

To comply or not to comply

Labour rights conditionality
in the GSP+

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“Trade policy must harness the economic benefits of trade liberalisation whilst promoting universal values such as human rights and social justice that lie at the core of the European Project.”

Karel De Gucht, EU Commissioner of Trade (2010-2014)
(S&D Conference, Brussels, 13 October 2010).



Source: The Sunday Times Sri Lanka

Erasmus

Abstract

In 2005, the Special Incentive Arrangement for Sustainable Development and Good Governance (GSP+) was created. It is an incentive arrangement for the protection of labour rights, human rights, good governance and the protection of the environment. Therefore, it comprises the implementation of international conventions amongst others on labour rights in exchange for the removal of tariffs. Despite its existence for over a decade, it has received little academic attention in general and especially regarding compliance theories. The attention has been on economic literature that analyses the effect on trade and literature that assesses the lack of efficiency of the GSP+. This thesis adds to the small existing body of literature by analysing the underlying reasons for compliance.

The reasons for compliance are analysed by identifying and defining factors which influence the likeliness of compliance with international commitments such as labour rights. It will do so by creating a theoretical framework consisting of international relations theories. The literature review analyses realist and social constructivist literature such as literature on the principal-agent theory. Based on the literature review, five assumptions have been formulated to determine their relationship with compliance of the GSP+ beneficiary countries. The qualitative approach of the thesis allows for an comparative in-depth analysis of five beneficiary countries. These are Bolivia, Costa Rica, Ecuador, El Salvador and Guatemala. The distinct cases are analysed in three analytical steps consisting of the temporal identification of compliance, the preconditions of the GSP+ and specific rationalist factors such as social-constructivist factors. The conclusion evaluates a distinction of factors which the EU can and cannot influence and postulates recommendations on how to enhance compliance with the GSP+ and the effects thereof. Thus, the goal of the thesis is to identify factors, which hinder or encourage compliance with labour right provisions in the GSP+.



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List of Abbreviations

BOL	–	Bolivia
BWI	–	Bretton Woods Institutions
CIRI	–	Cingranelli-Richards Human Rights Data Set
CLS	–	Core Labour Standards
CR	–	Costa Rica
ECU	–	Ecuador
EU	–	European Union
GSP	–	Generalised Scheme of Preferences
GSP+	–	Special Incentive Arrangement for Sustainable Development and Good Governance
GUA	–	Guatemala
HRIA	–	Human Rights Impact Assessments
IOE	–	International Organisation of Employers
ILO	–	International Labour Organization
IMF	–	International Monetary Fund
ITUC	–	International Trade Union Confederation
LRI	–	Labour Rights Indicators
NGO	–	Non-governmental organisation
SAL	–	El Salvador
UN	–	United Nations
US	–	United States of America
WTO	–	World Trade Organization

1 Introduction

Precarious labour conditions are one of the negative consequences of globalization. The concern in developed countries is growing because of increasing transparency about immoral labour practices (Molle, 2014). Headlines such as “Apple, Samsung and Sony face child labour claims”, “Malaysia: forced labour casts dark shadow over electronics industry” or “Bangladesh factory collapse toll passes 1,000” create awareness on the lack of labour standards in the world (Wakefield, 2016; Hodal & Kelly, 2016; n.d., 2013). Consumers become more aware of the conditions under which products are being manufactured. Due to focusing event such as fatal work-place accidents, governments and policy-makers started to include labour standards in trade agreements with developing countries. Labour standards enhance fair competition and lead to improved human rights. Furthermore, the lack of labour rights relates to underdevelopment of vulnerable countries. Especially in Asia, the lack of labour rights is a problem of hundreds of millions workers. Immoral labour practices are less present in Latin America and sub-Saharan Africa, but still significant (Molle, 2014). Labour rights activists moreover request the World Trade Organization to make labour standards part of international trade agreements by the inclusion of social clauses and trade sanctions. Thereby, the race to the bottom in working conditions shall be stopped. However, developing countries often argue that no tangible relation between labour standards and growth exists. Thus, there is no evidence that higher labour standards lead to economic growth. Instead, technology and qualification of labour are emphasized as determinants for growth. Moreover, globalization enthusiasts argue that international standards diminish total welfare since countries’ competitiveness decreases (Molle, 2014). Therefore, the inclusion of a social clause in trade agreements has been highly controversial and subject of international debate for over one hundred years (Novitz & Mangan, 2011). Externally imposed labour standards are often perceived as disguised protectionism from developed countries, which thereby take away “the opportunity to realise [...] competitive and comparative economic and trade advantages” from developing countries (IOE, 2006, p.2; Siroen, n.d.). Nevertheless, the creation of the Core Labour Standards (CLS) by the International Labour Organisation (ILO) in 1998 legitimized the promotion of global labour standards (Kahn-Nisser, 2015).

Thus, the EU introduced labour conditionality in the Generalised Scheme of Preferences (GSP) in 1995, with regard to forced labour. It was enlarged under the Special Incentive Arrangement for Sustainable Development and Good Governance (GSP+) where labour conditionality covers all core labour standards. Thereby, the EU aims at advancing the social



dimension of globalisation. The European Union introduced the GSP+ in order to improve workers' rights in developing countries and promote fundamental standards (Orbie & Tortell, 2009). It is an incentive, which promotes sustainable development, good governance, human rights and labour rights. Beneficiary countries have to ratify 27 core international conventions in exchange for tariff reductions on about 66 per cent of EU tariff lines. Eight of these refer to labour rights and comprise the core labour standards of the International Labour Organization (European Commission, 2017a). Hence, the terms and conditions are more comprehensive and strict than in any other EU trade agreement (Hemker, 2006).

Policy conditionality is not a new practice in the international arena. Its usage increased in the 1980s when international institutions such as the World Bank or the International Monetary Fund employed it to attach policy conditions to credits or aid programmes (Killick, 1997). Further, it has become a common practice for national governments to substitute trade for aid or preferential market access. However, the effectiveness of policy conditionality is often limited (Dijkstra, 2002; Bird, 1998). Many critics doubt the effectiveness of policy conditionality in the GSP+ and denounce non-compliance of beneficiary countries. Many existing studies that deal with the GSP+ identify non-compliance and breaches of the conventions. Scholars focus on single case studies, which analyse and indicate the EU's external policy objectives towards a beneficiary country, which refrain the EU from sanctioning the respective country. Hence, a lot of literature focuses on the double standard, which is applied in the GSP+ (Beke & Hachez, 2015; Orbie & Tortell, 2009; Portela & Orbie, 2014). Nevertheless, the underlying reasons and motivations for compliance of beneficiary countries have not been analysed yet. The outcome of the study will be useful for understanding the behaviour of states and the potential impact of the EU.

The importance of exploring reasons for compliance and the effects of policy conditionality becomes evident due to many studies, which analyse the donor-recipient relationship of aid programmes of the World Bank and the IMF (Dijkstra, 2002; Bird, 1998; Coate & Morris, 2006). Further, compliance theories and the overall reasons of aid conditionality elaborate on recipient country characteristics, which increase the effectiveness of policy-based conditionality (Simmons, 1998; Lutmar, Carneiro & Mitchell, 2016; Montinola, 2007). Concerning the EU, most literature focuses on potential candidate countries and conditionality for the purpose of EU enlargement, such as the assessment of the impact of conditionality on democratization in candidate countries (Schimmelfennig, 2009; Schimmelfennig & Sedelmeier, 2004).



However, the underlying reasons and motivations for incompliance of beneficiary countries have not been analysed yet. These are helpful for the identification of issues, which hinder or foster compliance with labour rights provisions in the GSP+. The exploration thereof can improve the conditions under which the GSP+ can be effective and identify aspects which can prevent the exploitation of the GSP+. The analysis therefore determines what the EU can and cannot influence in order to improve the impact of the EU's external policy conditionality under the GSP+. Thus, it is relevant to investigate why some countries comply with social norms while others do not. The main question guiding the thesis therefore is: *What explains compliance with policy conditions on labour right provisions in the GSP+?* Further, the following sub-questions have been identified:

- 1) Which factors explain compliance with international commitments?
- 2) To what extent is policy conditionality with regard to labour rights provisions successful under the GSP+?
- 3) Which factors explain compliance with labour rights in the GSP+ scheme?

1.1 Research approach

In order to answer sub-question one, this paper reviews literature on compliance with international commitments. It shall determine specific factors, which generally influence compliance with policy conditionality, such as internal and external factors, however also different types of conditionality and different types of agreements.

Sub-question two will be answered by an in-depth analysis of the GSP+ beneficiary countries which have been part of the three first periods of the scheme from 2006 until 2015. These are Bolivia, Costa Rica, Ecuador, El Salvador and Guatemala. The analysis is conducted by the comparison of data before and during the participation of the GSP+ scheme. This is the first step to determine which countries perform better than others.

Sub-question three evaluates the findings of the analysis. It comprises a detailed research of the influencing factors, which have been assessed in the literature review. It further aims at concluding elements for improvement in regard to policy conditionality in the GSP+ in order to increase compliance and enhance rights. This entails a distinction of factors, which the EU can and cannot influence. Thus, the goal of the thesis is to identify factors, which hinder or encourage compliance with labour right provisions in the GSP+.



1.2 Academic relevance

In general, the GSP+ did not receive much attention from scholars. Hence, an important topic has been overlooked, namely the underlying reasons for and the effects of EU policy conditionality towards developing country. Consequently, this thesis can provide inside on the perspective of countries in South America and Central America. It appears to be interesting to compare the findings to those of potential candidate countries with regard to core labour standards. Overall, the GSP+ has not been evaluated in depth. The focus usually lies on the Generalised Scheme of Preferences or different trade agreements when it comes to evaluating policy conditionality of core labour standards (Wildgruber, 2013; Bakvis & McCoy, 2008). Therefore, this thesis is scientifically relevant due to the potential findings, which can be useful for the promotion of social norms via policy conditionality outside of Europe. The outcome of the thesis will be useful for understanding the behaviour of states and the potential impact of the EU's development and trade policy.

1.3 Policy relevance

Due to increased transparency and media involvement, public discontent on workers' rights in global supply chains is rising. In order to improve human rights and labour standards, it is necessary to tackle the problem at its roots and hence understand the reasons why states do or do not comply. The European Union already reformed the GSP to increase its efficiency in 2012. The reform called for concessions of the amount of beneficiary countries, aiming at more extensive help for those most in need (European Commission, n.d.). Many critics oppose this reform and associate it with the key drivers of trade policies: "the EU's export-oriented firms and the economic welfare focus of policy makers" (Young & Peterson, 2013, p. 509). Specifically for the GSP+, the reform shall increase the effective implementation of the international conventions by enforcing stricter monitoring mechanisms (European Commission, 2014). Nevertheless, the reform did not critically evaluate the past with regard to compliance. By finding the underlying reasons of beneficiary countries for compliance and non-compliance, this thesis can be helpful for improving the policy. This would result in better and safer working conditions, such as improved human rights.



1.4 Overview

The thesis will be structured as follows. First, the literature review summarizes the existing knowledge on compliance with international commitments and identifies the literature gap. Moreover, the literature review ascertains the relevant indicators and formulates assumptions. Second, the methodology explains and justifies the approach of the small N case study, such as its validity and reliability. Moreover, the section operationalises the indicators. The third section presents the analysis, which consists of three different steps and identifies the internal and external influencing factors for compliance of the beneficiary countries. The concluding section sums up the findings and provides policy recommendations.

Ezra

Literature Review: Why Comply?

In this chapter the first sub-question, “Which factors explain compliance with international commitments?” will be answered. By answering this question, a theoretical framework will be created by which the underlying reasons and motivations for compliance of the GSP+ beneficiary countries can be analysed and compared in order to answer the main research question of the thesis. It is important to note that compliance and conditionality will be analysed from the perspective of the recipient country and not the policy makers (the donor country). The literature review is divided in three different sections. The first section discusses the Principal-Agent Theory with exemplary case studies on conditionality of the Bretton Woods Institutions. Furthermore, the review entails literature on international relations literature. More precisely it entails the two competing theories rationalism and social-constructivism, because they have been used most to explain compliance with international agreements.

