

## Chapter 4

### Japan's Generalized System of Preferences

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# Japan's Generalized System of Preferences: An Oriental Pandora's Box

## Introduction

There has been little critical analysis of Japan's Generalized System of Preferences (GSP) regime. Due to the fact that the GSP reflects Japan's broader trade and foreign policy goals, a holistic viewpoint is crucial to an analytical survey of the GSP. This paper, therefore, not only examines the GSP scheme and practice (Sections I to IV), but also analyzes GSP erosion and potential solutions to this problem (Section V).

## I. General Overview of the GSP Scheme

### 1. Extension of 10-year Term GSPs

Japan originally established its Generalized System of Preferences scheme (GSP) on August 1, 1971, just one month after the European Community (EC's) introduction of its GSP, in July 1971. Four decennial GSP schemes have been established: the first from August 1971 to March 1981; the second from April 1981 to March 1991; the third from April 1991 to March 2001; and the fourth and current scheme from April 2001 to March 2011. The current GSP scheme is provided under the Temporary Tariff Measures Law and the Implementing Regulations of this Law.

### 2. Core Scheme

The GSP scheme includes a general preferential regime and a special preferential regime. Under the former, preferential tariffs are applied to imports of designated items from GSP beneficiaries. Under the latter, duty free treatment is granted to imports of designated items from Least Developed Countries (LDCs).

**General Preferential Regime** In the agricultural-fishery sector, GSP is in principle not granted given the weak competitiveness of the domestic industries. Items that are covered under GSP are enumerated in a "Positive List"<sup>1</sup>. Safeguards, however, enable the government to suspend preferential treatment for items on the Positive List under certain conditions (discussed subsequently). In contrast, GSP preferences are generally granted in the industrial-mining sector. However, some sensitive items are excluded through an

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<sup>1</sup> Appendix 2 to the Law.

Exceptions List<sup>2</sup>. Of GSP-covered items, some are granted GSP treatment up to ceiling (quota) quantities or values, while others qualify for GSP benefits without being subject to a ceiling. However, an increase in imports of the latter may trigger GSP-suspension, under an Escape Clause, as mentioned below.

***Special Preferential Regime*** Imports from LDCs of most items qualifying for the GSP receive duty-free treatment.. The 2007 reform expanded the product scope of LDC-specific duty free preferences in both the agricultural-fishery and the industrial-mining sectors.

***Rules of Origin*** To benefit from preferential treatment, an imported item must satisfy GSP rules of origin.<sup>3</sup> These are intended to prevent third countries from free-riding on preferences. To enforce these rules, imports must be accompanied by a Certificate of Origin issued by the exporting country's authorities or designated entities.

## II. GSP Scope

### 1. Country Coverage

There are 155 beneficiaries of Japan's GSP, including 141 developing countries and 14 territories. Of these, as of December 2007, 105 are general GSP beneficiaries and 50 are LDCs. To obtain GSP treatment, a country must (i) be a developing economy; and (ii) in the case of a territory, have its own tariff and trade system. To obtain LDC treatment, a country must be designated an LDC by the United Nations. A country graduates from the GSP program once its economy is officially classified as "high income" by the World Bank for three consecutive years.<sup>4</sup> Prior to such total graduation, per-item revocation of the benefits may occur under a partial graduation scheme. This revocation occurs if the following conditions are simultaneously met for one year: (i) imports of the concerned item from a high-income supplying country exceed 25 percent of the total imports of that item to Japan, and (ii) the value of imports of the item exceeds 1 billion yen.<sup>5</sup>

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<sup>2</sup> The list in the fiscal year 2004 contains 106 items at HS 9-digit level subject to MFN tariffs. *e.g.*, salt, silk-related, leather-related, and footwear-related goods.

<sup>3</sup> The Implementing Regulation of the Law provides for GSP rules of origin.

<sup>4</sup> Following graduation of 19 States (e.g. Korea, Taiwan, Hong Kong, Singapore) in 2000, Slovenia, Bahrain and French Polynesia were graduated in 2003, 2006 and 2007, respectively. Graduation may, however, be revoked. If a graduate country or territory is not classified as a high-income economy for three consecutive years following graduation, the Government can revive GSP treatment for that country or territory.

<sup>5</sup> The precedence of partial graduation over total graduation is designed to mitigate the impact of graduation on economies of the beneficiary country. In other words, partial graduation targets an anchor product of a major high-income supplier. However, under

## 2. Product Coverage

The wide country coverage of the GSP stands in contrast to its narrow product coverage (Table 1). This remains substantially unchanged despite the 2007 reform.<sup>6</sup>

Japan's Tariff Schedule includes 9035 items at the 9-digit level, including 2023 agricultural-fishery items (HS Chapters 1-24) and 7012 industrial-mining items (HS Chapters 25-97). Of 2023 agricultural-fishery items, MFN dutiable items and others (MFN duty-free and non-concessional items) account for 1641 and 382 of them respectively. Of the 7012 industrial-mining items, 4290 are MFN dutiable and 2722 are MFN duty-free and non-concessional.<sup>7</sup>

The scope of GSP-eligible products among the MFN-dutiable items is a key issue. GSP product coverage in the agricultural-fishery sector is still limited. Of the 1641 MFN dutiable agricultural-fishery items, 1301 items (80 percent), are excluded from the GSP scheme, leaving only 340 (20 percent) GSP-covered items in the Positive List. Examples from the Positive List include maize seed, frozen octopus, burdock, truffles, Matsutake mushroom, and vegetable juices. Items in the Positive List are either duty-free or have tariffs lower than MFN duty rates<sup>8</sup>.

LDC-specific duty-free items in the agricultural-fishery sector prior to the 2007 reform accounted for 157 items at HS 9-digit level: *including*, black tea, edible *Brassica*, shallots, lettuce, carrots, turnips, cucumbers, beans, and celery.<sup>9</sup> Imports of such items from non-LDC GSP countries were subject to MFN tariffs<sup>10</sup>. The 2007 reform made LDC-specific duty free of all GSP-covered agricultural-fishery items. However, the

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partial graduation, the Government reviews both the GNP per capita and the product's imports every year. If one of the above-mentioned conditions is not met, partial graduation is suspended so that GSP treatment for the concerned product is revived.

