with the conditions of eligibility for preference (certification, documentation) are too great given the uncertainty of the scheme. For example, on five occasions US GSP has expired without being immediately renewed, subsequently being reopened for short periods (one to two years). For example, GSP expired on 30 September 2001 and was not renewed for almost a year (Wainio and Gibson, 2003).
- **Capture of the preferential rent**. If the structure of competition among importers is oligopolistic, it is possible that a large proportion of the preferential rent (*i.e.* the preferential margin multiplied by the volume of imports) will be captured by the importing country. In such cases, there could be little incentive for the exporting country to use the scheme.
- **The existence of quotas**. The existence of tariff quotas notified to the World Trade Organisation can mean that, when quotas are exceeded, additional imports are no longer eligible for non-reciprocal preferences. This could explain why imports of products eligible for non-reciprocal preferences appear under MFN in the statistics. Quantitative restrictions may also be placed on certain imports, especially under GSP. The threat of graduation can also encourage countries to limit their exports under GSP.

Factors explaining the decision to use a particular scheme

It is not easy to test the hypotheses mentioned above in relation to US non-reciprocal preference schemes. This is particularly true of the hypotheses concerning rules of origin, since there is no alternative situation in which the rules would be different.[17] Rather than make assumptions about such an alternative situation, we shall suppose here that rules of origin are more restrictive for transformed products and test the hypothesis that the level of transformation is a determining factor in the under-utilisation of preferences.

The level of the preferential margin can give some indication about the cost of compliance with conditions of preference, since an exporter will probably prefer to use MFN if such costs are greater than the margin. Figures 2.1 to 2.4 show that preferential margins are generally low for GSP and ATPA, which are the agreements with the lowest utilisation rate. The preferential margin for almost all GSP-eligible products is less than 2%, for example. But it is difficult to draw any clear conclusion from this observation, since preferential margins are also very low for many CBI-eligible products but the scheme is more widely used.

Determining the utilisation of a preference can be represented by a dummy binary variable Y which takes the value 1 if a preference is used for goods eligible for the scheme and the value 0 if it is not. A set of explanatory variables includes the preferential margin (continuous variable), the existence of a quota for the tariff line and country of origin in question (binary variable) and the degree of transformation, used here as a proxy variable for the degree of restriction imposed by the rules of origin. This specification can be used to test the impact of the explanatory variables on the utilisation of a preference, assuming that the probability of utilisation F corresponds to a standard distribution (probit model) in the following discrete model:

$$\begin{cases} P(Y=1) = F(x,\beta) \\ P(Y=\grave{a}) = 1 - F(x,\beta) \end{cases}$$

where x represents the explanatory variables described above and β the parameters reflecting the impact of x on the probability P.

In the following computations, the preferential margin rate (MFNrate-Preferentialrate)/(1+MFNrate) is used, and transformed products are distinguished according to the United Nations BEC classification (Broad Economic Categories).