Many different theories discuss compliance, including legal theories or regime theories (Raustiala & Slaughter, 2002). Nevertheless, no universal framework exists. During the research of compliance literature, two international relation theories and the principal-agent theory appeared to be the most suitable for explaining the case of this thesis. Therefore, the literature review serves as a summary and collection of important influencing factors. In order to answer the main research question of this paper I select the most important driving forces for compliance. International relations theories discuss compliance with international commitments from different angles. A lot of literature focuses on human right conventions and does not centre conditionality (Simmons, 2009; Hug & Wegmann, 2016). Rationalism and social constructivism provide two competing approaches, thus why combine them? Since labour rights are part of human rights, a norm-based theory such as social constructivism can provide an important insight, which the rationalist theory cannot. Vice versa, the rationalist theory is predominant in IR literature on compliance and provides a competing view. The Principal-Agent Theory emphasizes conditionality of aid programmes and includes an economic point of view. The GSP+ does not merely focus on human right conventions but incorporates conditionality with regard to tariff reductions. Thus, a combination of the three theories can facilitate influencing factors from different points of view in order to allow for an overarching analysis.



2.1 The Principal-Agent Theory and the Bretton Woods Institutions

The Principal-Agent framework is often applied to explain and assess conditionality of the Bretton Woods Institutions (BWIs), which are the World Bank and the International Monetary Fund (IMF). It describes a conflict of interest between the principal (donor) and the agent (recipient) which leads to asymmetric information (Dijkstra, 2002). Conditionality for aid increased and the areas in which it is applied diversified. The IMF has always applied policy conditionality since its creation after the Second World War, while the World Bank initiated conditionality in the 1980s. Therefore, many scholars assess the factors, which explain compliance or failings of policy conditionality within the Bretton Woods Institutions (Killick, 1997; Dijkstra, 2002).

Killick (1997) defines conditionality as “policy changes stipulated as a prerequisite to the approval of, or continued access to, a grant or loan, or to subsequent assistance” (p.487). He assesses structural adjustment programmes of the World Bank with 21 developing countries and detects a lack of compliance. Killick argues that conditionality in BWI policies has been rather ineffective due to the lack of sanctions. He identifies that the BWIs are unable to install a system of rewards and punishments – positive and negative conditionality – that are sufficient for overcoming donor-recipient disagreements. Donor-recipient disagreement or principal-agent issues “arise when the maximization of more than one party’s utility requires some form of co-operative action and when the objective functions of the parties differ” (Killick, 1997, p.487). Therefore, the central question is how donors (the principal) can design commitments which contain rewards that make the recipient (the agent) comply. Killick (1997) thus identifies four factors, which affect compliance with policy conditionality:

- *The frequency and intensity of disagreement between the goals and priorities of the conditionally-applying donors and recipient governments. Also the expected political and transactions costs to governments of executing policy reforms urged by donors.*
- *Whether governments can use conditionality to raise the credibility of their policies and in that way induce higher levels of private investment.*
- *Whether programmes are adequately funded and whether they have the claimed ‘catalytic’ effect of inducing additional inflows of private capital.*
- *The credibility of threats of punishment (withdrawal of access to agreed or prospective aid) in the event of non-implementation. (p.489)*

Dijkstra (2002) further emphasizes the conflict between principal (donor) and agent (recipient) by analysing the effectiveness of policy conditionality in exchange for aid. The article contains



an analysis of policy conditionality in eight developing countries. The analysis is conducted with an augmented principal-agent framework, which identifies five domestic factors, which affect the implementation of commitments. These are:

1. *Whether the negotiators on the government side either have the power to implement reforms, or have insight into the feasibility of implementing reforms;*
2. *Whether the objectives of the most powerful groups within government coincide with those of the donors, and the strength of domestic opposition to these objectives;*
3. *The extent to which the powerful actors in the government and in the opposition win or lose from reforms and from aid, and the likely result of a potential power struggle between these groups;*
4. *Whether the donors' advice is credible, and whether advice leads to economic growth;*
5. *The availability of aid: this may influence implementation positively, facilitating compliance with fiscal and other financial targets; or negatively, through the weakening of incentives for implementation (moral hazard). (Dijkstra, 2002, p.311-312)*

Further, Dijkstra (2002) identifies three external factors, which jeopardise the effectiveness of conditionality because

6. *Donors have multiple, conflicting or unclear objectives. For example: a) in countries with large multilateral debts there is pressure for continued lending, b) there are political and bureaucratic pressures on the donor to continue lending, c) there is the 'adverse selection' problem – the allocation of aid tends to be determined also by need, which means that countries carrying out bad policies tend to get more aid;*
7. *'Cross conditionality' does not work since different donors have different objectives and donor co-ordination is weak;*
8. *In countries with satisfactory or high economic growth, application of sanctions reduces donor credibility. (p.313)*

This augmented framework is suitable for explaining why compliance has been weak in the eight developing countries. It gives incentives and ideas for factors, which explain compliance with international aid programmes.

Both applications of the principal-agent framework provide valuable insights on factors, which can affect compliance with conditionality. Both Killick (1997) and Dijkstra (2002) focus on the government and its power over the donor. While Killick (1997) analyses the potential



disagreement between goals and priorities of donor and recipient, Dijkstra (2002) goes one step back and asks whether the government generally has sufficient power to implement the respective reforms. Furthermore, Dijkstra (2002) emphasizes the potential power of the opposition and powerful groups within the government who may oppose the reforms. Moreover, Dijkstra (2002) emphasizes the donor side by taking cross conditionality and conflicting objectives into account, while Killick (1997) focuses mainly on the credibility of the donor's threat of punishment. Nevertheless, they provide incentives for the theoretical framework of this thesis.

2.2 Rationalist approach: Domestic factors vs external incentives

Beth Simmons is a notable international relations scholar who studies international compliance with human rights. Therefore, she analyses what happens after a formal commitment. Simmons (2009) argues that "some governments ratify human rights agreements sincerely, fully intending to comply with their commitments, while others ratify strategically hoping for credit or relief from criticism at least in the short run" (p.113). For Simmons the focus lies on domestic consequences of treaty ratification rather than external incentives. She argues that governments will only comply with human rights treaties if it is their interest to do so. Her argumentation follows the line of the rationalist school. The rationalist point of view in international relations centres the interest of the state and argues that it will act in its self-interest (Axelrod & Keohane 1985; Simmons, 1998). Therefore, compliance with human rights commitments can be explained through either coincidence or coercion of interests. The interest of the state is always pivotal. Moreover, she emphasizes that treaties and agreements do not have a major impact on government behaviour because they will not be enforced in a significant way. Hence, high compliance rates can be misinterpreted as meaningfulness of a treaty, however it usually refers to low-key commitments which governments are willing to implement anyway. Thus, treaties are often signed symbolically without true enforcement and therefore result in "radical decoupling of principle and practice" (Simmons, 2009, p. 116). Raustiala and Slaughter (2002) who argue that agreements or conventions, which require little action, result in higher compliance than agreements, which require high domestic adoption costs, further emphasize this. Typically, areas such as environmental protection, trade or arms control are of a more complex nature due to the involvement of different private and public actors. Therefore, in these areas it is increasingly difficult to achieve a sufficient degree of cooperation and compliance (Raustiala & Slaughter, 2002).



Moreover, Simmons (2009) identifies the importance of peer enforcement. If it lacks and thus does not detain states from violating international commitments, it significantly decreases compliance. Foreign governments do not have the political, economic or military resources and capabilities to enforce human rights treaties such as labour rights worldwide (Simmons, 2009). The scope and complexity of a problem can influence the capabilities of compliance, since some behaviour is easier to monitor than other (Raustiala & Slaughter, 2002). Enforcement is additionally weakened due to the problematic of sanctioning which is likely to conflict with other foreign policy objectives. Especially towards important trade partners or politically and economically important states, the incentive to sanction is very low. Simmons exemplifies this with the United Kingdom which links trade with human rights only with countries who have small markets and are thus of less economic importance. This can be seen in the GSP+, which is directed towards beneficiary countries who are economically vulnerable. This political bias is visible in the foreign policy of the United States too, who provide aid based on its own policy needs, rather than due to human rights performance. Thus, the long-term benefits for the target governments have to outweigh the value of violating the conditions of the agreement in order to lead to compliance (Simmons, 2009). Raustiala and Slaughter (2002) emphasize the importance of review mechanisms in the respective agreement itself and connect enforcement with management. They argue that the enforcement depends on the amount of review, which is included in the agreement. It can vary from superficial supervision to an ongoing performance review or the creation of review institutions and mechanisms such as “regularized collection of relevant data – often self-reported by the governments, reviews of performance, and processes for the adjustment of regime commitments in light of new information” (Raustiala & Slaughter, 2002, p.549). Moreover, Hug and Wegmann (2016) analyse that strong enforcement mechanisms and strong management lead to an improved human rights record.

Simmons (2009) identifies three reasons, which encourage incompliance with human right conditions. Firstly, violations are difficult to detect and verify because information are mainly internal. It is expensive for external actors to collect and assess information, which lead to reputational punishment for a country that breaches human rights treaties. Secondly, no correlation between weak compliance with human rights agreements and weak compliance in other issue area such as trade or security exists. Thirdly, the enforcement of reputational consequences is connected to collective action problems. Foreign governments might disagree with regard to the severity of the violation due to different value of the relationship. This can make the costs of criticism too high for foreign states (Simmons, 2009).



While Simmons' rationalist approach refers to human right treaties, the theoretical framework of Schimmelfennig and Sedelmeier (2004) discusses the efficiency of the EU's external governance. They present two competing modes on theories of external governance of the European Union in order to explain why agents do or do not comply with norms, which are embedded in international institutions or regimes. The two different views are the school of rational choice and the social-constructivist school. The rationalist view emphasizes the external incentivization for the adoption of rules. The rational actor applies a cost-benefit analysis in order to evaluate if it is profitable. Hence, it is necessary for an international actor such as the EU to manipulate either cost, or benefit in order to achieve the desired goal (Schimmelfennig & Sedelmeier, 2004). Simmons (2009) also discusses the cost-benefit analysis with regard to collective action problems.

The *external incentive model* is a rationalist bargaining model, which is based on political conditionality. While Simmons' approach focuses on domestic incentives, this model emphasizes external factors. In regard to EU rule-transfer to non-members, conditionality is "based on the direct, sanctioning impact of the EU on the target government and subsumes the intergovernmental channel of external incentives, the compulsory impact and the compliance mode of governance" (Schimmelfennig, 2009, p.8). The model argues that EU conditionality obtains most leverage of changing the cost-benefit calculation of the targeted government if the offered rewards and benefits of the EU exceed domestic adoption costs. Thus, the strategy of the rationalist model is enforcement of commitments by reward. An application to the GSP+ means that the EU guarantees preferences if the countries implement the respective conventions and withdraws them if they fail to comply. Simmons (2009) acknowledges the importance of sanctioning. However, she emphasizes that the costs usually exceed the benefits of sanctions for the potential imposer of sanctions. Further, the so-called domestic equilibrium is the analytical starting point of the model. Therefore, the domestic status quo (for example of labour rights) has to be different from the status in the EU. Further, the target government needs to be willing to approve the new commitments in order to balance domestic, international or EU pressures and receive economic and political benefits (Schimmelfennig & Sedelmeier, 2004).