<sup>6</sup> Japan proclaimed this initiative prior to the Declaration of the WTO Ministerial Conference held in Hong Kong in December 2005. The Declaration called for WTO Member States to grant duty-free, quota-free market access to all LDCs on more than 97 percent tariff-line items. Japan complied with the recommendation, increasing LDC-specific duty-free items from 86 percent up to 98 percent tariff lines at the HS 9-digit level.

<sup>7</sup> The number of tariff lines at the 9-digit level changes year by year. This paper adopted the number published by the MOF in November 2007.

<sup>8</sup> For example, 5 percent for octopus (HS 030751), duty-free for burdock (HS 070690), 7.6 percent for vegetable juices (HS 200980-221). Needless to say, these GSP tariffs are accorded to the Positive List items that meet GSP rules of origin and other relevant requirements.

<sup>9</sup> These are a subset of the 18 groups for agri-fisheries referenced in the footnote 3.

<sup>10</sup> Suppose Japan imports black tea, one of important duty free items for LDCs. If it is imported from an LDC such as Bangladesh or Nepal, it is duty free. In contrast, imports from major GSP suppliers such as India, Sri Lanka and China, are subject to the MFN tariff of 12 percent.

newly introduced LDC Exceptions List gives a single list of exceptions applying to imports from any LDC. It includes 118 ultra-sensitive items at the HS 9-digit level<sup>11</sup>.

In the industrial-mining sector, of the 4290 MFN dutiable items at the HS 9-digit level, 3216 items (74 percent) were covered by the non-LDC GSP scheme prior to the 2007 reform. The remaining, GSP-excluded items accounted for 1074 items (26 percent). They were broken down into 105 items in the Exceptions List for the non-LDC GSP scheme and 969 items in the LDC-specific duty-free List. The 2007 reform did not affect the non-LDC GSP coverage. Likewise, the GSP-exclusion list remained intact, covering 1074 at the HS 9-digit level. These consist of 1028 GSP Exceptions List items and 46 LDC Exceptions List items. Some items were moved between the GSP Exceptions and LDC Exceptions Lists. The current GSP Exceptions List includes, in addition to most items in the previous GSP Exceptions List (except salt)<sup>12</sup>, the previous LDC Exceptions List items.<sup>13</sup> In return, 46 items in the previous GSP Exceptions List items<sup>14</sup> were transferred to the current LDC Exceptions List. Brief, non-LDC GSP coverage underwent no amendment while LDC-specific duty-free coverage was expanded.<sup>15</sup>

GSP coverage, whether in agricultural-fishery or industrial-mining sector, may be circumscribed by safeguards, however. If imports of a GSP-covered item increase due to preferential treatment and cause, or threaten to cause, injury to a domestic industry producing a like or directly competitive item, preferential treatment may be suspended,

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<sup>11</sup> *E.g.*, some fishes, fish filets, rice, sugar items, rice or wheat preparations, food preparations using rice, wheat or barley, preparations of sugar centrifugal etc.

<sup>12</sup> *E.g.*, salt, petroleum crude oil, gelatins and glues, fur skin, leather items, tropical tree plywood, silk worm cocoons, footwear and watch straps and parts of leather. Whereas salt and petroleum oils are unbound under the WTO, other items are bound in the WTO.

<sup>13</sup> *E.g.*, petroleum spirits, ethylene, natural gas, raw skins, plywood, silk fabrics, silk worm cocoons (subject to over-quota tariff), raw silk, cotton yarn, printed fabrics except batiks, woven pile fabrics, articles except gloves, apparels, made-up textile articles and footwear.

<sup>14</sup> *Inter alia*, gelatin and glues, apparels of leather or composition leather, furskins of sheep, goat or rabbit, footwear and parts, and watch straps, bands and bracelets of leather or composition leather. Under the current regime, ex-GSP Exceptions List was *grosso modo* transformed to new LDC Exceptions List.

<sup>15</sup> According to the MOF statistics from April to August 2007, the newly introduced LDC-specific duty-free regime enabled LDCs to increase exports to Japan of **ex-LDC** exceptions items, such as dried kidney beans, frozen beef and natural honey. These three items were subject to MFN tariffs of 10 percent, 38.5 percent and 25.5 percent, respectively. However, imports of frozen tuna and frozen cuttlefish decreased despite the duty free regime replacing the former MFN tariff of 3.5 percent under the LDC Exceptions List. The same holds true with regards to industrial-mining items from LDC that were newly covered by the duty free regime. From a short-term viewpoint, the expansion of LCD duty-free ceiling-free items did not result in significant increase in imports of expanded items.

and an MFN tariff applied. No safeguard applications have been reported.

### 3. Ceiling Regime

Of GSP-eligible industrial-mining items, sensitive goods are subject to a ceiling regime<sup>16</sup>. Under the regime, GSP treatment is accorded to these goods<sup>17</sup> up to certain ceiling quantities or values, but imports in excess of the ceiling are subject to MFN tariffs. GSP in-ceiling duty rates vary from item to item, *i.e.*, (i) duty-free, (ii) 20 percent of MFN tariff, (iii) 40 percent of MFN tariff, (iv) 60 percent of MFN tariff, and (v) 80 percent of MFN tariff.<sup>18</sup> Two kinds of ceiling regime can be applied: a per-country ceiling and a per-item ceiling. Under the per-country ceiling, if imports of an item from one GSP beneficiary exceed 20 percent of the permitted annual ceiling GSP treatment for the concerned item is suspended. Under the per-item ceiling, if imports of an item exceed the annual total ceiling value or quantity, GSP is suspended for the item for all GSP beneficiaries. The ceiling regime is administered on a first-come, first-served basis by the Japanese Customs Authority.

In principle, imports from LDCs are generally not subject to ceiling; however, ceilings were introduced by the special law under the current 10-year GSP scheme (2001 – 2011) for imports of refined copper from the Democratic Republic of Congo and Zambia (both of which are classified as LDCs). These ceilings applied from 2001 to 2005.

The number of GSP-covered items not subject to ceiling reaches 2033 at HS 9-digit level. They are potentially subject to safeguards, however.

### 4. Country-Specific Competitiveness-Focused GSP-Exclusion

Imports under the GSP from specific GSP beneficiaries may be excluded from

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<sup>16</sup> The GSP-specific “ceiling regime” is not exactly equated with a tariff quota *stricto sensu*. Administered on a first-come, first-served basis and on a monthly basis, the ceiling regime is a wonderland up for grabs. Hence, should imports of a ceiling item from only one or two GSP beneficiaries exceed the ceiling immediately after the beginning of the fiscal year, GSP treatment would be suspended from the 16th of the following month for the item from any GSP beneficiary. In addition, importers of the item exceeding the ceiling need not pay MFN tariffs for imports in excess of the ceiling value or quantity. For example, umbrellas, one of the important ceiling items, are imported annually from China, and imports from China reach almost a hundredfold of the annual ceiling by the end of April, in just one month following the beginning of the fiscal year.