Figure 2.1. Preferential margins under US GSP

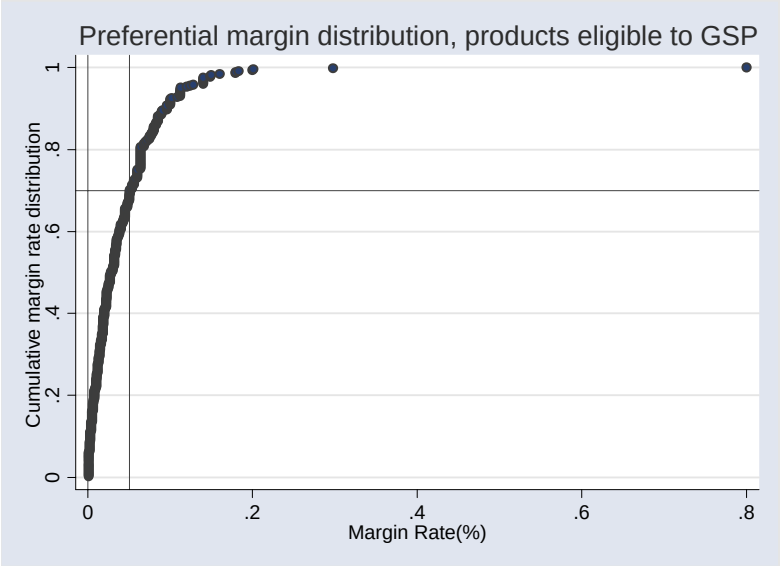


Figure 2.2. Preferential margins under US AGOA

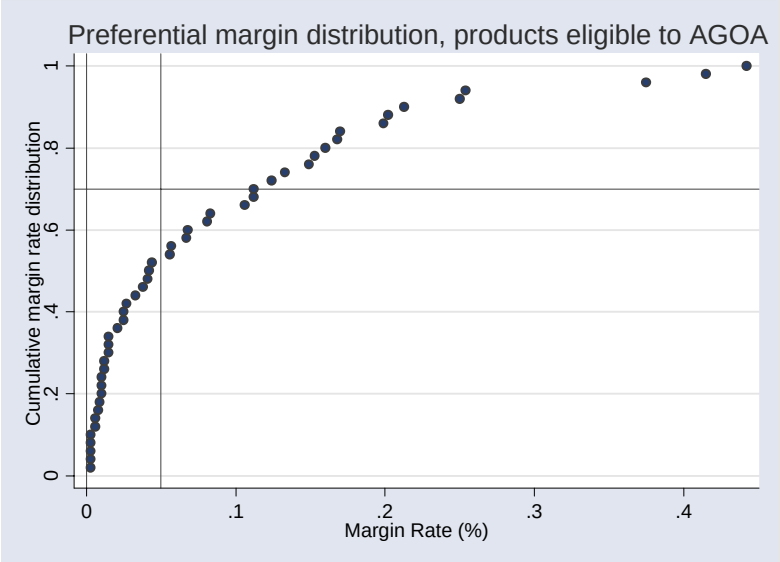


Figure 2.3. Preferential margins under US ATPA

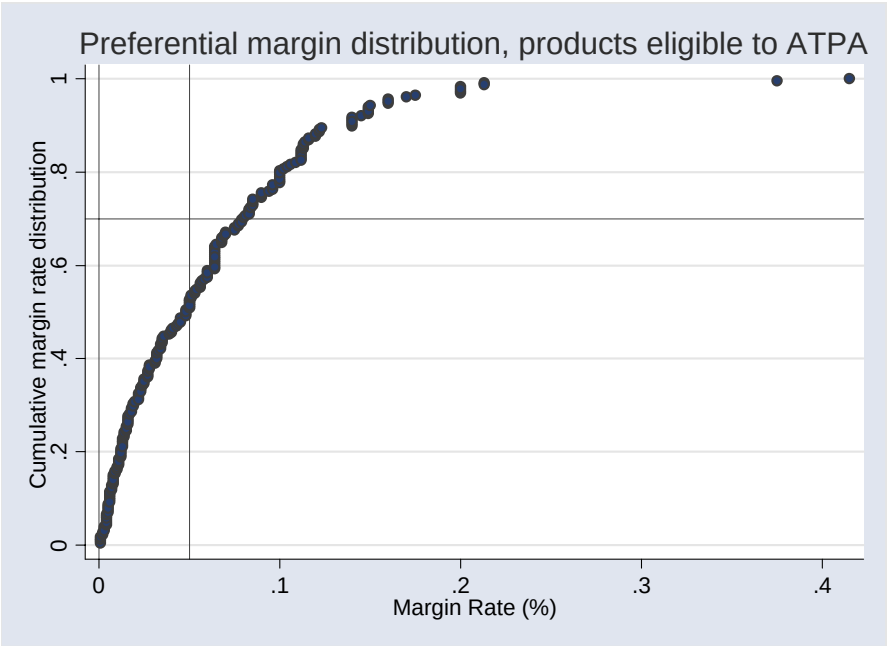
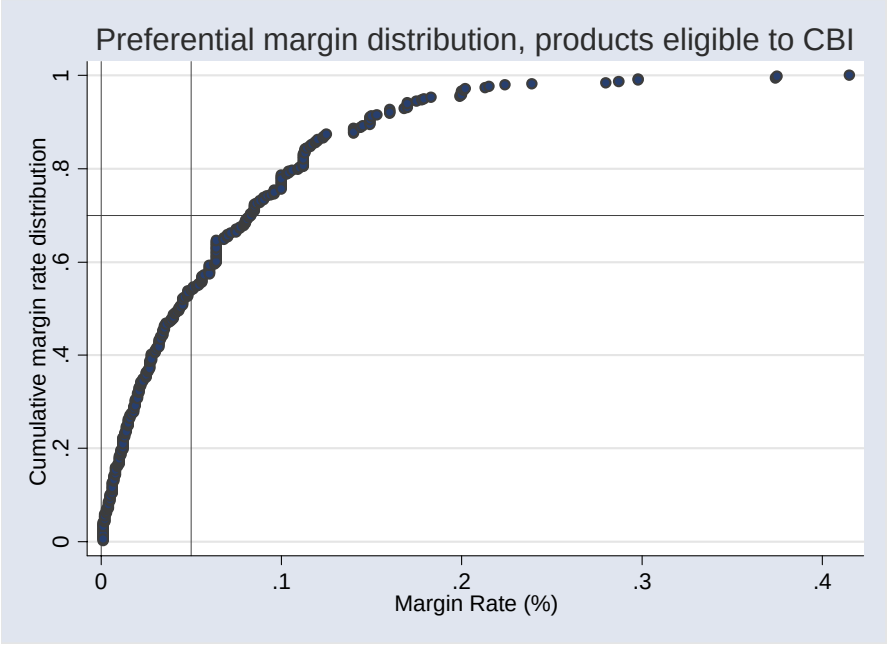