Schimmelfennig and Sedelmeier (2004) identify four factors, which determine EU conditionality. These are (1) determinacy of conditions, (2) size and speed of rewards, (3) credibility of conditionality (threats and promises), (4) veto players and (domestic) adaption costs. Determinacy of conditions suggests that the higher the determinacy of conditions is, the higher is the likelihood of compliance and the adoption of the respective rules. Determinacy refers to clarity and formality of the rule and has informational value. On the one hand, it is



necessary for the beneficiary country to exactly know the rules in order to get the reward. On the other hand, it is more binding for the EU, because it makes it more difficult to claim incompliance and impose sanctions. Consequently, it improves the credibility of conditionality and reduces the threat of manipulation of interpretation (Schimmelfennig & Sedelmeier, 2004). Franck (1990) argues that especially the facilitation of (deliberate) misinterpretation of the respective rules and norms can harm compliance. Consequently, determinacy in this sense can be interpreted as a synonym for clarity (Franck, 1990). Other scholars such as Raustiala & Slaughter (2002) and Franck (1990) who agree that the content and nature of the agreement and its specification can either raise or lower the costs of compliance further emphasize the importance of specification of rules. The second factor is size and speed of rewards. It implies that the rewards of the EU should be better than any other option, such as the regular GSP of the EU or the WTO. Moreover, Schimmelfennig and Sedelmeier (2004) elaborate that the longer it takes to get rewards, the lower is the incentive to comply. The third factor emphasizes the credibility of conditionality as it has already been discussed in the principal-agent framework (Dijkstra, 2002; Killick, 1997). From a realist perspective, the mere ratification of a convention does not indicate compliance. For compliance, a strong and stringent enforcement mechanism needs to be in place, and monitored by a powerful country. Voluntary compliance is highly unlikely according to realist scholars. An example would be the implementation of ILO conventions by many countries, which nevertheless have low labour standards (Neumayer & De Soysa, 2006). Schimmelfennig and Sedelmeier (2004) state that the EU should have more bargaining power than the target governments in order for the threats to be credible. Having more bargaining power incorporates capabilities and costs for the EU. Firstly, it has to be less interested in granting the preferences than the beneficiary countries are in receiving it. Moreover, the cost of giving the preferences has to be low for the EU. Secondly, consistency has to be given. Conditionality has to be superior to other economic, strategic, or political interests of the EU. Otherwise, incompliance is likely, especially if internal conflicts about conditionality exist. Lastly, cross-conditionality can severely harm the likeliness of compliance. Thus, no other actor should be offering comparable benefits at low adjustment costs (Schimmelfennig & Sedelmeier, 2004). Franck (1990) refers to the credibility of sanctioning as coherence. He argues that if states are not treated equally under an international agreement they are likely to fail to comply. Vice versa, they are also more likely to comply if norms are generally and consistently applied (Franck, 1990).

The last factor analyses veto players and adoption costs. It assumes that if the rules are determinate and credible, the likeliness of compliance depends on domestic adoption costs and



their distribution. Adoption costs can be in the form of opportunity costs, welfare costs, or power costs for private and public actors. The assumption is that the adaption is always costly, because otherwise it would have taken place without conditionality. Thus, the success of conditionality depends on the preferences of the target government and powerful groups and veto players. Veto players are defined as those actors whose consent is necessary to change the domestic status quo. If the amount of veto players is low, the influence and the importance of the government increases.

Due to the focus on EU conditionality instead of human rights treaties, the determining factors of Schimmelfennig and Sedelmeier are different from those of Simmons. Both emphasize the credibility of conditionality, thus the importance of sanctioning. While Schimmelfennig and Sedelmeier name it as a major determining factor, Simmons (2009) emphasizes that a lack of enforcement can significantly weaken compliance. Consequently, rationalism explains compliance with international commitments due to the state's domestic interest.

2.3 Social-constructivism: Compliance from a normative point of view

The social-constructivist view on compliance in international relations increased in the 1990s. It discusses compliance from a normative point of view. The norm-based theory, identifies the logic of appropriateness and social learning as vital for ensuring the adaptation and compliance with norms and rules (Raustiala & Slaughter, 2002). Via a process of interaction, agents start to internalize social norms, which leads to the redefinition of domestic interests towards the desired behaviour and compliance thereof (Schimmelfennig & Sedelmeier, 2004). With regard to the competing theory of rationalism, March and Olsen (1998) elaborate that, "on the one side are those who see action as driven by a logic of anticipated consequences and prior preference. On the other side are those who see action as driven by a logic of appropriateness and senses of identity" (p. 949). Thus, instead of consequences, the social-constructivist model centres appropriateness (Schimmelfennig & Sedelmeier, 2004). Moreover, instead of interests it emphasizes identities (March & Olsen, 1998). The *social learning model* regards the process of rules transfer from a social-constructivist view. It argues that "a state adopts EU rules if it is persuaded by the appropriateness of EU rules" (Schimmelfennig & Sedelmeier, 2004, p. 668). The logic of appropriateness identifies that an actor complies with rules if they are the most appropriate or legitimate option, instead of focusing on possible consequences of a rationalist cost-benefit calculation (Schimmelfennig & Sedelmeier, 2004; Raustiala & Slaughter, 2002). March and Olsen (1998) argue that rational theory ignores the role of identities and institutions



and its effect on human behaviour. Instead, social-constructivist scholars emphasize perceived legitimacy, which shapes the actor's behaviour towards internalizing those rules. Thus, some norms are more likely to be adopted than others (Raustiala & Slaughter, 2002).

In order to create awareness of the appropriateness, the EU for example has to use the power of persuasion towards the targeted government. The process of persuasion entails the strategy, which can change the government's evaluation of what the most appropriate action is. There are three keys to achieve rules-transfer under the social learning model. Firstly, legitimacy refers to internal and external validity of the respective rules. If the rules are complied with by EU member states, and are recognized by international organizations, the chance of being regarded as appropriate by the target government is high. Internal validity refers to resonance and thus, makes an adoption likely if there are no conflicting domestic rules (Franck, 1990; Schimmelfennig & Sedelmeier, 2004). Secondly, identity is another dimension, because "the likelihood of rule adoption is expected to increase with the identification of the target state and society with the EU community" (Schimmelfennig & Sedelmeier, 2004, p.676). Moreover, the consequences of adoption of new rules has to be taken into consideration. It can alter state behaviour, interests and even its identity (Raustiala & Slaughter, 2002).

The *lesson-drawing model* derives from social-constructivism as well. Neither incentive nor persuasion are necessary for the adoption of rules. Instead, the adoption occurs as a response to domestic dissatisfaction with the status quo. Therefore, policy-makers evaluate the transferability of external rules and adopt it if the rules are expected to solve the domestic policy problems (Schimmelfennig & Sedelmeier, 2004). The three conditions for the lesson-drawing model are to (1) start searching for rules abroad, the (2) direction of search towards political system of the EU, and the (3) evaluation of EU rules as suitable. Moreover, these conditions depend on four sets of factors: "policy dissatisfaction, EU-centred epistemic communities, rule transferability and veto player" (Schimmelfennig & Sedelmeier, 2004, p.668). Consequently, the quality and strength of the respective norms are of importance for the domestic government (Raustiala & Slaughter, 2002).

2.4 Conclusion

The literature review presents different theories of compliance on different topics such as human rights treaties, external governance of the EU or the effectiveness of conditionality of the Bretton Woods Institutions. So far, the EU's external governance has mainly been analysed with regard to the accession of Eastern European countries. Thus, the issue of compliance



outside of Europe has rarely been discussed. For improving the GSP+ and making it more efficient, this paper adds up to the mentioned literature as it investigates why beneficiary countries do or do not comply with labour provisions of the GSP+. The first set of influencing factors have been determined by an assessment of literature on the conditionality in a principal-agent framework and the two competing international relation theories rationalism and social-constructivism. While the principal-agent theory and rationalism seem to overlap, social-constructivism presents a different, norm-based point of view on compliance.

Before discussing the influencing factors for the analysis of this case study, I will first refer to elements from the literature, which I exclude from my framework. Some elements from the principal-agent theory have not been included. Killick (1997) for example discusses the use of conditionality to raise the credibility of policies. This element will not be included since the analysis is conducted from the perspective of the beneficiary country and not the donor country. Moreover, he scrutinizes the funding of aid programmes within the principal-agent framework (Killick, 1997). The funding will not be a part of the analysis because the GSP+ is not a merely financial aid programme, which lends money to its target countries. Thus, it is not applicable. Dijkstra (2002) moreover emphasizes the analysis of potential power struggle between competing groups within a government. The fear of a power struggle per se will not be analysed, and limited to an analysis of the general key players. Within the rationalist theory, Simmons (2002) points towards the difficulties with regard to the assessment of compliance on the side of the donor country due to the necessity of political and economic resources. This factor is not included, because the problematic Simmons refers to is a difficulty for the donor country, and this analysis comprises difficulties for compliance from the point of view of the recipient country. Moreover, collective action problems, which are mentioned by Simmons, are not included either, since they refer to difficulties for the policy-makers of the rules that are to be adopted. Schimmelfennig and Sedelmeier (2004) discuss the importance of bargaining power. The assessment of bargaining power can be quite complicated, and time consuming. Moreover, the analysis is focused on the point of view of the target country. Therefore, it is not included in the theoretical framework. In addition to that, the social learning model argues that it is important to identify if the 28 member states of the EU comply with the respective rules. Due to constraints of time and scope, this element will be excluded from the analysis.

Nevertheless, the literature review facilitates the identification of major influencing factors, which are suitable to explain reasons for compliance under the GSP+. Schimmelfennig and Sedelmeier (2004) point to the importance of analysing the agreement itself first. The first precondition is the determinacy of conditions. It suggests that the conditions and rules of the



agreement or convention need to be clear and formal. The determinacy can further be linked to the potential rewards. This indicates that it needs to be clear for the recipient country how and when they can achieve the promised rewards in order to achieve compliance. Thus, the first two assumptions imply that:

1: The likelihood of compliance increases, the more determinate the rules are.

2: The likelihood of compliance increases, the higher the rewards and the more severe the sanctions are as stipulated in the agreement.

The credibility of conditionality has been discussed by various authors and in different theories. Dijkstra (2002) and Killick (1997) emphasize that the donor's threat of punishment has to be credible to achieve compliance with international aid programmes. Without sanctioning, conditionality becomes inefficient. On the one hand, credibility concerning competence (capabilities) has to be assessed, while on the other hand, the credibility of threats of sanctioning has to be analysed. Both factors can majorly influence and affect compliance. Further, the rationalist school explains that the credibility of threats and peer enforcement is of major importance. If an agreement lacks credibility, the costs of incompliance decrease significantly, altering the state's interest, which is always pivotal. The same applies for benefits, which have to be realistic and promising (Simmons, 2009; Hug & Wegmann, 2016; Rustiala & Slaughter, 2002). Therefore, assumption three argues that:

3: The likelihood of compliance increases if conditional sanctions and rewards are credible.

Literature on conditionality and compliance from a rational point of view further emphasizes that the identification of potential winners and losers of an agreement or reform are crucial. The potential adoption costs for key players may not be too high to still be beneficial for them. Thus, it is crucial to assess who the most important actors are and what their position on the agreement is. Conflicting domestic objectives can severely harm compliance. The most important actors are usually the governments of the beneficiary countries, powerful groups within the government and the opposition (Dijkstra 2002; Simmons, 2009; Raustiala & Slaughter, 2002; Schimmelfennig & Sedelmeier, 2004). Thus, the fourth assumption is:

4: The likelihood of compliance increases if key players face low adoption costs.

The social-constructivist literature is of importance for the explanation of norms and values that are incorporated in labour rights. Especially the logic of appropriateness has been



connected to compliance or in-compliance with European and international commitments. It argues that norms that are domestically and internationally perceived as legitimate, are more likely to result in compliance (Schimmelfennig & Sedelmeier, 2004; Raustiala & Slaughter, 2002). Consequently, the next potential explanatory variable indicates:

5: The likelihood of compliance increases if the target government is convinced of the appropriateness of the rules.

The following figure shows the theoretical framework and its three analytical steps.