<sup>17</sup> *i.e.*, 1183 items at HS 9-digit level as of September 2007.

<sup>18</sup> Imports from LDCs enjoy duty-free treatment once GSP conditions are met.

GSP treatment under the "country-specific competitiveness-focused GSP-exclusion", effective since fiscal year 2003. This mechanism does not apply to LDCs. Japan used the country-specific competitiveness-focused GSP-exclusion several times since 2003 for a range of products including canned tuna from Thailand, ethylene glycol from Saudi-Arabia, mats and screens of vegetable materials from China, and certain kitchen and tableware from China.

Two yardsticks are used to determine a highly competitive item's impact on the domestic industry. One is whether import values of a concerned item from a GSP beneficiary to Japan exceed 50 percent of the total value of imports to Japan in two consecutive fiscal years. The other is whether the import values of the item amount to one billion yen in two consecutive fiscal years. The yardsticks are not absolute, however; GSP-exclusion is ultimately left to the discretion of the government. If, in the view of the government, there is no need for GSP-exclusion in light of the amount of domestic output and the impact on a domestic industry, the concerned item may remain covered by the GSP scheme, despite exceeding the yardsticks described above.

#### 5. Fishing-Specific and FTA-Specific GSP-Exclusion

Two additional GSP-exclusion regimes were recently introduced. First, if a GSP beneficiary (other than an LDC) infringes measures adopted by regional maritime organizations to preserve fishery resources and the environment, imports of the fish from the infringing GSP beneficiary can lose GSP treatment from fiscal year 2007.<sup>19</sup> Second, with the entry into force of FTAs with GSP beneficiaries such as Mexico, Thailand, Malaysia and Chile, of items covered by both FTAs and GSP, a series of items for which FTA preferential duty is lower than GSP duty were excluded from GSP treatment. Gradual intra-FTA duty reduction inevitably leads to per-FTA per-item GSP-exclusion, reducing the benefit of the GSP.

### III. GSP Rules of Origin and Supplementary Regime

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<sup>19</sup> There are several fishing-place commissions that work to preserve main fishes such as tuna. These commissions are empowered to adopt measures to preserve concerned fishery resources. In the case of their infringement by a GSP beneficiary, the Government of Japan may exclude the fish from the infringing GSP beneficiary taking into account of injury to domestic industry on a case-by-case basis. The exclusion does not apply to the fish covered by the Ceiling regime. Once the measure is suspended by the commission, the GSP revives.

## 1. Overview of GSP Rules of Origin

The GSP Rules of Origin criteria consist of the "wholly produced goods" criterion and the "substantial transformation" criterion. For preference eligibility, Japanese inputs are included with materials produced in a preference-receiving country when considering local content<sup>20</sup>. In the case of a finished product produced using both local materials and third country inputs, the country of origin is determined according to the substantial transformation principle as discussed below.

The principle of cumulative origin applies to goods produced within five ASEAN Member Countries, i.e., Thailand, Malaysia, Indonesia, the Philippines and Vietnam. These goods may be goods wholly produced in ASEAN, or goods substantially transformed in ASEAN, i.e., goods with materials wholly produced in ASEAN and other materials that have undergone substantial transformation in ASEAN. The substantial transformation criterion is a key component of GSP rules of origin. When more than two countries are involved in the manufacturing process of particular goods, the finished goods are considered as originating in this preference-receiving country, provided those inputs have been substantially transformed in that country.

The substantial transformation criterion may be satisfied by one or more of four tests: (a) change of tariff classification ; (b) double processing; (c) a value-added test; or (d) a mixed test. A change of tariff heading between a finished product and the non-originating materials is sufficient to confer origin on the preference-receiving country. This test applies to many agricultural products and to some industrial products, such as inorganic chemicals; Double processing operations are required for some non-machinery products. For fabrics from staple fibers, for example, the double processing test requires the manufacture of yarn from staple fibers and the production of fabrics from yarn. For clothing accessories such as handkerchiefs, the double processing test may be satisfied by weaving the fabric and the production of the goods.

In the machinery sector (i.e., HS Chapters 84 to 91) most goods are bound duty-free in the GATT/WTO. Only six 4-digit goods— insulated wire, carbon electrodes, armored fighting vehicles, spectacles and frames, and watchstraps — are dutiable. GSP rules of origin for these six product groups are based on value-added criteria. Two different value-added tests are used: a 55 percent value-added test for products assembled of parts including those within the same tariff heading, and a 60 percent value-added test for products assembled of parts from different tariff headings.

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<sup>20</sup> The "preference-giving country content" principle or "donor country content" principle.



Finally, a mixed test of processing operations combined with value-added is used for a number of products. This test appears in three different forms: One form is a test requiring manufacture of materials from different tariff heading and less than 40 percent import content (*i.e.*, more than 60 percent value-added) for certain food preparations. A test requiring manufacture of materials from different tariff headings and less than 50 percent import content is used for for medicaments, odoriferous substances, preparations for use in dentistry, specified chemical products, umbrellas, brushes, buttons and certain toys and models.. A test requiring manufacture from the same tariff heading materials and less than 50 percent import content is used for cut worked containers and glassware.