Figure 2.4. Preferential margins under US CBI



Source: Calculations by authors.

Overall utilisation of preference schemes

A simple probit model is used here on the sample comprising all import flows for tariff lines and origins eligible for a non-reciprocal preference scheme (GSP, CBI, ATPA, AGOA, corresponding to 5075 observations). The variable Y takes the value 1 when a non-reciprocal preference is used and 0 otherwise. The explanatory variables tested include the preferential margin and the degree of transformation.[18] In determining the utilisation or not of a non-reciprocal preference of any type, the regression shows the positive effect of the preferential margin on the utilisation of the preference.[19] The probability of not using the preference is greater when MFN duties are low, which is intuitive.

Table 2.7. Probit estimates, utilisation of non-reciprocal preferences

Results of probit estimates, utilisation of non reciprocal preferences, on the basis of products eligible to any non reciprocal preference (Utilisation prefer=1 if imports under a preferential regime, 0 if imports under MFN)		
Preferential margin	1.88	Coefficient
	(.219)	Standard Error
Processed products	-.0.91	Coefficient
	(.0.03)	Standard Error
Constant	.559	Coefficient
	(.115)	Standard Error
Observations		5075

Note : Standard deviation in parenthesis.

Source: Calculations by authors.

The degree of transformation has a negative effect on the probability of using a preference, the relationship being statistically significant. Interpreting this relationship is not straightforward, since several factors may be involved. Here, there is no positive correlation between the degree of transformation and the level of MFN duty. One plausible explanation for the negative effect of the degree of transformation on preference utilisation is that transformed products, for which rules of origin are stricter, face administrative restrictions either because of the local value-added content (a 35% ceiling in most non-reciprocal schemes) or because of the difficulty of complying with administrative requirements regarding the origin of inputs.

Considering products that are eligible only for CBI and not all non-reciprocal preference schemes, the same positive relationship between the probability of using a preference (*i.e.* CBI or GSP) and the level of MFN duty can be observed. Here again, the degree of transformation has a negative effect on preference utilisation. The relationship is also true of products eligible for AGOA.

Table 2.8. Probit estimates, utilisation of CBI

Results of probit estimates, utilisation of non reciprocal preferences, on the basis of products eligible to CBI (Utilisation prefer=1 if imports under a preferential regime, 0 if imports under MFN°		
Number of observations		1267
Preferential margin	2.4139	Coefficient
	(6152472)	Standard Error
Processed product	-.2723	Coefficient
	(.1069)	Standard Error
Constant	1.130	Coefficient
	(.0369)	Standard Error

Source: Calculations by authors.

For products eligible for ATPA, here again the degree of transformation of the product has a negative effect on the probability of the preference being used. However, the level of MFN duty also has a negative effect, which may seem surprising. Further analysis shows that this is due to the presence of products subject to tariff quotas, since products eligible for ATPA enter under MFN when the quota notified to the World Trade Organisation has been filled.[20] As soon as the existence of a tariff quota is introduced into the regression, or products subject to such quotas are eliminated from the sample, the probability of preference utilisation is linked positively to the MFN duty. This suggests that the existence of quotas may be an explanation for the apparent under-utilisation of preferences.