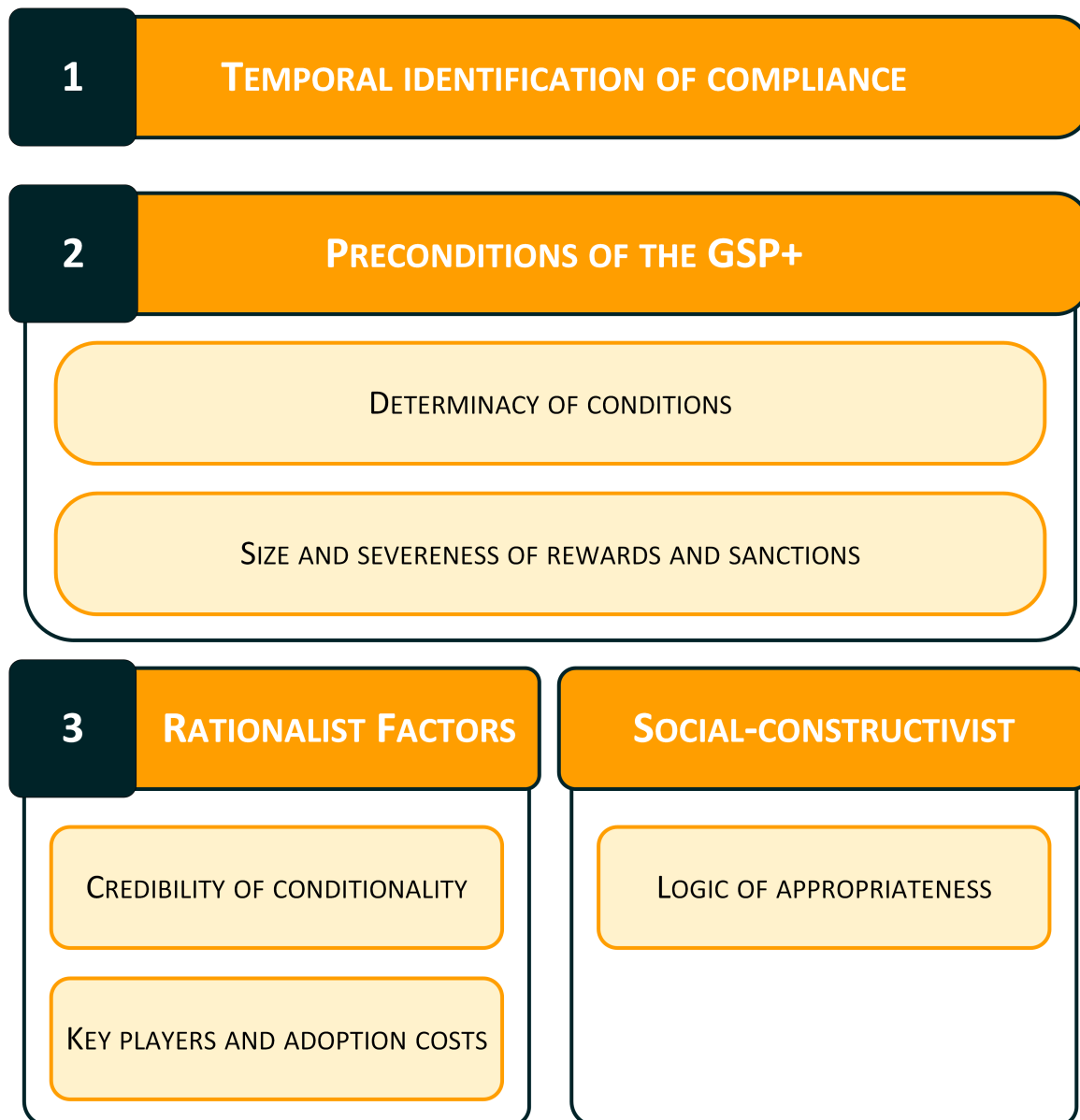


Figure 1: Theoretical Framework – The three analytical steps

The first step evaluates the temporal identification of compliance. With the help of data, I will assess if the beneficiary countries of the GSP+ comply with the labour conventions that are incorporated in the regulation. The second analytical step identifies the preconditions of the GSP+ as they are stipulated in the agreement. Thus, the first two formal conditions are analysed. These are the determinacy of conditions and the size and speed of rewards and sanctions. The third and final step of the analysis is divided in the analysis of two rationalist conditions and one social-constructivist conditions. The two rationalist factors are the credibility of conditionality and the assessment of key players and their adoption costs. The social-constructivist factor is the logic of appropriateness. The operationalisation of the framework will be described in the following chapter.

The logo of Erasmus University, featuring the word "Erasmus" in a stylized, cursive script.

Erasmus

3 Methodology

This chapter presents the research design of the thesis. It entails the operationalization of the influencing factors, and thus shows how the different assumptions will be answered. Further, the data, which will be used, is briefly described. In addition to that, the validity and reliability of the research design will be assessed.

This thesis carries out a comparative case study whose purpose is to explain compliance. The research design is based on a small-N research consisting of five countries and thus an in-depth analysis. A small-N cross-case comparison is suitable due to the limited availability of cases. Furthermore, there are insufficient quantifiably and comparable information available (Geschwend & Schimmelfennig, 2007). It has a Y-centred research question, aiming at explaining which factors lead to an outcome (Blatter & Haverland, 2012). Thus, the goal of the outcome-centric research design is to assess what causes compliance, the dependent variable Y (Geschwend & Schimmelfennig, 2007). The goal of the explanatory research is to find reasons for compliance with external EU governance. It incorporates theories from traditional international relations theories and compliance theories. I expect to find variations with regard to compliance of the different countries. The theories will verify empirically which factors explain these variations.

The case study entails the following five countries:

- Bolivia (2006-2017)
- Costa Rica (2006-2015)
- Ecuador (2006-2015)
- El Salvador (2006-2015)
- Guatemala (2006-2015)

The case selection has been made in order to have comparable cases and results. Further, no information is available yet on the current scheme of 2016-2017, thus it cannot be evaluated. Furthermore, Georgia and Mongolia have been excluded due to the extent of the paper and due to linguistic limitations. The five remaining countries are all Spanish-speaking countries. Due to my knowledge of the Spanish language, the analysis of national reports and newspaper articles will be possible. The period, which will be analysed dates from 2004 until 2015. Hence, the analysis starts two years before the GSP+ went into force. Therefore, it is possible to observe if the implementation of the GSP+ had an immediate effect. The GSP+ incorporates eight conventions on labour rights:



- No. 29: Forced Labour Convention, 1930
- No. 87: Freedom of Association and Protection of the Right to Organise Convention, 1948
- No. 98: Right to Organise and Collective Bargaining Convention, 1949
- No. 100: Equal Remuneration Convention, 1951
- No. 105: Abolition of Forced Labour Convention, 1957
- No. 111: Discrimination (Employment and Occupation) Convention, 1958
- No. 138: Minimum Age Convention, 1973
- No. 182: Worst Forms of Child Labour Convention, 1999

These are the so-called 'Fundamental Conventions' of the ILO because they cover the core labour rights. These are the freedom of association and the right to collective bargaining (Conventions No. 87 and No.98), the elimination of all forms of forced and compulsory labour (Conventions No. 29 and No. 105), the effective abolition of child labour (Convention No. 138 and No.182), and the elimination of discrimination in respect of employment and occupation (Convention No. 100 and No. 111) (ILO, 2002). Possibly, not enough data is available on all conventions. This may lead to analysing fewer conventions.

3.1 Operationalisation

The thesis analyses the reasons for compliance or non-compliance of the GSP+. First, the extent of compliance and then the factors that explain compliance will be examined. Therefore, an analysis will be used to identify the importance of the influencing factors that have been discussed in the literature review. So far, five potential explanatory variables have been established in the previous chapter. They present a guideline of how compliance under the GSP+ can be measured. Thus, an operationalisation is necessary.

The first analytical step does not refer to an explanatory variable however evaluates compliance of the selected GSP+ beneficiary countries. It determines if compliance varies over time and thus, answers the second sub-question, which asks: To what extent is policy conditionality with regard to labour rights provisions successful under the GSP+. If the compliance varies over time, a specific event or factor can be able to explain the result. If it does not vary over time, an explanation for the either high or low level of compliance is necessary. An analysis of potential factors will follow in the other steps of the analysis. For the assessment, two different data sets will be used. Before having a look at compliance with the conventions, it is important to check the ratification. Thus, the ILO database NORMPLEX will be used to identify



when the countries ratified the different conventions. The period that will be analysed dates from 2004 until 2015. Since the first period of the GSP+ started in 2006, going back two years before will show whether the countries already respected the core labour standards beforehand.

Compliance itself will be measured by the two data sets. The CIRI data set classifies countries with the help of different scores, which result from the degree of compliance with the core labour standards. The data set differentiates between three different restrictions of workers' rights (severely restricted, occasionally violated, or fully protected). Only if a country has been rated with fully protected workers' rights for a longer period of time it will be acknowledged as compliant with the labour provisions of the GSP+ (CIRI, n.d.). The second data set is called Labour Rights Indicator. It measures violations of labour rights and provides the country with an overall score because of the amount of violations and their severity. The Labour Rights Indicator data measures the violations of labour rights and translates them into scores between zero and ten. Zero is the best score and ten the worst. However, the data set does not entail any interpretation of the scores. It does not classify which scores can be interpreted as protected labour rights and which score indicates a violation of labour rights. Thus, I will calculate the average score for 2015 for the EU member states. I expect the EU member states to be generally compliant with labour rights. Thus, the average of EU member states will be significantly lower than the global average of the data set. I will then create a new average out of the global average and the average of EU member states. I will compare the newly created average to the scores of the GSP+ beneficiary countries. Any country above the score will be considered as non-compliant, while any score below will be considered as compliant.

1: The likelihood of compliance increases, the more determinate the rules are.

2: The likelihood of compliance increases, the higher the rewards and the more severe the sanctions are as stipulated in the agreement.

After the analysis of the extent of compliance, the factors that explain compliance will be examined. The second analytical step appraises the determinacy of the preferences of the GSP+. This means that the clarity and formality of rules of the GSP+ Council Regulation have to be assessed. Thus, it will be estimated how detailed the implementation of labour rights is explained. There can for example be a difference between the mere implementation of the conventions, or whether additional contributions or confirmations have to be made. Further, the elaboration of the size and speed of the benefits and the sanctions has to be assessed. These two factors are a precondition for the following analytical steps. The determinacy and the



reward and sanctions analyse the fundamentals of the GSP+ and thus will be answered by an assessment of the Council Regulations on the GSP+. Therefore, the regulation will be read in order to identify if and to what extent the rewards and sanctions are explicitly mentioned. It is important to exclude the possibility of manipulation with regard to rewards and sanctions. Manipulation indicates that the beneficiary countries are able to disobey the conventions on labour rights without being punished. Moreover, the possibility of manipulation is fostered by a loose choice of wording, which leaves room for interpretation. This operationalisation is suitable due to the use of primary sources. This step will not explain variations in compliance of the different countries, however it can be an explanation for a generally high or low level of compliance. Moreover, it provides information on the GSP+, which is relevant for the overall topic of the thesis. The following questions guide the analysis and thereby provide an answer to the first two assumptions.

- Are the rules of the GSP+ clearly and explicitly formulated in the Council Regulation?
- Are the rules of the GSP+ composed in detail?
- Does the possibility of manipulation of interpretation exist?
- Are rewards and sanctions explicitly mentioned in the Council Regulation?
- How beneficial are the rewards of the GSP+?
- How severe are the sanctions of the GSP+?

3: The likelihood of compliance increases if conditional sanctions and rewards are credible.

The third step of the analysis assesses the credibility of conditionality. The temporal identification of compliance from the first step will be used to detect incompliance. It is necessary to check if incompliance has been sanctioned. Thus, assessment reports of the EU on the GSP+ will provide valuable insights. Moreover, the monitoring mechanisms of the GSP+ will be assessed, because weak monitoring mechanisms makes sanctioning less likely and less credible. Its evaluation will show how and if the management of the enforcement of sanctions works. In that regard, the 2012 reform of the GSP will be analysed too, because it has been connected to improved monitoring and sanctioning mechanisms (European Commission, 2014). Moreover, academic literature on sanctioning under the GSP+ will be included to identify if strategic political or economic reasons suppress conditionality. The variety of primary and secondary sources, which are derived from different authors, validate the operationalisation of step three. The following questions will guide the analysis and answer assumption three.

- How strong is the monitoring mechanism of the GSP+?
- Did non-compliance result in sanctioning?
- Is conditionality superior to any other economic, political or strategic interests of the EU?

4: The likelihood of compliance increases if key players face low adoption costs.

Step four identifies important domestic actors by asking who the winners and the losers of the implementation are. Thus, the step analyses key players and their adoption costs. Key players can be powerful groups in the parliament, the executive or the opposition. Consequently, the composition of actors who are involved and their preferences are of major importance. To do so it is necessary to obtain relevant information. Therefore, newspaper articles on the adoption of the GSP+ shall identify if critical positions exist. Especially actors such as employer associations and labour unions have to be taken into consideration to fully reflect on key players. An emphasis will be on employers because the GSP+ has the aim of improving the situation of workers, which usually results in increased costs for employers. The following questions will guide the analysis and provide an answer to assumption four.

- Who are the winners of the labour rights agreements of the GSP+?
- Who are the losers of the labour rights agreements of the GSP+?
- Who defrays the costs of the labour rights agreements of the GSP+?

5: The likelihood of compliance increases if the target government is convinced of the appropriateness of the rules.

The next step analyses the internal and external validity of the labour rights convention with regard to the logic of appropriateness. The external validity of the labour rights will be identified via its value within internationally respected organisations such as the United Nations or the International Labour Organization. Moreover, the amount of countries that ratified the conventions will provide information on its external validity. In addition to that, it has to be analysed if any conflicting domestic rules exist. Thus, an evaluation of the domestic labour laws has to be done. The country reports on human rights of the U.S. Department of State may provide useful information. Moreover, the Labour Rights Indicator dataset provides detailed information on detected violations. The respective sources, which are used in the data set will be checked to identify if conflicting legislation exists. The analysis provides an answer to assumption five and will be guided by the following questions.