## **2. GSP Origin Certification and Verification**

GSP-covered imports must be accompanied by a Certificate of Origin issued by one of the following certifying bodies: (i) the exporting country's customs agency; (ii) another authoritative government agency; or (iii) the Chamber of Commerce or other similar bodies, if recognized as adequate by the Japan customs. Names and seals of certifying bodies must be notified to Japan. A certificate of origin without notified seals, with a falsified certificate or a copy of the certificate will be rejected. In addition, GSP rules require that the following additional certifications be attached to a Certificate of Origin where relevant: (a) *Hand-Dyeing Certification*. For batik fabrics to be eligible for preferential treatment, they must be certified as hand-dyed or hand-printed batik. and (b) *Donor-Country Content Certification and Cumulation Certification*.<sup>21</sup>

In case of doubts as to the authenticity or the accuracy of the Certificate of Origin, Customs can carry out verification under relevant administrative notices. To this end, customs may request the exporting GSP countries' authorities to submit additional evidence and certification via telecommunications. However, as seen in the frozen

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<sup>21</sup> In a power brake wire case, both a certification of cumulation and a donor-country content certification were attached to a certificate of origin for the final good imported to Japan. In this case, a power brake wire (7312) was manufactured in Malaysia using steel wires (7312) and a zinc dye cast clasp exported from Japan, and underwent tension testing in Thailand. The Malaysian authorities issued a certification that the power brake wire and zinc dye cast clasp exported from Japan acquired Malaysian origin based on the donor-country content test. The Thailand authorities issued a certification that the manufacturing process in Malaysia and the testing operation in Thailand could be cumulated and considered carried out in ASEAN. Japan customs accorded preferential treatment to the power brake wire from Thailand accompanied with a certificate of origin issued by the Thai authorities, Malaysia's donor-country content certification and Thailand's cumulation certification.

octopus case, customs conducted *de facto* on-the-spot verification to establish the falsification of certificates of origins.<sup>22</sup>

### 3. Direct Transportation Requirement

Goods that originate in a preference-receiving country should be consigned directly to Japan without passing through a third country. However, goods are regarded as directly consigned to Japan if they pass through the territory of a third country for transshipment, temporary storage, or exhibitions that are carried out in a bonded area and under customs control of the third country. In the case of transshipment, however, relevant evidence must be submitted to Japan Customs.<sup>23</sup>

### 4. Sanctions

To induce compliance with GSP rules of origin, sanctions, coupled with origin certification and verification, are stipulated. False declaration of origin is subject to either imprisonment for up to 5 years or a penalty of up to five million yen, or both. The same applies to tax evasion through abuse of preferential treatment. In addition, Customs may increase penalty up to 10 times where tax evasion is involved. However, Customs does not do enough to pursue criminal prosecution. Rather Customs seek to have the penalties compounded, i.e., request a financial payment as an out of court settlement.

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<sup>22</sup> In this case, a major Japanese fishery company misused the special preference regime for imports from LDCs by submitting falsified certificates of origin to Customs in the latter half of 1990s. The frozen octopus (HS 0709.50.100) in reality originated in West African GSP beneficiary countries. Japan's MFN tariff and GSP tariff at that time were around 7 to 8 per cent (progressively lowering MFN duty rates following the Uruguay Round) and 5 per cent, respectively. The tariff for imports from LDCs was zero. Accordingly, the firm could have benefited from GSP tariffs. Instead, the firm abused duty-free treatment for LDCs. After purchasing blank certificates of origin prepared by certifying bodies in LDCs (i.e. Gambia and Mauritania), the company had an innocent forwarder import the frozen octopus with falsified certificates of origin disguising the imports as originating in LDCs. The imports using falsified certificates of origin were made 281 times between June 1986 and December 1999, allowing the company to evade tariffs of ¥419 million. Customs discovered the falsified certification through on-the-spot investigations at home and abroad. Upon a criminal accusation filed by customs, the District Court of Tokyo sentenced the company to a penalty of ¥120 million and the company's director to a suspended two-year prison term. See Tokyo District Court, Heisei 13, Toku (Wa) No.2206, Judgment dated January 16, 2002 (in Japanese).

<sup>23</sup> Hence, if Chinese-origin Matsutake mushrooms are transshipped in Hong Kong, evidence proving that the products were transshipped through Hong Kong must be attached to a formal Certificate of Origin issued by the Chinese mainland authorities.

## IV. GSP Utilization

### 1. Poor GSP Utility Ratio

About a half of Japan's imports (47.1 percent in fiscal year 2005) were exported from GSP beneficiaries. The total amount of imports from GSP beneficiaries doubled from 9 trillion yen in fiscal year 1975 to 19 trillion yen in 1980, increased only marginally during the period of yen appreciation, and increased from around 20 trillion yen in 2002 to 28 trillion yen in 2005 (Table 2)<sup>24</sup>. Imports from LDCs remained very small compared to total imports from the world and from GSP beneficiaries as a whole despite LDCs' potential entitlement to duty-free treatment. Imports from GSP beneficiaries consist of MFN duty free items and MFN dutiable items. The ratio of MFN dutiable imports from GSP beneficiaries to total imports from GSP beneficiaries decreased from 83.5 percent in 1975 to about 50 percent in 2000/2001, reflecting trade liberalization under the GATT/WTO. Japan lowered the MFN tariff for a number of goods to zero or low rates, in particular during (and following), the Uruguay Round negotiation.

GSP-covered goods accounted for 52.2 percent of MFN dutiable imports in 2001. However, GSP-covered imports did not necessarily enjoy preferential treatment, for various reasons. On the contrary, the statistics show a poor utilization ratio of GSP treatment. The GSP utilization ratio in the 1980s was around 60 percent. However, the ratio declined to between 32 and 34 percent from 2000 to 2005 (Table 2).<sup>25</sup>

The low GSP utilization reflects trade liberalization under GATT/WTO and Japan's legal regime. With promotion of trade liberalization following the Uruguay Round, the preference margins gradually decreased and hence, benefits arising from preference margins faded compared to the costs incurred for in qualifying for preferences. Major exporting GSP beneficiaries, including Japanese-owned subsidiaries, incurred significant costs meeting GSP rules of origin and keeping necessary evidence to obtain Certificates of Origin; moreover small local industries in GSP beneficiaries frequently lack the financial and human resources to comply with onerous rules of origin.

The poor performance of the GSP is in part explained by its protectionist orientation. The narrow GSP coverage in both the agricultural-fishery and industrial

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<sup>24</sup> It reached 32 trillion yen in 2006. See Table 1.

<sup>25</sup> Likewise, the utility ratio representing the percentage of GSP receiving imports to MFN dutiable imports is quite low: only 16 percent, even in 2001.

mining sectors for instance is further limited by the competitiveness-focused GSP-exclusion clause. In the industrial-mining sector, despite the GSP-granting principle, the ceiling regime, which is operated on a first-come, first-served basis, disadvantages minor GSP beneficiaries relative to the Asian tigers.<sup>26</sup> In addition to the narrow GSP product coverage, access to preferential treatment by GSP beneficiaries and LDCs is restricted by strict and costly requirements under the GSP rules of origin and certification.

