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Making migrant returns a pre-condition of trade openness

A geopolitical error that makes no sense for development



In a quirk of the European legislative calendar, EU institutions will debate the adoption of a regulation on the ten-year reform of the European Generalised System of Preferences¹ (GSP)², an iconic instrument of the relation between the Union and the seventy poorest countries in the world, most of which are in Africa, just as the United Nations vote on the crisis in Ukraine raises these very countries' doubts regarding the West and Europe in particular. It is therefore essential to study the new system proposed by the Commission in September 2021 with utmost attention, in terms of the effects it is likely to have on the quality of relations between the European Union and these "least developed countries".

Overall, the idea behind readjusting the GSP seems reasonable. It follows on from developments over the decades such as the confirmation of a three-regime system, in which the most favourable ("Everything But Arms") is particularly beneficial for countries in the greatest difficulty, heightened incentives for countries which are beginning

¹ See the text COM(2021) 579 final.

² Designed in the early 1970s, the Generalised System of Preferences is intended to encourage goods imports (mainly food and industrial products) from the poorest countries through lower import duties, or even their total removal, with a view to facilitating the development of these nations according to the principle of promoting "trade, rather than aid". This scheme has undergone several major developments, notably in 2001 with the creation of the "Everything But Arms" (EBA) initiative within the GSP which stipulates that all imports to the EU from the least developed countries are duty-free, with the exception of armaments.

to comply with international conventions for sustainable development, fundamental human rights and good governance, and an improved system for checking compliance with these conventions. However, it is surprising to see, for the first time in the GSP's pre-conditions, the criterion of compliance with the European Union's migration policy. **While it is understandable that the EU is gradually consolidating its environmental and human rights requirements because they are related to the production of goods exchanged with the EU, the same cannot be said for the circulation of persons between these countries and Europe.**

In specific terms, article 19 of the draft regulation provides for **the temporary withdrawal of the preferential arrangements of the GSP for countries which do not accept the readmission of their citizens** obliged by an EU Member State to return there³. This may appear to be a legitimate measure to protect European interests, but in practice this is not the case. On the contrary, this type of provision demonstrates the ambiguity of European migratory protectionism encouraged by populist parties and governments: under the pretext of justice, they stop attempts to organise migratory flows in their tracks and tend to cause harm both for the countries of departure and for European citizens.

In terms of principles, the GSP's conditionality, intended by the Commission to put pressure on returns, does not hold up. The GSP and more specifically the EBA regime⁴ were designed against the backdrop of a universal and multilateral global system to organise global trade: this concerns the collective management of a common good and the development of trade exchanges. However, the European Union's migration policy is not part of a multilateral framework. The unilateral nature of the EU's migration policy has long been criticised by developing nations, in Africa in particular, which fault it for having been designed solely in the interest of countries of destination, which goes against the announced mutual principles.

Similarly, as the purpose and very often the effect of the GSP entail promoting the development of poor countries by facilitating their gradual integration into world trade, **countries to be penalised by withdrawal of the EBA will have their development further curtailed, to the advantage of "good performers", which will encourage more people to leave via illegal immigration routes.** Some examples are Mali, the two Guineas, Senegal and Afghanistan, countries that are currently reputed to not be very cooperative in terms of return policies. North-American development aid practices marked by political Manichaeism have already proven the harmful nature of their client politics. In following this model, how can one fail to see that the repressive signal given by the EU will be leveraged by its Russian and Chinese opponents to expand anti-Western feeling?

Beyond principles, the trends specific to international migratory movements, and North-South flows in particular, leave us sceptical regarding the efficacy of such a migration pre-requisite being enshrined in the GSP. The poorest countries that are reluctant to cooperate with return policies are also those in which civil society is oppressed, those in which aid is lost in the meanders of corruption: they get by thanks to remittances, to resources sent back to the country by those who have emigrated. It is highly unlikely that the loss of the GSP would be incentive enough to discourage departures, even illegal ones, which subsequently generate these resources.

To some degree, the wording of the European Commission's communication which introduces the GSP's ten-year reform speaks volumes of the uneasiness that we strive to criticise here. The recitals (26 and 27) of the draft regulation highlight the coopera-

³ Art 19, paragraph 2c.

⁴ Cf. note 2.

tive nature of a common migration challenge between the EU and Southern countries, particularly in Africa: “*It is essential for both origin and destination countries to address common challenges, such as, stepping up cooperation on readmission of own nationals and their sustainable reintegration.*” And, “*Return, readmission and reintegration are a common challenge*”. This is true. It is therefore surprising to see these recitals justify unilateral decisions to suspend the GSP. **The European Union is within its rights to apply a return policy. It results from a legal migration policy. Yet these policies can no longer be designed unilaterally without any real consultation with countries of origin.**

Today, the EU’s return policy is a failure, with a success rate of only 20%-40% depending on the country. Yet this is not due to a lack of sanctions such as suspending visas. While legal migration policies, including return measures, are really in the common interest, it is time, as the Jacques Delors Institute and many other organisations have stressed for a long time now, to focus on real cooperation with the South.

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