Utilisation of one preference scheme rather than another

Estimating a discrete choice model can also shed light on choices between different preference schemes. In practice, competition between preference schemes is limited in the United States since there is very little geographical overlap between the beneficiaries of a reciprocal and non-reciprocal scheme. Competition between schemes exists for GSP and ATPA, GSP and CBI, and GSP and AGOA for those products which qualify for both schemes simultaneously. In all three cases, products eligible for GSP and one of the other three schemes are also exported under MFN. Thus, three events are possible for products eligible for two non-reciprocal preference schemes: export under GSP, export under another non-reciprocal scheme, and export under MFN.

A multinomial model (here a simple non-hierarchical polynomial logit) makes it easier to include the influence of variables like MFN duty and the degree of transformation on the choice of scheme.

For products eligible for both GSP and CBI (815 flows in the sample), the level of MFN duty has a very negative effect on the decision to prefer MFN over CBI, which is intuitive. In contrast, the degree of transformation of the product has a very significant positive effect. However, the regression does not easily produce a hierarchy of probabilities for the utilisation of CBI rather than GSP when both schemes are possible. The probability of using GSP rather than CBI is negatively linked to the level of MFN duty. It may be supposed that rules of origin, especially the more favourable cumulation rules, would result in a higher probability of CBI being used rather than GSP. The observed relation is along those lines, but the level of significance is not high.[21] It is possible that other factors, notably the greater certainty about the long-term future of the CBI scheme, have an effect on the competition between CBI and GSP.

Some products are eligible for both AGOA and GSP. However, imports of these products are very limited (26 flows observed) and it is not really possible to obtain robust conclusions from these data about factors that determine the choice of one preference scheme over another. Although the probability of using AGOA rather than GSP increases with the level of duty (weak significance), neither the level of duty nor the degree of transformation seem to influence the probability of using MFN when the product is eligible for AGOA.

The imports eligible for both ATPA and GSP constitute a bigger sample, but the determining factors for using one preference scheme rather than another are not much clearer. The level of MFN duty has a negative effect on the probability of using MFN but the degree of transformation has no significant effect. As regards utilisation of GSP rather than ATPA, the only factor with any significance is the presence of a tariff quota, and this variable appears too sensitive to the assumption of independence with regard to non-relevant alternatives to be given any credit.

Table 2.9. Multinomial logit estimates, utilisation of non-reciprocal preferences

Results of multinomial logit estimates. The Outcome regime CBI is the comparison group.		
MFN		
Preferential margin	-6.63 (2.734)	Coefficient Standard Error
Processed products	0.7155 (0.106)	Coefficient Standard Error
Constant	-1.893 (0.1577)	Coefficient Standard Error
GSP		
Preferential margin	-2.483 (1.0637)	Coefficient Standard Error
Processed products	0.418 (0.221ç)	Coefficient Standard Error
Constant	-1.213 (0.122)	Coefficient Standard Error

Source: Calculations by the authors.

The effect of administrative costs and compliance

Several authors have mentioned the cost of compliance in order to explain the relative under-utilisation of certain preference schemes (UNCTAD 2003, Laird and Sapir 2002, Brenton and Ikezuki 2004, for example). This hypothesis assumes that the preferential margin is insufficient to cover administrative costs and the cost of compliance with rules of origin.

Taking up the idea of Anson *et al* (2003), an attempt can be made to estimate the cost of complying with administrative procedures so that a product is eligible for non-reciprocal preferences. Carrère and de Melo (2003) exploit the idea that preference utilisation rates reveal the lower and upper limits of the costs induced by importing under a preference scheme. The preferential margin for products entirely imported under preference would be the upper limit of this cost, while the preferential margin for products not using preference would be the lower limit. Intermediate situations (utilisation rates between 1 and 0 non-inclusive) would correspond to a zone of indifference between importing under a preference scheme and under MFN.

On the assumption (open to challenge) that the average duty on eligible imports that only partly use the GSP scheme gives a good approximation of the cost of compliance, evaluations on this basis suggest that administrative restrictions and rule of origin requirements represent an average duty equivalent of around 4.6% in the US. The cost for agricultural products is slightly lower than the cost for processed products (4.1% and 4.7% respectively).