## 2. GSP Utilization Ratio in the Agricultural-Fishery Sector

In the agricultural-fishery sector, Japan, while restricting competitive imports by quota and tariff peaks, relies on imports from the world to meet domestic demand. The degree of dependence on imports (*inter alia*, from China and ASEAN countries) is high with regard to vegetables, fruits, and certain fish, all of which are subject to low MFN duties. The ratio of MFN dutiable imports to total imports of agricultural-fishery products from GSP beneficiary countries has reached roughly 80 percent over the past three decades. This is indicative of tariff peaks to protect uncompetitive domestic sectors. GSP-covered imports increased 10 times in nominal terms, from 82 billion yen in fiscal year 1975 to 983 billion yen in fiscal year 2005. However, of GSP-covered imports, the GSP-receiving imports did not significantly increase, declining from 430 billion yen in fiscal year 1995, to 338 billion yen, in fiscal year 2005. Hence, the GSP utilization ratio, fell from 91 percent in fiscal year 1995 to 34 to 39 percent in fiscal years 2003 to 2005 (Table 3). The low GSP utilization ratio reflects Japan's protectionism in the agricultural-fishery sector. The principal cause derives from the above-mentioned *de jure* GSP-exclusion of non-LDC developing countries' key export items and *de facto* hindrances to receiving GSP benefits.

## 3. GSP-Utilization Ratio in the Industrial-Mining Sector

In the industrial-mining sector, total imports from GSP beneficiaries were about 14 billion yen from 1985 to 2001 (Table 4): The ratio of imports of industrial-mining goods from GSP beneficiaries to those from the world, however, decreased from 57.6 percent in 1985 to 42.8 percent in 2001. The graduation of ex-beneficiary, economies (*e.g.*, Korea, Taiwan, Singapore, and Hong Kong) led to a decrease in imports from developing

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<sup>26</sup> The reason is multi-fold: low transportation cost, high investment by Japanese manufacturers in the perspective of Asia-wide regional integration and other politico-economic factors.

industrial countries.

Approximately half (or less) of the imports from developing countries (51.5 percent in 1995, 46.7 percent in 2001, 45.8 percent in 2005) were MFN dutiable. The ratio of GSP-covered imports to MFN dutiable imports increased from 11.3 percent in 1980 to around 45 to 57 percent in fiscal years 2001 to 2005. However, the GSP utilization ratio progressively decreased from 54.9 percent in 1980 to 28 to 33 percent in fiscal years 2001 to 2005 (Table 4). This shows that industrial-mining goods, although covered by GSP treatment in principle, encountered a number of difficulties in meeting conditions for preferential access.

Reasons for a low utilization ratio are also multiple: strict rules of origin for labor-intensive goods, such as textiles and footwear; high costs incurred in acquiring a Certificate of Origin<sup>27</sup>; rigid origin verification; inapplicability of the donor content country criterion to sensitive products<sup>28</sup>, such as most apparel; and the ceiling regime for selected items and competitiveness-focused GSP-exclusion.

#### **4. GSP Ceiling Utilization Ratio under the Ceiling Regime**

Under the law, the total ceiling value under the ceiling regime increases by 1.03 percent per year. In reality, however, it has decreased significantly on a number of occasions. The decrease was radical in fiscal years 2000, 2001, and 2003. The ceiling value of 1,060 billion yen in fiscal year 1999 fell to 699 billion yen in fiscal year 2000, 269 billion yen in fiscal year 2001, and 275 billion yen in fiscal year 2003. This fall was a consequence of the graduation of 20 high-income countries from the GSP in fiscal year 2000, a transfer of certain items from the ceiling regime to the safeguards regime in fiscal year 2001 and the removal of two group products (including, e.g. dolls) from the ceiling regime in fiscal year 2003.

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<sup>27</sup> This cost sometimes exceeded the amount of MFN duties payable, according to traders in Japan.

<sup>28</sup> To benefit from the donor content test in Japan's Customs, exporters of a GSP beneficiary developing country must acquire a Certificate of Origin issued in Japan for Japan's materials that are incorporated into a final good in the GSP beneficiary country. Due to costly certification, the donor content test is difficult to meet. Not surprisingly, similar problems have arisen in Japan's bilateral FTAs with Mexico (and Singapore). One of issues arising from implementation of these FTAs is their low utility ratio. Because it is quite difficult for traders in both Japan and its FTA partners to obtain a Certificate of Origin for materials to be cumulated under FTAs, FTA preferences are rarely used, according to traders in Japan. Though different in character, the reciprocal FTA cumulation rule and the GSP's donor content test pose similar difficulties in submitting relevant evidences and obtaining a Certificate of Origin for materials to be incorporated into a final good.

The average ceiling utilization ratio increased from 60.5 percent in fiscal year 1999 to 92.7 percent in fiscal year 2003 (Table 5)<sup>29</sup>. The discrepancy is due to the way the ceiling was utilized per item and country. Ceiling utilization ratios in fiscal year 2003 differed according to the item and the GSP beneficiary as shown in Figure 1. The lowest utilization ratio was 1.7 percent for Paulownia wood. The highest ratio was 9932 percent for umbrellas. Of GSP beneficiaries, China and some ASEAN countries made use of GSP treatment under the first-come, first-served rule, leaving minor countries with small shares.<sup>30</sup>

## 5. Duty-Free Utilization by LDCs

The LDC-specific duty free scheme was ostensibly an important concession provided by major developed countries including Japan. In practice, however, the scheme does not grant substantial benefits to LDCs. Instead of LDCs, MFN countries (*e.g.*, Korea; U.S.A; Australia, Taiwan) and general GSP beneficiaries (*inter alia*, China, ASEAN GSP countries) were the main suppliers of these goods.<sup>31</sup>

Whether LDC-specific duty-free ceiling-free scheme<sup>32</sup> as applied from fiscal year 2007, will raise GSP utilization ratio by LDCs remains to be seen. The reason is that compliance with origin certification is required for imports from LDCs and infringement of the certification rule gives rise to severe verification and possible sanction.

## 6. GSP Receiving Countries and Products

The main GSP beneficiaries in the 1980s were South Korea, Taiwan, and China. In 1999,

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<sup>29</sup> See table 4 for the definition of the ceiling utilization ratio.

<sup>30</sup> East Asian countries take the lion's share due to, in addition to cost advantages, the commercially strong ties between Japanese traders and Asian manufacturers.

<sup>31</sup> From the viewpoint of general GSP beneficiaries, their exports are subject to MFN tariffs, as far as LDC-specific duty-free items are concerned. The LDC-exclusive duty free scheme has an adverse effect on GSP beneficiaries in cases where the LDC scheme led to LDC exports displacing exports from GSP beneficiaries.