- Are the labour right conventions of the GSP+ internationally recognized?
- Do conflicting domestic labour laws exist?

3.2 Data Sources and Limitations

Empirical evidence is used to find out to what extent the beneficiary countries of the GSP+ comply with the conventions on labour rights. However, data is possibly not available on all conventions. The 'Workers Rights in Law & Practice' dataset is based on the ILO Constitution and jurisprudence and Convention No. 87 and No. 98. The CIRI Human Rights Dataset also focuses on the rights freedom of association and additionally on the "prohibition on the use of any form of forced or compulsory labour; a minimum age for the employment of children; and acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health" (CIRI, n.d.). Both data sets are available online. Furthermore, primary sources such as the Council Regulation of the GSP+ are assessed to determine its basic conditions, and to demonstrate how its reward and sanctioning system works. Additionally, academic literature and newspaper articles support the findings. National newspaper articles are especially used for the social-constructivist factor in order to provide an insight into domestic features. Table 1 summarizes the types of sources which are used for the respective analytical steps. A more detailed presentation of sources can be found at the end of this chapter in table 2.

Analytical steps	Types of sources
<i>Temporal identification of compliance</i>	Empirical data, human rights reports
<i>Preconditions of the GSP+</i>	Primary sources (Council Regulation), EC reports
<i>Rationalist factors</i>	Academic literature, EC/EP reports, national reports
<i>Social-constructivist factor</i>	Newspaper articles, national reports, NGO reports

Table 1: Overview of data sources for the analysis

An expected shortcoming is the unavailability of relevant data. Therefore, as previously announced, a reduction of the labour right conventions that are part of the GSP+, might be necessary after the evaluation of the available data. While most data exists on convention No.87 and No.98 on collective bargaining rights and the freedom of association, I expect a lack of data on child labour violations. However, by using different data sets and crosschecking, the triangulation shall increase the validity of the thesis.

3.3 Validity and Reliability

Especially in a qualitative research design, it is important to ensure validity and reliability. In general, the external validity, thus the potential of generalisation of the thesis is limited since it is composed as a small-N case study. Nevertheless, a generalisation is facilitated by the theory-driven design of the thesis. Usually realism and social-constructivism are competing theories however, in this case study I decided to combine the two theories in order to have a broader set of potential influencing factors. The combination will show whether rationalist and social-constructivist explanatory variables are equally able to explain compliance. Moreover, it is interesting to see if it is possible to build bridges between the theories. Thus, the analysis on the sample of five countries might be applicable to other cases. In that regard, comparability is to be expected with agreements and conventions, which emphasize the exchange of benefits for the implementation of norms and values such as human rights. Consequently, the constructed framework is not expected to be suitable for assessing compliance with a mere economic conditionality such as in an aid or development programme of the IMF. Nevertheless, this case study can be inspiring for future research. Internal validity is established by the choice of methodology and its operationalisation. The literature review concludes a set of influencing factors by deriving them from relevant literature on compliance. The factors have been assessed due to their suitability with regard to the specific case of the GSP+, which incorporates conditionality with regard to norms on labour provisions. In addition to that, the literature review shows that no universal approach to the assessment of compliance exists in social science. Therefore, no rival assumption can be incorporated in the case study.

With regard to sources, the study is based on desk research, analysing primary and secondary sources. The comprehensive qualitative analysis further entails an assessment of data sets. Overall, the analysis is complex and in-depth by emphasizing a variety of factors and different points of views. Thus, explanation building is done by the analysis of the two formal conditions, two rationalist conditions and one social-constructivist condition. Overall, the sources are expected to be reliable. Nevertheless, the different types of sources will be analysed and interpreted in different manners. While primary sources as council regulations will be checked for explicit formulations, newspaper articles will be checked for domestic features.



Propositions	Indicators	Data source
1: The likelihood of compliance increases, the more determinate the rules are.	<ul style="list-style-type: none"> - Clarity and formality of rules (choice of words) - Degree of specification 	<ul style="list-style-type: none"> - Council Regulation (EC) No 980/2005 - European Commission fact sheet
2: The likelihood of compliance increases, the higher the rewards and the more severe the sanctions are as stipulated in the agreement.	<ul style="list-style-type: none"> - Clearness of rewards (content analysis) - Clearness of sanctions (content analysis) - Possibility of manipulation (flexibility of interpretation) - Size of rewards and sanctions 	<ul style="list-style-type: none"> - Council Regulation (EC) No 980/2005 - European Commission fact sheet
3: The likelihood of compliance increases if conditional sanctions and rewards are credible.	<ul style="list-style-type: none"> - Amount of violations VS amount of investigations VS amount of sanctions - Sanctioning under the GSP+ - Investigations of the GSP+ - Monitoring mechanisms of the GSP+ 	<ul style="list-style-type: none"> - CIRI Human Rights Dataset - Workers Rights in Law & Practice Dataset - EC and EP statements/press releases - Academic literature on sanctioning of GSP+ - Council Regulation (EC) No 980/2005 - NGO reports
4: The likelihood of compliance increases if key players face low adoption costs.	<ul style="list-style-type: none"> - Expected vs actual winners - Expected vs actual losers - Payment of adoption costs - Availability of information on adoption 	<ul style="list-style-type: none"> - Newspaper articles - Foreign Ministry, Trade Ministry - ILO reports and data
5: The likelihood of compliance increases if the target government is convinced of the appropriateness of the rules.	<ul style="list-style-type: none"> - External validity (amount of ratifications) - Internal validity (existence of conflicting domestic laws, number of violations) 	<ul style="list-style-type: none"> - Newspaper articles - ILO, ITUC (data and reports) - Foreign Affairs Ministries - US Department of State and Labour (reports)

Table 2: Propositions, indicators and data sources

4 Analysis

The goal of this chapter is to perform the application and analysis of the established theoretical framework. Thereby, it answers the five assumptions, which have been derived from the literature review. The chapter is structured as follows. The first step of the analysis comprises the temporal identification of compliance. Thus, compliance with the ILO Conventions on core labour standards will be assessed from 2004-2015. Since the first period of the GSP+ started in 2006, going back two years before will show whether the countries already respected the CLS beforehand. The second step analyses the two formal influencing factors (preconditions) of the GSP+, drawing on the Council Regulation. The third step contains an in-depth analysis of the rationalist and social-constructivist influencing factors.

4.1 Step 1: Temporal identification of compliance

For the first step of the analysis, I am using the Cingranelli-Richards (CIRI) Human Rights Dataset, which was developed by the principal investigators Dr Cingranelli (Binghamton University), Dr Richards (University of Connecticut) and Dr Chad Clay (University of Georgia). It comprises annual data from 1981 until 2011 on 202 countries. It provides data on “standards-based quantitative information on government respect for 15 internationally recognized human rights” (CIRI, n.d.). It includes a variety of variables such as torture, political imprisonment and freedom of speech. For this case study, the variable “workers” is decisive. It is defined by the requirements of the Generalised Scheme of Preferences of the World Trade Organization, which requires reporting on worker rights in GSP beneficiary countries. These requirements are

(A) the right of association; (B) the right to organize and bargain collectively; (C) a prohibition on the use of any form of forced or compulsory labor; (D) a minimum age for the employment of children; and (E) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health (CIRI Coding Manual, 2013).

These requirements incorporate the core labour standards of the ILO and thus, the eight conventions that have to be implemented in the GSP+. Therefore, it is a suitable data source for the assessment of compliance of the labour conditions in the GSP+. The CIRI Data set uses Amnesty International reports and annual country reports on human rights practices by the US Department of State as sources (CIRI Coding Manual, 2013).



Before going into detail on the analysis of the CIRI Human Rights Data Set and the assessment of the level of workers' rights, it is important to check the ratification of the fundamental labour rights conventions of the ILO. NORMPLEX, the information system on international labour standards by the ILO provides a list by country. The data in table 2 has been collected from the website and shows that most of the countries already ratified the conventions before the GSP+ entered into force. There are three exemptions, which are underlined in the table. Bolivia ratified the Convention concerning Forced or Compulsory Labour (No.29) in 2005, the year the application procedure of the GSP+ started. El Salvador ratified the Convention concerning Freedom of Association and Protection of the Right to Organise (No.87) and the Convention concerning the Application of the Principles of the Right to Organise and to Bargain Collectively (No.98) in 2006, after the GSP went into force.

	Freedom of association		Forced labour		Discrimination		Child labour	
	No.87	No.98	No.29	No.105	No.100	No.111	No.138	No.182
Bolivia	1965	1973	<u>2005</u>	1990	1973	1977	1997	2003
Costa Rica	1960	1960	1960	1959	1960	1962	1976	2001
Ecuador	1967	1959	1954	1962	1957	1962	2000	2000
El Salvador	<u>2006</u>	<u>2006</u>	1995	1958	2000	1995	1996	2000
Guatemala	1952	1952	1989	1959	1961	1960	1990	2001

Table 3: Ratification of fundamental conventions by country (Source: NORMPLEX, (n.d.))

Table 3 shows that the conventions of the core labour standards have been ratified by all countries. Thus, the focus lies on the implementation and the effects on the rights of workers. The analysis of the CIRI dataset is performed with Excel, where a pivot table is used to plot the correlation between the dependent and independent variable. The variable "workers" is the dependent variable. The variable "ctry" (country name) and "year" (year identifier) are the independent variables. These variables show if the rights of workers in the respective countries and years were restricted or not. A score of two indicates that the rights of workers were fully protected. This is accomplished if a country complies with all requirements of the WTO, which have been mentioned before. The coding manual specifies that a country should be scored two even if "police, the military, and other government personnel associated with public safety are prohibited from striking" (CIRI Coding Manual, 2013, p.65). A score of one indicates that the rights were somewhat restricted. Therefore, it is necessary that the right of freedom of association at the workplace (Convention No.87) and the right to collective bargain (Convention

No.98) were protected. Moreover, one or more of a variety of problems were present. These problems are for example the missing of a minimum wage, employment of child labour, or forced labour. The complete list from the CIRI coding manual is available in Annex 1. Apparently, the measurement of occasional violations, which is scored as one, is very generous. Despite major problems, the rights are not rated as severely restricted. Therefore, a score of one has to be interpreted as incompliant with the labour right provisions of the GSP+. A score of zero indicates that the rights of workers were severely restricted. It applies if a severe breach of international labour rights exists such as the restriction of unions and political activity by the government. The list is part of Annex 1. Thus, the higher the total number is, the better is the protection of workers' rights (CIRI Coding Manual, 2013). Thus, the scoring emphasizes the conventions on the right of bargaining collectively and the freedom to join a union, because these rights need to be complied with to receive at least a score of one. Nevertheless, the data set does include core labour standards as a whole and therefore it is still meaningful for the analysis of all conventions.

The period for the analysis has been set from 2004 until 2011, since data is only available until 2011. For the years 2012, 2013, 2014 and 2015, I will use the annual human rights reports of the US Department of State as indicator and analyse it according to the CIRI coding guide in order to have comparable results. The best possible score for a country in the timeframe of twelve years would be twenty-four. This number would be applicable if workers' rights were fully respected every year. The worst possible outcome is zero, if workers' rights were severely restricted every year.

Table four shows the data on the five beneficiary countries of the GSP+ from 2004 until 2015. For a more significant illustration, the scores of zero have been marked as red circles, the scores of one as yellow circles and the scores of two as green circles. The table shows that Costa Rica has the best protection of workers' rights and Guatemala has the worst. Moreover, it becomes evident that none of the countries has fully protected workers' rights. Only Costa Rica had fully protected workers' rights once in 2007. Nevertheless, this is insufficient for claiming an overall successful implementation of the labour right provisions of the GSP+.