As regards preferences accorded under CBI (CBERA and CBTPA), the same approach suggests that the duty equivalent of compliance costs and rule of origin requirements is 6%, with no notable difference between primary and transformed products (6.2% and 6.7% respectively). The same estimate for ATPA gives of a figure of 6.1%, though the difference between primary products (5.1%) and transformed products (7%) is more significant.

The figures are highest for AGOA. The average duty equivalent for all AGOA-eligible products that are partly exported under AGOA and partly under MFN is approximately 8.7%. If this is interpreted as a duty which leaves the exporter indifferent as to choice of scheme, the cost of

compliance appears substantial for transformed products (the average duty is 11.4% compared with 5.1% for primary products). Despite exports being small and only affecting a limited number of products, this estimation is rather weak.

Actual and potential utilisation rate: the case of Africa

Exports from Africa to the United States

The previous sections show that preference schemes are generally well-used, since the proportion of eligible products entering under MFN is generally low, at least for AGOA and CBI. But although the under-utilisation of preferences defined in relation to actual imports appears to be a non-problem, the overall effect of preference is limited, since import flows remain small. This is especially the case for sub-Saharan African countries.

Preferences that have a small overall impact in terms of flows

Significant preferences are accorded to African countries, since 37 of them are eligible for AGOA and 45 for GSP, of which 30 are eligible for the specific scheme for LDCs. AGOA and GSP cover a third of tariff lines for agricultural and food products, but LDC GSP covers about two-thirds. Furthermore, preference utilisation is significant in relation to actual export flows, since only 15% of AGOA-eligible exports are imported under MFN, and only 8% of GSP-eligible exports.

However, this view of the positive aspects of US preference schemes with regard to Africa should not mask the small impact they have in relation to the wider picture: exports under AGOA account for only 0.2% of US imports. African countries as a whole export very little to the United States despite the preferential treatment accorded to them. The value of exports of agricultural and food products to the United States from all African countries (including the Maghreb and Mashreq) in 2002 was only USD 1.12 billion. This figure includes USD 717 million of exports that are not protected in the multilateral framework (are duty-free).

Unused preferences

Exports under preference schemes accounted for 70% of the USD 405 million of exports subject to tariff protection under MFN, only 30% entering under MFN. Thus, over two-thirds of African exports subject to tariff protection enter duty-free under a preference scheme.

For duty-free products under MFN, approximately 50% of exports by tariff line from a given country represent very small flows, with a value of less than USD 20 000. Most products that are eligible for a preference (AGOA or GSP) but nevertheless enter under MFN correspond to very small flows (80% of these flows relate to values of less than USD 20 000). In such cases, the small volume of exports seems to explain why exporters do not want to bear the fixed costs of complying with all the criteria in order to benefit from preference.

Exports from African countries to the United States

Annex Table A.38 shows that the main exports from African countries to the United States are cocoa (Ivory Coast), spices (Madagascar) and marine products (Seychelles, South Africa). Most exports from the Ivory Coast are duty-free under MFN, meaning that the country benefits relatively little from preferences, unlike South Africa (Annex Table A.37).

Preferences and products not exported to the United States

The measurement of preference utilisation on the basis of actual imports as carried out in the preceding sections does not give a full picture of the way in which countries benefit from preferential treatment. In the case of Africa it is clear that, although the utilisation of schemes like AGOA and GSP is satisfactory when flows of eligible products are compared with flows that actually use them, preference schemes do not necessarily generate substantial imports.

Extending the measurement of the utilisation rate to a potential utilisation rate implies comparing all exports from these countries (*i.e.* to the whole world) with those of goods eligible for a US preference scheme. It is necessary to identify products which a given country does not export to the United States (under either a preference scheme or MFN) even though the product is eligible for preferential treatment. If the country in question exports the product to other countries, it is probable that the preference does not remove all the obstacles to imports into the United States, especially non-tariff barriers like health, hygiene, phytosanitary and technical regulations. If the country does not export significant quantities of the product in question to other markets, non-utilisation of the US preference is more likely to be due to a lack of production potential or competitiveness.