<sup>32</sup> Prior to the 2007 reform establishing the wide-scope LDC-specific duty-free scheme, it was doubtful whether many items of export interest to LDCs were given LDC duty-free treatment. First, MFN duty free items were included in the LDC-specific duty free list. Second, the list included many fishery items for which no imports in fiscal year 2004 were recorded. Third, certain LDC-exclusive duty-free items had in reality been imported only from non-LDCs. The same applies to the current LDC scheme. In particular, items in LDC Exceptions List (*i.e.*, 118 agricultural-fishery items and 46 industrial-mining items)

China became the largest beneficiary. With the graduation of Korea, Taiwan, and Singapore in 2000, China and five ASEAN countries became the key beneficiaries. The statistics show that imports from China and the main ASEAN countries, *i.e.*, Thailand, Malaysia, Indonesia, the Philippines and Vietnam, account for 55-60 percent and 29-32 percent, respectively of those imports enjoying GSP treatment. Imports from China and the ASEAN five contributed 86 to 88 percent (Table 6).

The top ten LDCs benefiting from preferences have been Asian and African countries. According to statistics for 2001, the ratio of preference-receiving imports from LDCs to total imports from them was: 65.8 percent for imports from Asian LDCs (ASEAN LDCs, Bangladesh, and Nepal); 40.9 percent for imports from three ASEAN LDCs (Myanmar, Cambodia, and Laos); 30.3 percent for imports from African LDCs (Mauritania, Gambia, Angola, Tanzania, The Democratic Republic of Congo, Malawi, and Zambia); and 1.3 percent for imports from Oceania's LDCs (Solomon Islands) (Table 7). Preference-receiving items from LDCs in 2005 included: frozen shrimp and prawn from Myanmar, Bangladesh, Mozambique and Madagascar; from octopus from Senegal and Mauritania; and refined copper from Zambia.

## 7. Impact of FTAs on GSP

### *Increase in Japan's FTAs*

In contrast with its rapid introduction of GSP, Japan has been reluctant to conclude FTAs that constitute an exception to the MFN principle. Japan changed its policy at the turn of the 21<sup>st</sup> century. In the view of Japan, regionalism, while theoretically discriminating against third-countries in favor of intra-regional trade, could be harmonized within the WTO's trade-promoting and non-discriminatory system. Japan considered that an increase in regional and inter-regional FTAs, if conforming to WTO disciplines, would help the WTO liberalize and expand the world trade.

Japan chose Singapore— at the time just graduated from Japan's GSP—as its first partner in 2002.<sup>33</sup> Japan then concluded bilateral FTAs with a number of GSP beneficiaries in quick succession. Examples include FTAs with Mexico<sup>34</sup>, Malaysia<sup>35</sup>, Chile<sup>36</sup>, Thailand<sup>37</sup>, the Philippines<sup>38</sup> and Indonesia<sup>39</sup>. Japan and ASEAN 10 also

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<sup>33</sup> Signed in January 2002 and entered into force in November 2002.

<sup>34</sup> Signed in September 2004 and entered into force in April 2005.

<sup>35</sup> Signed in December 2005 and entered into force in July 2006.

<sup>36</sup> Signed in March 2007 and entered into force in September 2007.

<sup>37</sup> Signed in April 2007 and entered into force in November 2007.

reached a broad agreement on an FTA in August 2007, awaiting signature and ratification in 2008. In addition, Japan proposed future conclusion of an East Asian FTA (EAFTA). The latter, if concluded between ASEAN plus Three (Japan, China and Korea), India, and ANZCERTA (Australia and New Zealand), would be the largest FTA in the world, involving half of the world population, and more than half of the world resources and GNP. A possible participation of current major GSP beneficiaries to the EAFTA would cause exclusion or graduation of those GSP beneficiaries from the GSP scheme, thus minimizing the latter. In addition, the preference margin is diminishing following the lowering of MFN tariffs under the WTO. GSP erosion is inevitable in the world trading system.

### ***Coexistence of GSP with FTAs***

Under the existing bilateral FTAs with GSP beneficiaries, Japan made a tariff concession to lower the MFN tariff immediately, or progressively, for numerous goods originating in FTA Partner countries. In addition, Japan allowed many agricultural goods to be included in FTAs' tariff concession for the first time in its history, and made use of the existing GSP scheme in the context of FTAs. A refined scheme was therefore introduced to co-ordinate the GSP with FTAs. They coexist until the intra-FTA liberalization is accomplished. For items covered by both GSP and FTA, the lower of which of GSP and FTA tariffs applies. This means that, of these items, items subject to FTA tariff undercutting GSP tariff are gradually excluded from GSP coverage in accordance with above-mentioned FTA-specific GSP-exclusion scheme. FTA concessioned items falling outside the purview of GSP are entitled to FTA tariffs. GSP items not covered by FTA concession remain subject to the MFN tariff or GSP tariff.

### ***Establishment of FTAs***

If FTAs cover all trade, GSP are redundant. In particular, with the establishment of the EAFTA, most GSP-covered items would be supplied from Asian FTA Partner countries' suppliers. This would deprive other GSP beneficiaries including LDCs of favourable market access opportunity.

## **V. GSP Erosion and Solution**

### **1. GSP Erosion**

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<sup>38</sup> Signed in September 2006, but not entered into force as of February 2008.

<sup>39</sup> Signed in November 2006 and entered into force in August 2007.



GSP erosion derives from various factors: *de jure* narrow GSP coverage; *de facto* GSP-exclusion based on the ceiling regime and competitiveness-focused clause; GSP rules of origin and certification; and a proliferation of Japan's FTAs. The question of how to compensate developing countries for GSP erosion is becoming more important. Two solutions can be contemplated.

## 2. GSP Reform

One potential solution to the preference erosion problem is GSP reform. Although it has widened LDC-specific duty-free coverage, the Government of Japan hesitates to relax GSP rules of origin and origin certification/verification for fear of tax evasion through falsified certification and free-riding. Here lies a dilemma inherent in the GSP regime. The stricter are the rules of origin, the less the GSP is utilized. The more relaxed are the rules of origin, the more free-riding occurs. To overcome this dilemma, tools designed to relax rules of origin could be explored in parallel with reductions in the cost of origin certification for GSP users.