With regard to the temporal evolution, it becomes clear that some of the countries have improved their workers' rights. Especially Bolivia, Costa Rica and El Salvador managed to improve their workers' rights from severely restricted to somewhat restricted. One can suppose that the regulations of the GSP+ initiated new legislation, which improved workers' rights. Ecuador and Guatemala both perform poorly and have many records of labour rights violations



that report severe restrictions of workers' rights. 2008 presents an interesting year because all five countries had severely restricted workers' rights. This observation is especially striking for Costa Rica, which exhibited fully protected workers' rights the year before. This development can be explained by the evaluation in 2008, which notes that the Costa Rican law incorporates "complex filing procedures and the lack of oral hearing procedures" (US Department of State, 2008, Section 7.a.). This resulted in inefficient antiunion cases, which lasted for several years until a decision was proclaimed. Moreover, administrative requirements for conducting legal strikes were extremely burdensome and included for example a participation of at least 60 percent of the workers (US Department of State, 2008). Moreover, cases were revealed in which employees were fired for wanting to unionize. Foreign workers were additionally prohibited from unionizing (US Department of State, 2008). The list of violations is even longer, and the rights to freedom of association and collective bargaining were infringed in multiple ways, resulting in the evaluation of severely restriction of workers' rights.

	Bolivia	Costa Rica	Ecuador	El Salvador	Guatemala
2004	●	●	●	●	●
2005	●	●	●	●	●
2006	●	●	●	●	●
2007	●	●	●	●	●
2008	●	●	●	●	●
2009	●	●	●	●	●
2010	●	●	●	●	●
2011	●	●	●	●	●
2012	●	●	●	●	●
2013	●	●	●	●	●
2014	●	●	●	●	●
2015	●	●	●	●	●
TOTAL	7	11	3	6	0
Ranking	2nd	1st	4th	3rd	5th

<i>Legend</i>		
●	Severe restriction of workers' rights (score 0)	●
●	Occasional violation of workers' rights (score 1)	●
●	Fully protected workers' rights (score 2)	

Table 4: Protection of workers' rights (Source: CIRI Human Rights Data Set (2014))

To increase the validity of the first analytical step I analysed a second data set. The data set is called “Labour Rights Indicators” (LRI) and has been developed by David Kucera (ILO) and Dora Sari (University of Geneva) for the Center for Global Workers’ Rights. It entails textual and numerical information on compliance with the conventions on freedom of association (No.87) and collective bargaining rights (No.98). Compliance is assessed on country-level and data is available for 2012 and 2015 (LRI, n.d.; Kucera & Sari, 2016). The following sources are used to identify labour violations with the two conventions:

- *Reports of the Committee of Experts on the Application of Conventions and Recommendations*
- *Reports of the Conference Committee on the Application of Standards*
- *Country baselines under the ILO Declaration Annual Review*
- *Representations under Article 24 of the ILO Constitution*
- *Complaints under Article 26 of the ILO Constitution*
- *Reports of the Committee on Freedom of Association*
- *National legislation*
- *International Trade Union Confederation Survey of violations of Trade Union Rights*
- *U.S. Department of State’s Country Reports on Human Rights Practices (Kucera & Sari, 2016, p.4f.)*

The data set differentiates between violations in law and in practice to double the evaluation criteria and “make their sizeable number more tractable for both coders and users” (Kucera & Sari, 2016, p.4). The measurement of violations translates into scores, with zero being the best score and ten the worst score. Qatar for example has a score of 10.00 in 2015 while the Netherlands have a score of 0.18 (LRI, n.d.). The overall average of all 183 countries lies at 4.14 (Kucera & Sari, 2016). The global average is rather high due to many countries, which have a score of 10.00 such as Sudan, the Syrian Arab Republic or the United Arab Emirates. In these countries, workers typically do not have the right for freedom of association or collective bargaining. Therefore, I calculated the average of the scores of the EU member states in order to have an average of countries, which generally respect labour rights. The average of the member states of the European Union amounts 1.37. The numbers for the calculation is available in Table 10, Annex II. I picked the average of the global score and the score of the European Union to increase the average. As well as the member states of the EU, the beneficiary countries of the GSP+ are expected to effectively implement the ILO conventions. Thus, the global average should not be used as measurement. The newly estimated average amounts to 2.76. It is the average of the global score and the score of the EU member states. It will guide



the interpretation of the scores of the five countries of this case study. Any country that has a score higher than 2.76 will be categorized as incompliant with labour rights, while any score above 2.76 will be credited as compliant with labour rights.

	Global	European Union
Average	4.14	1.37
Total average	2.76	

Table 5: Labour Rights Indicators average scores (Source: Labour Rights Indicators, n.d.)

The data of figure 2 is from the website “Labour rights in law and practice”. The section on the different countries presents an overview of the different types of violations and the respective scores that result from it. Figure 2 shows the amount of violations in law and in practice for 2012 and 2015. It shows that Costa Rica (16) and Bolivia (19) have least violations, followed by Ecuador (23). Guatemala has the biggest amount of violations (38), followed by El Salvador (29). The figure moreover shows that in 2015 Costa Rica (16) and Bolivia (19) still have least violations, which remained on a stable level. Ecuador and El Salvador switched places, since Ecuador (28) exceeded El Salvador (27). Guatemala (38) is still the negative leader of labour rights violations. A more detailed table of the data that is portrayed in Annex II. When comparing the data from 2012 and 2015 it becomes clear that no major development happened, because none of the countries was able to significantly decrease its violations of labour rights. Thus, the countries and their governments did not make major accomplishments or improvements. It becomes evident that the figure shows the same ranking as the CIRI data set in Table 4. In both cases, Costa Rica has the best results and Guatemala the worst.

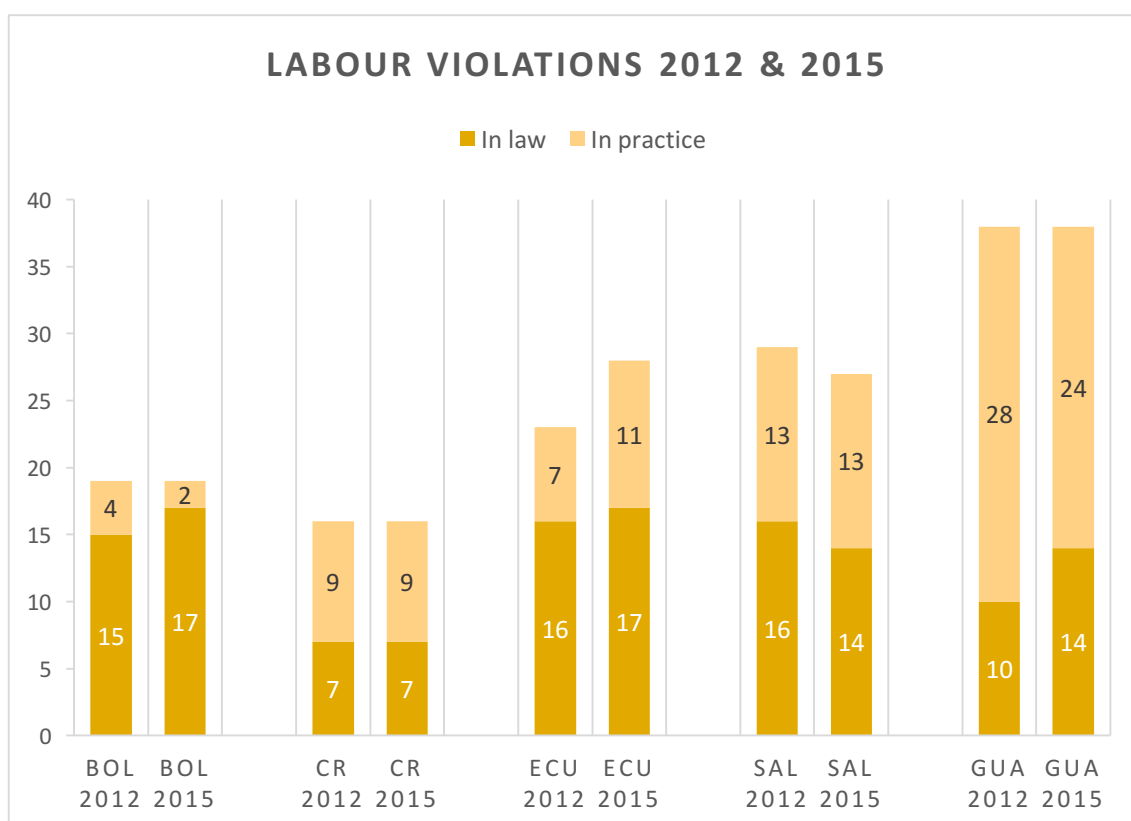


Figure 2: Labour rights violations, 2012 & 2015 (Source: Labour Rights Indicators, n.d.)

Coming back to the scores, which range from zero to ten, Costa Rica and Bolivia have scores which are below the average in 2015 with 2.90 (Costa Rica) and 3.47 (Bolivia). However, none of the countries have an average below the modified average (2.76), or the average of the European Union member states (1.37). The scores of the other three countries are higher than the global average. El Salvador has a score of 4.95, Ecuador has a score of 5.14 and Guatemala has a score of 7.03 in 2015. The data of Kucera and Sari (2016) is not able to show whether compliance varies over time between 2004 and 2015. However, it supports the findings of the CIRI data set and verifies that in 2012 and 2015 the beneficiary countries of the GSP+ did not comply with the provisions on labour rights, due to manifold violations.

	Bolivia	Costa Rica	Ecuador	El Salvador	Guatemala
Score 2012	3.43	2.90	4.17	5.28	7.08
Score 2015	3.47	2.90	5.14	4.95	7.03

Table 6: Labour Rights Indicators Scores 2012 and 2015 (Source: Labour Rights Indicators, n.d.)

The first analytical step has been necessary for answering the second sub-question, which asks; to what extent is policy conditionality with regard to labour right provisions successful under the GSP+? The analysis of the different data sets shows that the conditionality has not been successful, because none of the countries has effectively implemented the core

labour rights conventions of the ILO. This has been established by the two data sets, which identified manifold violations with the labour right provisions of the GSP+ (CIRI Human Rights Data Set, 2014; LRI, n.d.).

4.2 Step 2: Preconditions of the GSP+

The GSP+ is part of the Council Regulation (EC) No 980/2005 of the 27th of June 2005. The first scheme of the GSP+ shall enter into force on the 1st of July 2005 and last until the 31st of December 2008 (Council Regulation (EC) 980/2005) Art. 30). The regulation is 43 pages long and includes an annex of 32 pages. It discusses the scheme of generalised tariff preferences, and thereby talks about general arrangements and tariff preferences (section 1), the GSP+ (section 2) and the special arrangement for least developed countries (section 3). The GSP+ is officially called the special incentive arrangement for sustainable development and good governance. In exchange for the effective implementation of 27 core international conventions on human rights, labour rights, good governance and environmental protection the beneficiary countries will be granted full removal of tariffs on over 66% of tariff lines (Council Regulation (EC) 980/2005; European Commission, 2017a).

Article 8:

- **Rewards**

Article 8 states explicitly that “Common Customs Tariff ad valorem duties on all products listed in Annex II which originate in a country included in the special incentive arrangement for sustainable development and good governance shall be suspended” (Council Regulation (EC) 980/2005 Art.8). Thus, the removal of tariffs is the reward of the GSP+. The list of products in Annex II is 26 pages long. Since this thesis only discusses the provisions on labour rights, only the determinacy of the conditions on labour rights will be assessed.

Article 9:

- **Conditions**

The rewards in Article 8 come with strings attached. The conditions that grant the countries preferential status of the GSP+ are verbalised in Article 9 (Council Regulation (EC) 980/2005). The first point states that the GSP+ will be granted to countries, which “ratified and effectively implemented” the core human and labour rights Conventions of the UN and the ILO (Council Regulation (EC) 980/2005 Art.9.1.). The regulation does not specify what effectively implement means and consequently leaves room for interpretation to the beneficiary country. The condition is neither composed in

detail nor clearly formulated and provides the beneficiary country with room for manipulation of the interpretation. It would increase the determinacy of the regulation if it incorporated for example more details on the duties for the respective governments or employers. Another condition states that it is important that a country

Gives an undertaking to maintain the ratification of the conventions and their implementing legislation and measures and [the country] accepts regular monitoring and review of its implementation record in accordance with the implementation provisions of the conventions it has ratified. (Council Regulation (EC) 980/2005 Art.9.1.).

This formal commitment states that countries need to agree to the monitoring and review mechanisms of the GSP+. In addition to that, the regulation explains that the Commission monitors the effective implementation. Moreover, Article 9 obliges the country to give an undertaking (a promise) to sustain the ratification and implementation. Again, flexible language is used which facilitates the beneficiary country with room for interpretation on the enforcement. Further, the EU provides no details or suggestions on the achievement.