Serious practical problems arise when trying to match data on total exports from African countries and imports under US preference schemes, making interpretation difficult. The only available data source for exports from African countries is the United Nations database (COMTRADE or databases derived from the same source data). The level of detail for these data is the six-digit harmonised system. So an approximation has to be made of the tariff lines eligible for a given scheme at six-digit level, whereas eligibility is defined at eight-digit level. This introduces considerable uncertainty into the result, since the same category at six-digit level may include both eligible and non-eligible tariff lines (this is the case with marine products in particular).[22]

A more troublesome problem is that export data for African countries are very incomplete and not always available for 2002. Even the most recent versions of COMTRADE contain some very old data for countries which have not provided the necessary statistical information. Exports to the United States can be approximated by "mirror" statistics based on US import data. However, matching these imports under various schemes to export volumes from African countries that do not correspond to the same years can yield only a crude approximation.

Annex Tables A40-A.42 give some information about the volume of exports to the United States from African countries, whether eligible for non-reciprocal preference schemes (AGOA and GSP) or actually imported under these schemes. The right-hand part of these tables matches these flows to total exports from African countries even if (once again) the statistical years are not necessarily the same as in the left-hand part (2002). Despite the imprecision of the data, it is clear that although US preferences are well-used, generally speaking they account for only a small part of the export potential of African countries (with a few exceptions, the ratio of exports to the United States and exports to the world as a whole of products eligible for a US preference is below 5%). This raises the question of why US preferences generate so few imports from Africa, especially African LDCs, however well-used they may be.

The reasons are doubtless to be sought in health and hygiene rules. The presence of endemic epidemics means that several countries are not allowed to export meat or dairy products to the United States. Technical criteria (HACCP certification of production facilities, *etc*.) also explain a large number of problems (Henson *et al*, 2000; World Bank, 2003). From this standpoint, it is probably the limited time horizon of non-reciprocal preferences, creating an impediment to the necessary direct

investment in processing industries and marketing, that is the root of the problem rather than the issue of preference schemes *per se*.

In addition, for certain products African countries are in competition with imports from nearer geographical zones which also benefit from duty-free access under reciprocal trade agreements. This is the case for products from Canada and Mexico under NAFTA. The proximity of the Caribbean area and the possibility of duty-free exporting under the CBI preference scheme means that sub-Saharan Africa encounters formidable competition for tropical products. This largely contributes to the low levels of exports to the United States.

US non-reciprocal preferences: conclusion

The overall conclusion from this analysis is that the apparent utilisation rate of US non-reciprocal preferences is high but that exports to the United States of agricultural and food products from countries accorded preferential treatment are generally small.

Non-reciprocal agreements of the United States are well used in the agro-food area

For exports to the United States from developing countries, the utilisation rate of US preference schemes is high (88%). However, some non-reciprocal preference schemes, like ATPA and GSP, are little used as a proportion of eligible imports, usually because the product in question can enter the United States duty-free under a competing scheme. This can be explained by dual eligibility and the comparative conditions for access to the different schemes. Overall, only 12% of imports eligible for non-reciprocal preference enter under MFN. Most of these are low-volume imports for which the administrative requirements would be too onerous, or products subject to a WTO tariff quota for which preference is lifted when the quota is filled, or products for which the MFN duty is very low, not justifying the measures that have to be taken to benefit from the preference.

Exports under MFN of products eligible for preferential treatment raise the issues of compliance costs and rules of origin. The requirements for eligibility for preference (product monitoring and traceability, administrative procedures, etc.) may generate prohibitive costs, which exceed the preferential margin and cause countries to export under MFN, a much less complex scheme in administrative terms. Rule of origin requirements may be prohibitive for countries that cannot produce all the raw materials and components for products, which is often the case for small countries. Statistical estimates are rather fragile. They suggest however, that these problems are particularly significant for processed products, especially those from African countries.

Here again, the apparent under-utilisation of preferences seems relatively limited, taking the preference system as a whole into consideration (CBI and GSP, ATPA and GSP, AGOA and GSP, etc.). Rules of origin and compliance costs appear only partly to explain the relatively limited volumes of exports to the United States, insofar as goods eligible for preferential treatment are either exported substantially under preference schemes or are not exported at all, whatever the scheme (MFN or preference).