Simplification of rules-of-origin could make them easier for GSP beneficiaries to use. Origin criteria based on a change-in-tariff classification test have major advantages over value-added tests, *e.g.*, in particular, they avoid complicated cost calculation, severe requirements for record-keeping, vulnerability to daily currency change that makes satisfaction of the rule of origin unpredictable. Tools to increase flexibility of the rules could be developed. These might include a toleration test for change-in-tariff classification, conditional outward processing schemes for GSP beneficiaries depending on an off-shore processing,<sup>40</sup> adoption of full cumulation for intermediate goods, extension of the regional cumulation rule to promote regional division of labor<sup>41</sup>, conditional exceptions to the direct transport principle. In addition,

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<sup>40</sup> In general, FTAs require the territoriality principle under which goods from an FTA exporting partner shall be manufactured without interruption in the concerned FTA area to benefit from preferences in the importing partner. If semi-finished goods or intermediate materials are exported for further processing in a third country and re-imported for finishing in the exporting country, the final goods lose eligibility to preferences. Under the territoriality principle, outward processing in the midst of producing goods is precluded. Hence, at the request of an FTA partner country relying on offshore processing, outward processing schemes were introduced into some FTAs under strict conditions. Examples include, *inter alia*, (i) Indonesia's islands (Bintan, Batam and Pulau) processing in FTAs concluded by Singapore with the United States (*i.e.*, the Integrated Sourcing Initiative), Japan, EFTA, Australia and South Korea, (ii) the North Korea's Koesong Industrial Complex processing in FTAs concluded by South Korea with EFTA and ASEAN, (iii) ex-PERO, EFTA and EEA. No similar schemes are found in GSPs.

<sup>41</sup> Japan's GSP provides for only one regional cumulation for ASEAN 5 countries. If

GSP lower tariffs could be based on an *ad valorem* duty, not a non-*ad valorem* duty, as discussed below in reference to MFN reform in the non-preferential area.

Though inevitable to avoid free-riding and trade deflection, origin certification and verification schemes are not costless. Capacity building is needed to help GSP beneficiaries make the best of GSP certification in a cost-saving manner, *e.g.*, free-of-charge, user-friendly governmental certification using internet and producers/exporters self certification, approved exporters' certification under the Pan European Rules Origin (PERO). One alternative might be to model them on the EC and US new-generation GSP schemes, or on provisions such as the flexible rules of origin for clothing for some suppliers under AGOA..

### 3.MFN Reform

Another solution is MFN tariff cuts.<sup>42</sup> The rationale behind this is that most developing country export items with a comparative advantage are subject to MFN tariffs. The problem is that Japan's MFN tariffs for most agricultural-fishery items, and some sensitive industrial-mining items, are high. This high degree of tariff protection is apparent the case of MFN tariffs expressed in *ad valorem* terms. By contrast, the degree of protection is much less obvious for MFN tariffs expressed in non-*ad valorem* form. Converting a non *ad valorem* duty, such as a specific duty to its *ad valorem* equivalent ("AVE") reveals the rate of protection. This AVE may be calculated by dividing collected duties (*i.e.* quantity multiplied by a specific duty amount) by the total import value . In other words, the AVE is "duty amount-to-unit value ratio". Therefore, the more expensive the unit value (*i.e.* the denominator), the lower the AVE. By contrast, the less expensive the unit value, the higher the AVE. Under the WTO, however, it is up to member states to make a choice between *ad valorem* and non-*ad valorem* duties. This choice permits a member state to camouflage the degree of protection for sensitive items by applying non-*ad valorem* duties.

### 4.AVE at a Cross Roads

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regional cumulation is extended to other regions in Central and Southern America, Africa, West Asia, region-wide division of labor could contribute to economic development in GSP and LDC countries.

<sup>42</sup> Without improving the GSP regime, this does not necessarily address preference erosion on specific product lines/for specific countries. This reform will, however, benefit developing countries in the aggregate, as other research has found. Comment from the editor.

*Utility of AVE:* It is still an open question whether the AVE is a consistent criterion for measuring the height of tariff wall, in particular in the non-preferential area. The reason is that the AVE varies according to the unit value of goods. The unit value, in turn, changes depending on various factors (*e.g.*, technical progress, cost performance, economic development, *etc.*). The AVE will differ between exporting countries, but this difference is meaningful. Because poor countries typically sell products at lower prices, the AVEs they face are higher. This means that non-*ad valorem* duties inflict greater damage on imports from developing countries than on those from developed countries. Hence, if non-*ad valorem* duties were converted to an-*ad valorem* duties at the average rate applying to all countries, the tariff burden on imports from developing countries would be reduced.

### ***AVE Issues in the Doha Round***

AVEs are particularly important in the Doha negotiations because to reduce tariffs using a nonlinear methodology such as the tiered formula being used in the agricultural negotiations or the Swiss formula being discussed in the negotiations on non-agricultural products, conversion of non-*ad valorem* duties to an AVE is necessary.

Given the leeway to choose between *ad valorem* or non-*ad valorem* customs duty for any goods, high income WTO members, including Japan, typically adopted non-*ad valorem* duties for sensitive agricultural products. Higher AVE's of non-*ad valorem* duties discouraged access by suppliers selling at lower prices. Hence, whether and how to convert non-*ad valorem* duties to *ad valorem* duties, and lower these converted *ad valorem* duties, is a crucial issue to be dealt with in the next round.

Not surprisingly, the AVE issue was incorporated in the Doha Round agenda. In order to add political momentum to the Doha negotiations, the mini-Ministerial conference, held in Paris on May 3-4, 2005, reached an important breakthrough on the issue of agricultural AVEs that had stalled progress in the area of non-agricultural negotiations. This agreement on AVE's was a key step in developing a formula for reducing tariffs, especially for agricultural products. This issue was politically sensitive since higher AVE's lead to deeper tariff cuts on these products. In addition, the deal will apply a weighted average of the import prices reported by the governments to the WTO's Integrated Database, the approach favored by the EU and the G-10 and the generally lower international market prices in the United Nation's COMTRADE database, the approach favored by farm exporters (United States, the Cairns Group). Among the goods that will be subject to the "mixed weighting" formula are bovine meats and processed

foods.