Point two of article 9 additionally states conditions for beneficiary countries. It provides a derogation for the aforementioned point one. It determines that a country may be granted the GSP+ although it has not ratified and implemented the conventions yet. This is possible if “a formal commitment has been made [...] to sign, ratify and implement any missing Convention should it be ascertained that there exists no incompatibility with its Constitution” (Council Regulation (EC) 980/2005 Art.9.2.). Thus, usually a country has to ratify and implement the conventions on labour rights before the GSP+. However, provision two provides the country with a postponement of four months until the 31st of October 2005. In the event of an incompatibility of the labour rights conventions and its constitution, the country has a postponement of eighteen months until the 31st of December 2006. This prescription emphasizes that it is highly important for the EU to engage the countries in adopting the conventions. This provision was applied in the specific case of El Salvador, whose Supreme Court ruled that the ILO Convention No. 87 is incompatible with the El Salvadorian Constitution (European Commission, 2017b). This explains why El Salvador was allowed to implement two of the ILO’s Fundamental Constitutions in 2006 as shown by table 3. In the opposite manner, the Council Regulation (EC) 980/2005 suggests that “developing countries which already fulfil the criteria [...] at the time of entry into force of this Regulation should benefit from this arrangement as quickly as possible” (8). As table two shows, almost all countries had ratified the eight conventions on labour rights beforehand. Only Bolivia and El Salvador had to ratify conventions in 2005 and 2006. In addition to the

ratification and implementation of conventions, economic criteria decide whether a country is eligible for the GSP+. Article 3 defines an economically vulnerable country as a country that has not been classified as high income in three years in a row by the World Bank. In addition to that, the five largest import products of the country, which are covered in the GSP, need to make up more than 75 percent of the total imports. As aforementioned, not all products are covered in the GSP. In addition to that, the GSP-covered imports may not represent more than 1 percent of the total value of GSP-covered imports to the EU (Council Regulation (EC) 980/2005 Art.9.3). The economic criteria typecast the countries that can become part of the GSP+. The economic vulnerability emphasizes the importance of its benefits to them, namely the preferential market access.

Article 10:

• **Request**

If a country fulfils the mentioned criteria, it can make a request to become a beneficiary country of the GSP+. Therefore, it has to submit a request in written form. It needs to entail information on the ratification status of the conventions and its national legislation. Additionally, the country has to provide its commitment to the monitoring and review mechanisms of the GSP+. Moreover, the requesting country needs to state the “measures to effectively implement the provisions of the conventions” (Council Regulation (EC) 980/2005 Art.10.2). The regulation again lacks specification, by not defining the term effectively implement. The request of the country will be approved after an examination. The examination takes into consideration findings and reports of international agencies and institutions (Council Regulation (EC) 980/2005 Art.10.1).

Article 11:

• **Approval**

Article 11 states that a requesting country will be informed by the 15th of December 2005 on whether the country becomes part of the GSP+ scheme and when the decision enters into force. From then on, the country will receive a suspension of tariffs (Council Regulation (EC) 980/2005 Art.11.3).

Article 16 & 17:

• **Sanctions**

Article 16 lists the reasons that lead to the temporal withdrawal of preferences of the GSP+. The reason relating to compliance with labour rights provisions is the occasion of “serious and systematic violations of principles laid down in the conventions” (Council Regulation (EC) 980/2005 Art. 16.1). There is no additional specification on what a serious violation is. Thus, the European Commission has room for interpretation on how severe a violation is, if an investigation is filed. Other reasons that lead to sanctioning are for example the export of goods made by prison labour, export of drugs or unfair trading practices (Council Regulation (EC) 980/2005 Art.16). Since this case study discusses compliance with labour right provisions, there is no need to go further into detail

about additional reasons. In general, the sanctions as they are stipulated in the GSP+ do not appear to be severe. The regulation states that the preferential treatment “may be temporarily withdrawn, in respect of all or of certain products” (Council Regulation (EC) 980/2005 Art.16.1). Moreover, the “period of suspension shall not exceed 6 months” (Council Regulation (EC) 980/2005 Art.17.5). Thus, the severity of sanctions as they are stipulated in the agreement is low.

To conclude the findings, I am referring to the questions defined in chapter three that guide the analysis. The first question asked whether the regulation clearly and explicitly formulates the rules of the GSP+. The analysis has shown that the regulation is in general, explicitly formulated and provides information on all crucial aspects (rewards, sanctions, conditions, etc.). However, it lacks explicitness on specific details. For example article 9 on the conditions states that the labour rights conventions of the ILO need to be “ratified and effectively implemented” (Council Regulation (EC) 980/2005 Art.9.1.). However, the article does not clarify what this means in practice. It neither describes, nor prescribes the countries any specifications or guidelines on how to achieve the implementation. Another example for the lack of clarity has been identified in article 16, which stipulates that sanctions will be applied in the case of “serious and systematic violations” (Council Regulation (EC) 980/2005 Art.16.1). Again, it is unclear what serious and systematic violations are. Thus, the regulation does not explicitly state what behaviour results in sanctioning. These two examples moreover relate to the second question, which asks whether the rules are composed in detail. With regard to the two aforementioned examples, the question has to be negated. In many cases the rules should entail more detail by defining what certain terms such as effectively implement mean and what they incorporate. The lack of detail moreover facilitates the beneficiary countries and the Commission with room for interpretation when applying the rules. For example, with regard to sanctioning, the Commission can decide whether it considers a violation as serious and systematic for every case individually, because no definition exists. Thus, manipulation is possible. The three last questions that guide the analysis refer to the rewards and sanctions of the Council Regulation, because these are essential for ensuring conditionality. The first question asks whether the regulation explicitly mentions the rewards and sanctions of the GSP+. This question can be affirmed, because the regulation includes one article on the rewards (No 8) and two on the sanctions (No 16 and 17). The follow up questions ask how beneficial the rewards of the GSP+ are and how severe its sanctions are. The regulation emphasizes that the rewards are highly beneficial, while the sanctions are moderate. GSP+ beneficiary countries are granted full removal of tariffs on 66% of tariff lines. (European Commission, 2017a). The



European Union is the largest economy in the world and the “biggest player on the global trading scene” (European Commission, 2014a). Hence, the EU is a highly attractive trading partner, which facilitates economic growth, comprises 500 million consumers, and offers a transparent and open market for developing countries (European Commission, 2014a). Therefore, the removal of tariffs is highly attractive for developing countries due to the access to the biggest single market in the world. In contrast, the sanctions are moderate and unlikely to be applied. Moreover, the withdrawal of preferences shall not last longer than six months. This is a comparably short period of time. Overall, the Council Regulation contains broad language in various articles, especially with regard to conditions and sanctioning. A more detailed composition of rules could be able to improve compliance by restricting beneficiary countries and the Commission.

4.3 Step 3: Rationalist & social-constructivist factors

4.3.1 Credibility of Conditionality

The first rationalist condition assesses the credibility of conditionality, and thus determines if incompliance under the GSP+ resulted in sanctioning. In the case of the GSP+, this means the reintroduction of tariffs. After the first scheme of the GSP+ ended in 2008, the monitoring bodies of the Commission published a report on the status of ratification in October 2008. The report states that all beneficiary countries ratified the conventions on labour rights. With regard to the “state of play on effective implementation”, the report bases its evaluation on recommendations of monitoring bodies of the ILO and the UN (European Commission, 2008, p.6). The analysis is limited to the statement that the monitoring bodies “reveal various shortcomings in the implementation process but in general demonstrate a satisfactory state of play” (European Commission, 2008, p.6). This statement indicates that the requirements of the Commission with regard to the effective implementation of the conventions are minimal. As we can see in table 4 from the first step of the analysis, all five countries at least once severely restricted workers’ rights in the period of 2005 until 2008 (CIRI, n.d.). Thus, the evaluation of the Commission is highly generous. The broad and flexible language that has been used in the GSP+ regulation, as identified in the second analytical step (Council Regulation (EC) 980/2005) has facilitated this.

In the history of preference withdrawals, only one case exists where a GSP+ beneficiary country was removed from the scheme. Sri Lanka was part of the GSP+ from 2005 until 2010. The withdrawal of preferences occurred due to “massive and systematic human rights



violations” during the civil war in 2008 and 2009 (European Parliament, 2017, p.5). Moreover, the European Commission filed investigations against El Salvador and Bolivia in 2008 and 2012. The case against El Salvador was filed because its Supreme Court ruled in 2007 that the convention concerning Freedom of Association and Protection of the Right to Organise (No 87) was inconsistent with its national constitution. The investigation was closed in 2009 because El Salvador conducted a reform of its constitution, which facilitated the effective implementation of convention 87 (European Commission, 2009). Looking at table 4 we can see that from 2009 onwards, the restrictions of workers’ rights were reduced (CIRI, n.d.). This development can be linked to the reform of the constitution. Bolivia is another case that was investigated. In 2012, Bolivia withdrew from the UN Convention on Narcotic Drugs, which is one of the 27 conventions that have to be implemented under the GSP+. During the investigation of the Commission, which lasted twelve months, Bolivia continued to benefit from the preferential market access. The investigation concluded that despite the withdrawal from the convention, Bolivia still incorporated the provisions in national law and thus did not derogate the effective implementation. In 2013, Bolivia re-implemented the convention on Narcotic Drugs and therefore remained part of the GSP+ (European Commission, 2013). Another case of incompliance of Bolivia was detected in 2014, when the country implemented a national law that legalises child labour at the age of ten (McQuade, 2014). Thus, the legislation infringes the ILO Minimum Age Convention (No. 139), which stipulates the youngest age as twelve for developing countries (ILO, 1973). Although the Commission GSP+ assessment report of 2014-2015 identifies that “the law conflicts with the ILO Convention” no investigation has been initiated (European Commission, 2016, p.43). Instead, the report urges the government to “take immediate measures to ensure the amendment [...] in conformity with the conditions [...] of the convention” (European Commission, 2016, p.48). In addition to that, a Committee of the International Labour Conference already imposed implementations, which shall be carried out by the Bolivian government including the repeal of the respective provisions and to “immediately prepare a new law” (European Commission, 2016, p.48). Thereupon, the Bolivian government “expressed disagreement with the conclusions and reserved the right to analyse them and send observations at a later stage” (European Commission, 2016, p.49). Consequently, despite adopting and implementing a national legislation, which infringes a Fundamental Convention of the GSP+, no investigation has been filed.

These cases demonstrate how generously the European Commission treats the violations of the GSP+ beneficiary countries. The Council Regulation provides this generosity. Even after the initial investigation has been conducted and the findings justify a withdrawal of



preferences, the Commission first has to monitor and evaluate the situation in a country for six months again. After the second investigation, the preferences will only be withdrawn if the beneficiary country does not show “a commitment to take the measures necessary to conform, in a reasonable period of time, with the conventions” (Council Regulation (EC) 980/2005, Art.19.3). It is neither clarifies what the commitment looks like or what is considered a reasonable period of time. Thus, article 19 explains why incompliance is highly unlikely to result in the temporary withdrawal of preferences.

The reluctance to sanction developing countries has been analyzed by different scholars. Orbie and Tortell (2009) explain that the ratification of the ILO conventions is cheap because there are little consequences for failing to meet the rules and regulations. Moreover, they emphasize that the Commission does not provide sufficient information on the methodology of monitoring. Thus, it is unclear how the Commission interprets labour violations. Consequently, a lack of transparency exists. The inconsistency between the ratification of labour rights and its implementation into practice can moreover be linked to different reasons. Orbie and Tortell (2009) argue that conditionality towards sanctions is low because “diplomatic damage from sanctions would be greater than the expected benefit in pushing countries into implementation of ILO Conventions” (Orbie & Tortell, 2009, p.680). Moreover, academics doubt that sanctioning (the withdrawal of preferences) will enhance the implementation of labour rights (Orbie & Tortell, 2009; Orbie & De Ville, 2010). On the one hand, NGOs and international organizations highly criticise the GSP+ for granting preferences to “some of the world’s worst violators including Colombia, Guatemala and Georgia” (ETUC, 2008, p.1). On the other hand, the former European Commissioner for trade, Mandelson proclaims that

According to the ILO supervisory committees, most of the applicant countries have made substantial changes to their legal systems in order to comply fully with the rights enshrined in the ILO conventions, in particular regarding the freedom of association and the right to collective bargaining (European Parliament, 2005).