Preferences that nevertheless have a limited impact, especially on Africa and LDCs in general

The impact of preference schemes varies significantly. Imports from the Caribbean and Central America under CBI are substantial, especially compared with the small number of beneficiaries and the size of their economies. In contrast, most countries of sub-Saharan Africa do not export significant volumes of agricultural products under AGOA.

The case of Africa clearly illustrates the paradox of preferences which are used but account for only a small proportion of imports.

Despite the preferences granted by AGOA and GSP, the US imports very little from Africa. Only a handful of countries, South Africa foremost among them, have significant exports to the US. Exports from African LDCs are tiny.

There are several reasons why US preferences have such a limited effect in Africa. First, not all agricultural products are eligible for preferential treatment. This is particularly true of AGOA and GSP (except in the case of LDCs, which are accorded more extensive preference), since only a third of tariff lines are eligible for preferential treatment (two-thirds for LDCs).

In addition, tariff preferences often remain virtual because of non-tariff barriers to exports, especially health and hygiene requirements. Many developing countries have not been declared free from a series of potentially contagious diseases and are not allowed to export meat and dairy products, for example. In many cases, the US administration deems processing plants and control, inspection and certification procedures to be deficient. It is difficult to assess the relevance of these restrictions, which are sometimes accused of being barriers erected for protectionist purposes (see OCDE, 1999). But it is clear that the infrastructure and the skilled labour needed for countries to benefit from the tariff opportunities created by preference generally exceed the local investment capability. On this point, it is instructive to note that South Africa is virtually the only country where the opportunities offered by AGOA correspond to substantial exports of agricultural and food products.

Another reason why developing countries, especially in Africa, take little advantage of the opportunities offered by non-reciprocal preference schemes is related to the institutional and technical barriers within the countries themselves. In many cases, production capacity in developing countries is not sufficient to generate significant exports in the short term. In other cases, a certain degree of closeness to consumers is needed in order to keep in step with market trends in developed countries (fashion, changing specifications of central purchasing organisations which account for a substantial proportion of end trade, see Reardon, 2004). Lastly, competition with countries that benefit from a reciprocal scheme (Mexico, Canada, Israel) or non-reciprocal (Caribbean) is often to the disadvantage of African countries, for reasons of proximity and logistics.

Non-reciprocal preferences can potentially play an important role in expanding and diversifying developing countries' exports. However, in order to benefit from the opportunities offered by preference they would need technical and financial assistance with their infrastructure and administration and high levels of inward investment. This in turn would imply political conditions that encourage investment. The limited time horizon of most US preference schemes, especially GSP and AGOA, is a factor that may deter the investors who alone are capable of turning preferential treatment into actual exports of agricultural and food products.

In a nutshell, non-reciprocal preferences have not been able to generate substantial export flows, especially for African countries and LDCs. Overall, however, the low level of exports to the United States has its origins in problems that go beyond the question of preference utilisation. It is less a matter of the requirements for making use of preferences than of the wider difficulties these countries encounter in exporting to the United States.

NOTES

1. GSP-eligible products are clearly identified in the HTSUS. They are indicated by the letter "A" in the "special" category; the code A* is used to identify products which are not eligible for duty-free treatment for the country concerned; the code A+ is used to identify GSP-eligible products from LDCs. See UNCTAD (2003) for a clear explanation.

2. President Bush approved the following list on 31 December 2002: Benin; Botswana; Cameroon; Cap Verde; Central African Republic; Chad; Congo; Côte d'Ivoire; Democratic Republic of the Congo; Djibouti; Eritrea; Ethiopia; Gabon; Gambia; Ghana; Guinea; Guinea-Bissau; Kenya; Lesotho; Madagascar; Malawi; Mali; Mauritania; Mauritius; Mozambique; Namibia; Niger; Nigeria; Rwanda; Sao Tomé and Principe; Senegal; Seychelles; Sierra Leone; South Africa; Swaziland; Tanzania; Uganda; Zambia. On 30 December 2003, Angola was declared eligible with LDC status and Eritrea and the Central African Republic were excluded.

3. Although it goes beyond the scope of this study, AGOA also grants more favourable treatment to textile products from the LDCs of sub-Saharan Africa (Special Rule for Less Developed Countries), granting them more flexible rules of origin until September 2004 (CFC, 2003).