***AVEs in the Agricultural-Fishery Sector*** Most agricultural and fishery products are subject to MFN tariffs expressed as specific, compound, or selective duties. AVE's of those non-*ad valorem* duties are frequently extremely high. *Rice*: The tariff for rice<sup>43</sup> took the form of a tariff quota consisting of (i) the in-quota tariff for state trading; and (ii) the over-quota tariff for private trading. While the former is zero, the latter is specific, *i.e.*, 341 yen/kg that consists of the temporary tariff rate (49 yen/kg) and an adjustment levy (292 yen/kg)<sup>44</sup>. The AVE of the over-quota specific tariff for rice, in particular "semi-milled or wholly-milled rice" (HS 1006.30-090), reached 483 percent for Chinese rice and 626 percent for Thai rice in calendar year 2004. Even U.S. rice was subject to a 408 percent AVE in calendar year 2004 (Table 8). The weighted average AVE's for durum wheat and meslin in calendar year 2004 were 14.7 percent and 18.5 percent, respectively. Wheat and barley are excluded from the GSP and categorized as a tariff peak. The tariff for GSP-excluded maize (HS 1005.90-099) is selective, *i.e.*, 50 percent or 12 yen/kg, whichever is greater. The AVE of the selective duty exceeded 50 percent for imports from the U.S., Australia, China, Thailand, Argentina, and South Africa. The highest AVE was 75.8 percent against imports from Argentina.

Amorphophallus konjac-related goods are divided into (i) tubers used as ingredients for making a final goods; and (ii) prepared final goods. The tariff quota for tubers is composed of an *ad valorem* duty for the in-quota imports (MFN, bound 40 percent) and a specific duty for over-quota imports (2796 yen/kg). The average AVE for the over-quota imports in calendar year 2004 exceeded 1000 percent. The highest AVE was 1547 percent for imports from Myanmar (LDC). Likewise, AVE's in calendar year 2003 ranged from 1501 percent for imports from Myanmar, to 585 percent for those from China, with an average of 971 percent. On the other hand, preparations of *Amorphophallus konjac* are subject to an MFN tariff rate of 21.3 percent.

The AVE of the compound tariff (21.3 percent + 114 yen/kg) for low fat content dairy products, imported only from China, was 32.7 percent. By contrast, AVE's of the compound tariff (21.3 percent+ 1199 yen/kg) for high fat content goods, imported from the U.K. and Belgium, were 92 percent and 394 percent, respectively. Concentrated

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<sup>43</sup> Rice was a unique item that was not tariffed under the WTO regime. However, the special treatment option required countries to provide larger minimum market access opportunities than under tariffication. In addition, due to abundant harvests in the latter half of the 1990s in Japan, the domestic stock of rice swelled. This led Japan to tariffy rice in 1999.

<sup>44</sup> The temporary tariff for over-quota imports of rice (49 yen/kg), which is lower than the WTO tariff (341 yen/kg), seems to apply. However, the substantial tariff is the sum of the temporary tariff and the adjustment levy (292 yen/kg), *i.e.*, the WTO tariff based on the tariff equivalent. The same applies to other agricultural goods subject to the tariff quota regime.

or sweetened milk and cream under the tariff quota are protected by an in-quota *ad valorem* duty in the 25 to 30 percent range and an over-quota compound duty. The AVE of the over-quota compound duty for fatty goods (HS 0402.99-129) is more than twice (60.7 percent for imports from Spain, 70.9 percent for goods from Brazil) than the in-quota *ad valorem* tariff (30 percent). The AVEs of the over-quota compound duty for non-butter milk powder of a specified fat content (HS 0403.90-128) from Belgium in calendar year 2004 was 409.6 percent. The tariff regime for butter imported by private parties is controlled by a tariff quota. In contrast to in-quota imports (HS 0405.10-121) subject to an MFN, bound 35 percent *ad valorem* duty, over-quota imports (HS 0405.10-129) are compound, *i.e.*, 29.8 percent plus 985 yen/kg. The AVE of the compound tariff for Swedish butter in calendar year 2003 reached 309 percent

***AVEs in the Industrial-Mining Sector*** In the industrial-mining sector, only a few items are subject to MFN non-*ad valorem* duties. Cotton poplin goods, *i.e.*, unbleached, bleached, dyed, and printed items, are subject to the selective duty: 5.6 percent or (4.4 percent+1.52yen/sm), whichever is greater. AVE's of the selective duty for China and Malaysia in year 2004 were 8.60 percent and 8.80 percent, respectively. Footwear under HS 6403.20 from Sri Lanka, a major GSP exporter, are subject to tariff peaks of 21 percent for in-quota imports and a selective duty (30 percent or 4300 yen/pair, whichever is greater) for over-quota imports. The AVE of the selective duty was 143 percent for Sri Lanka.

Sports wear under HS 6405.90 are subject to an MFN rate of 24 percent for in-quota imports, and a selective duty (30 percent or 4300 yen/pair, whichever is greater) for over-quota imports. AVE's for the over-quota imports from China in calendar year 2004 were 76.26 percent (6405.90-112) and 127 percent (6405.90-122), respectively. AVEs of non-*ad valorem* duties for some mining goods and ballpoint pens in year 2004 did not exceed 10 percent.

***Reluctance to use Ad-Valorem Duties for Sensitive Items*** The government is reluctant to use *ad-valorem* duties for sensitive products. Like in the case of specific duties, selective duties for sensitive items not only hinder the use of preferences but also give rise to discrimination between exporting countries. Under selective duties, tariff burdens on imports from different suppliers differ from country to country as shown in the different AVE's of the selective duty for relevant goods.

## **Conclusion**

The GSP is sharply at odds with the Most-Favored-Nation principle of the WTO.

The GSP scheme has been compromised by protectionism in sensitive sectors, which subject competitive imports from GSP beneficiaries and LDCs to the MFN regime. The rules of origin are frequently justified as contributing to industrial development in poor countries. Japan pursues conflicting policies, i.e., trade liberalization in strong sectors and protectionism in weak sectors. Contradictions in trade policy throughout the world, however, are everywhere.

Central to resolving GSP erosion is improvement of the GSP scheme, on the one hand, and MFN reform on the other. With the inevitable GSP erosion in mind, policy-makers should deal with MFN tariff issues: *i.e.*, residual non-*ad valorem* tariffs with an equivalent effect to high *ad valorem* duties, *ad valorem* tariff peaks, and 106 WTO-unbound items at the HS 9-digit level. Two issues of priority are the conversion of non-*ad valorem* duties to AVEs and the lowering of tariff rates, because most exports of great interest to developing countries are GSP-excluded and face high MFN non-*ad valorem* tariffs.