4. MFN duty on oil products is very low (around 2%), so that the benefits of preference under AGOA are limited.

5. Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, Costa Rica, Dominica, Dominican Republic, Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Montserrat, Dutch Antilles, Nicaragua, Panama, St. Kitts and Nevis, Saint Lucia, Saint Vincent and Grenadines, Trinidad and Tobago, British Virgin Islands.

6. Proclamation 7351 lists 24 CBTPA beneficiary countries and territories, though only 10 are eligible for trade preferences under the Act (Belize, Haiti, Nicaragua, Costa Rica, Guyana, Guatemala, Honduras, Jamaica, Panama, Trinidad and Tobago).

7. For more information see: http://www.ustr.gov/regions/whemisphere/camerica/factsheet.pdf.

8. Procedures for computing the transaction value or, failing that, the transaction value of identical merchandise, transaction value of similar merchandise, deductive value, computed value, value if other values cannot be determined, etc. are described in US Customs Service 1999.

9. However, very significant discrepancies have been found between USITC primary data and the IDB. For example, in the IDB database it would seem that a large number of products (105 tariff lines) enter under MFN in GSP but duty-free in the USITC data, when in fact they are not graduated. USITC data, which is the primary source for the IDB database is also more reliable. That data has been used in this study (list of countries concerned in the case of GSP: Argentina, Barbados, Belize, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Guyana, Honduras, Hungary, India, Indonesia, Jamaica, Kazakhstan, Malta, Pakistan, Peru, Philippines, Poland, Russian Federation, Sri Lanka, Thailand, Trinidad and Tobago, Turkey, Venezuela).

10. Ozden and Olarreaga (2003) find high levels of rent capture by the importing country in the textile sector, for example, under AGOA.

11. Bureau and Salvatici (2003), making calculations at 8-digit level using other conventions, did not find any systematic divergence in the USITC evaluations, the *ad valorem* equivalents computed in this way being sometimes similar, sometimes lower and sometimes higher than theirs. Overall, the results were generally close.

12. A product is defined as eligible on the basis of actual imports. A product is deemed eligible for a scheme A if it has actually been imported either under scheme A or under another scheme but could have been imported under scheme A, taking account of legal restrictions. Products excluded from GSP on account of their graduation are thus not counted as eligible products. In contrast, quantitative restrictions which mean that the import quota under scheme A may have been exceeded are not taken into consideration. In all events, the term "eligible" does not cover cases where a product has not been imported.

13. The term “eligible” here refers to the actual quantities imported, which normally qualify for preference but are imported either under the preference scheme or under MFN.

14. The ratio describing the preference utilisation rate corresponds to the volume of actual imports under a non-reciprocal preference scheme divided by the volume of imports eligible for the scheme (but actually imported under any scheme).

15. This is a particularly important problem for textiles, where the countries capable of making low-cost clothing and textiles do not always have the natural potential for growing the corresponding fibres, but it also applies to processed food products.

16. The preferences granted by the United States seem to be more demanding than the provisions contained in the (non-binding) declaration of the Uruguay Round agreement (Common Declaration with Regard to Preferential Rules of Origin, Annex II, Agreement on Rules of Origin, 1994: 218). See James (2003).

17. Mattoo *et al* (2002), for example, estimate that the benefits of AGOA for Africa would be about five times greater if exporting countries were not subject to the restrictive rules of origin imposed by the United States, especially in the textiles segment, but this estimate is based on very bold assumptions.

18. The estimate is corrected for heteroscedasticity by assuming that the observations are independent between regions but not necessarily within a geographical region.

19. Estimate on the basis of 3663 flows under non-reciprocal preferences out of a total of 5 075 eligible for non-reciprocal preferences.

20. US HTS states for ATPA "any agricultural product of Chapters 2 through 52, inclusive, that is subject to a tariff-rate quota, if entered in a quantity in excess of the in-quota quantity for such product."

21. It is well-known that comparing probabilities between two pairs of events (*e.g.* exporting under CBI or GSP) in this type of model relies on a strong assumption of independence with regard to the third alternative (exporting under MFN). However, the estimate using a truncated sample, excluding imports under MFN, does not provide conclusive evidence of a strong relation in favour of using the CBI scheme.

22. We assume here that if a product is eligible for non-reciprocal preference at eight-digit level, the tariff line at six-digit level will be eligible.

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