Consequently, the European Institutions have a different perception on the functioning and efficiency of the GSP+ than scholars, NGOs and international institutions. Nevertheless, the increasing pressure lead to a reform of the GSP in 2012. The reform especially aimed at improving the tracking of the implementation of the conventions. Since then, it included a continuous dialogue between the Commission and the beneficiary countries. Moreover, the beneficiary countries have to hand in a report on the implementation every two years. Furthermore, the burden of proof has passed from the Commission to the beneficiary countries.



Therefore, if evidence exists that points to inconsistent implementation of the conventions, the beneficiary country has to prove a positive record (Council Regulation (EC) No 987/2012; European Commission, 2014). Consequently, the European Commission reacted to the criticism of academics and NGOs. Nevertheless, investigations have not been filed since the reform, despite the continuous disregarding of the labour right provisions of its beneficiary countries, as identified in step one of the analysis.

Overall, it becomes clear that incompliance did not result in sanctioning. Moreover, the monitoring mechanisms have been fairly weak until 2012. Apparently, the strengthening of monitoring with the reform did not have any impact yet on sanctioning. As identified in step one, none of the five beneficiary countries ensure the effective implementation of the conventions. Due to these findings, I contacted a policy coordinator who works at the trade and sustainable development directorate general at the European Commission via LinkedIn. Her tasks include the review and implementation of the GSP, including the GSP+. Thus, I asked her why incompliance is treated highly generous under the GSP+ scheme. She reasons that businesses, as well as the civil society have an interest in keeping the GSP+ because it can be used as leverage against beneficiaries' authorities to push for reform with regard labour rights, human rights or good governance. Moreover, she emphasizes that the GSP+ is a long-term effort, which incorporates commitments that cannot be achieved overnight. Thus, the progress of the countries is more important than a perfect performance record. Thus, the overall development is superior to the application of conditionality (J. Peschau, personal communication, 14.07.2017).

4.3.2 Key actors and adoption costs

The second rationalist influencing factor identifies the key actors who should face low adoption costs to increase the likeliness of compliance. Realist theory argues that a government will ratify rules if they imply low commitments for the government. Therefore, many conventions are signed for the symbolical value without being truly enforced (Simmons, 2009). This disengagement of principle and practice applies to the labour rights provisions of the GSP+. Table 3 shows that almost all countries ratified the ILO conventions on fundamental labour rights long before the GSP+ came into existence. The earliest ratification dates back to 1952 and has been conducted by Guatemala, the worst labour rights violator in this case study. Only two countries ratified conventions at the start of the GSP+ (NORMPLEX, n.d.). The empirical findings suggest that none of the countries fully comply with the conventions. Therefore, violations occur



on a regular basis (CIRI Human Rights Data Set, 2014; Labour Rights Indicators, n.d.). One would expect the adoption costs of the ratification of the labour rights provisions in the GSP+ to be low, because most of the conventions have been ratified up to 50 years ago. Nevertheless, there has not been an effective implementation. This may indicate that the true adoption costs are high. Raustiala and Slaughter (2002) further emphasize that conventions, which require high domestic adoption costs, are unlikely to result in compliance.

The goal of the GSP+ and its labour rights provisions is to improve the social standards of workers and enhance their rights and working conditions in the beneficiary countries. Thus, workers are expected to be the winners of the GSP+. However, as the previous analysis has shown, there is no effective implementation of the conventions and the standards remain on a low level. Therefore, the workers can be seen as the losers of the GSP+. The winners are the employers, who did not (have to) comply with strict and costly regulations. The employers are also the ones who would defray part of the costs. They are the ones who would need to pay the increased minimum wage, who would make less profit when workers exercise the right of collective bargaining etc. Beforehand, the government is obliged to incorporate the conventions into domestic law. Thus, it defrays the costs of the ratification and implementation of ILO conventions too. The government needs to eliminate conflicting provisions in its constitution or national labour laws. Moreover, it is necessary to introduce administrative arrangements for provisions, which are not self-executing. This usually includes an increase in staff and consequently higher spending. In addition to that, all involved people and authorities need to be informed about the new regulations and instructed on its application and meaning. This includes administrative bodies and courts, but also labour inspectors, employers and workers (ILO, 2012).

When researching for key players in the respective countries with regard to the adoption of the GSP+ hardly any information is available with regard to the key players and their positions. The only information that is prevalent is that the economy profits from the GSP+. Tim Torlot, the Bolivian EU ambassador for example emphasizes that the European market is the most important one for Bolivia. He claims that 90% of Bolivian products can be imported into the EU without tariffs. Thus, the participation in the GSP+ stabilises Bolivian exports. The social dimension of the GSP+ is not mentioned (Quispe, 2015). Costa Rica presents a similar picture. Information on the GSP+ are always centred on information about its value for the economy and the amount of exports (EU Delegation, 2016). Neither the Costa Rican government website, nor the chamber of commerce provide information on the GSP+ or its position towards it. Marco Vinicio Ruiz, the Costa Rican trade minister only emphasizes the importance of extending the



period of the GSP+ and its value for the economy (CR Ministerio de Comercio Exterior, 2012). The same applies to Ecuador, El Salvador and Guatemala (Valiente, 2009; El Universo, 2014; ECU Ministerio de Comercio Exterior, n.d.; El Economista, 2013). Consequently, no information about the implementation of the GSP+ is available. The different sources only discuss the economic benefits of the GSP+ and disregard the conditions or costs that accompany it. Moreover, the information is brief and superficial.

These findings can be linked to the former steps of the analysis, which have shown that the fundamental labour conditions have been ratified decades before the GSP+ entered into force. Moreover, the continuous violations in law and practice emphasize that the implementation has not been effective. Thus, so far, the respective actors have not paid the adoption costs yet. Minor reforms and legal adaptations have been conducted, however this does not include the whole set of conventions. Furthermore, major employer associations like the Confederación de Empresarios Privados de Bolivia, the Unión Costarricense de Cámaras y Asociaciones del Sector Empresarial Privado, the Federación Nacional de Cámaras de Industrias y Producción del Ecuador, the Asociación Nacional de la Empresa Privada (El Salvador) or the Comité Coordinador de Asociaciones Agrícolas, Comerciales, Industriales y Financieras (Guatemala) do not discuss the GSP+ (CEPB, n.d.; UCCAEP, n.d.; CIP, nd.; ANEP, n.d.; CACIF, n.d.). This shows that the impact the GSP+ has on employers is little. Overall, the analysis has shown that the GSP+ does not have a high importance, value and effect on the labour rights or its additional social dimension.

4.3.3 Logic of appropriateness

The social-constructivist influencing factor is inspired by the logic of appropriateness and identifies if it applies to the beneficiary countries. It will be assessed by analysing the external and internal validity of the labour rights provisions, and thus the ILO Fundamental Conventions on Labour Rights. The external validity of the Conventions can be easily assessed. 140 countries have ratified all eight fundamental conventions, as they are included in the GSP+. Only four countries have ratified none of them. These countries are the Marshall Islands, Palau, Tonga and Tuvalu (NORMPLEX, n.d.). Therefore, the ILO itself claims that the conventions on core labour standards are “recognized as fundamental both within and outside the Organization” (ILO, 2002, p.7). Due to the large-scale international commitment, one can ascribe external validity to the labour rights provisions of the GSP+.



One would expect the fundamental conventions to be internally respected too, since most of them were ratified voluntarily without the application of conditionality (NORMPLEX, n.d.). Nevertheless, conflicting domestic rules appear to exist as the continuous violations of labour rights indicate (CIRI Human Rights Data Set, 2014; Labour Rights Indicators, n.d.). To identify conflicting domestic labour laws, an assessment of the findings of the Labour Rights Indicators in law will be done. In addition to that, an extensive internet research of newspaper articles will show if conflicting rights exist, since the LRI does not include all ILO Conventions. The online research demonstrates if outrage with regard to a specific law exists. It is necessary to differentiate between different levels of conflicting domestic legislation. In the following analysis, I will distinguish between high, medium and low levels of conflict. Definitions for the different variations can be found in the concluding section of this subchapter.

In Bolivia, conflicting domestic rules have been ratified in 2014. Newspaper headlines of the *Guardian*, the independent or BBC NEWS reveal headlines such as “Bolivia’s child labour shames us all”, “Bolivia becomes first nation to legalize child labour” or “Child labour laws: A step back for advancing Bolivia?” (McQuade, 2014; Simpson, 2014; Watson, 2014). The critical articles discuss a new law, which lowered the minimum age of employment from fourteen to ten years (McQuade, 2014). Therefore, it infringes the ILO Convention No. 138 on the minimum age for admission to employment. The convention states that the minimum age (for light work) is between thirteen and fifteen. For developing countries, the ILO includes a possible exception, which lowers the age to twelve years (ILO, 1973). Nevertheless, the Bolivian law infringes Convention No.138. This exemplifies the low internal validity of the labour rights conventions in Bolivia. Moreover, it emphasizes the inconsistent sanctioning of the EU, which did not file an investigation against Bolivia, despite recognizing that “the law conflicts with the ILO Convention 138” (European Commission, 2016, p. 43). These findings are supported by figure 2, which shows that Bolivia has the highest amount of violations in law (Labour Rights Indicators, n.d.).

For Costa Rica, the analysis presents a different outcome. The country did not adopt any domestic labour law, which conflicts the conventions. Moreover, reports on the efforts with regard to the elimination on the worst forms of child labour attribute “significant advancement” to Costa Rica (US Department of Labor, 2016). However, some legislation exists that violates subitems of different ILO conventions. The Human Rights Report of the U.S. Department of State for example identified that the right to freely elect representatives was infringed. Workers are allowed to form and join independent unions, however the national legislation “prohibits [foreign workers] from holding positions of authority within the union” (US Department of State, 2015b, Section 7). Since this violation comprises a smaller provision and affects a comparatively



small amount of people it cannot be assessed as equivalent to the conflicting labour law in Bolivia.

Ecuador has been identified in this case study as one of the countries with the most restricted labour rights, as table 4 shows. Thus, conflicting domestic labour legislation is likely to be found. The International Trade Union Confederation (ITUC) identified Ecuador as one of the countries where working conditions recently deteriorated. This has primarily been linked to the restrictions towards union leaders and the occupation of their offices by the government (ITUC, 2017). An analysis of sources has identified that the Ecuadorian labour justice law conflicts the right of freedom of association and the right to collective bargaining. In general, it grants workers the right to strike, however the exceptions are huge. The law “prohibits formation of unions and restricts the right to collective bargaining and striking of public-sector workers in ‘strategic sectors’” (US Department of State, 2015c, Section 7). The ILO contains a provision on sectors that are defined as essential services. These may be excluded from the right due to its significance. However, Many of the services, which Ecuador includes, are not considered essential, such as education, transport and distribution, post and telecommunications, public transportation or fuel processing (ILO, 2006). Therefore, Ecuador illicitly refrains the right to freedom of association from many workers in the public sector. Although the law does not restrict the right to collective bargaining and striking in its entirety, it still concerns a larger share of workers. Due to this deliberate violation, it can be assumed that Ecuador does not consider the right appropriate but too restrictive.






The first analytical step determined that El Salvador has a substantial amount of legal violations of labour rights. Nevertheless, an analysis of the identified violations shows that these mainly comprise minor sub items, such as excluding people who are regulated by the Civil Service Tribunal Law from the right to establish and join organizations. This includes high-level public officers or military personnel. Moreover, certain requirements for unions need to be met with regard to a minimum membership of 35 workers (US Department of State, 2012d). Nevertheless, these violations are common propositions in the other countries of the analysis too and thus only present a small restriction. Hence, the domestic labour laws do not conflict the conventions as a whole. Therefore, it can be assumed that El Salvador considers the rules to be appropriate.

Guatemala has been identified to be the country with the most restrictive workers’ rights of this case study (CIRI, n.d.). The findings of the analysis have been underpinned by the recent report of the ITUC, which classifies Guatemala as one of the ten worst countries in the



world for workers rights in 2017 (ITUC, 2017). The report emphasizes violence and homicide against unionists. Moreover, it focuses on “systematic physical violence, intimidation, Kidnapping and death threats” as reasons for the restriction of the right freedom of association (ITUC, 2017, p.31). The ITUC links these problems to dysfunctional and underresourced justice system, such as a failure of the government to provide protection. In June 2016, workers of a company were fired for forming a union. While the responsible court first ruled that the company has to reinstate the unfairly dismissed workers, the court withdrew its decision and thereby left over 250 workers discharged for forming a union (ITUC, 2017). This is only one example of many. Nevertheless, the violations mostly exist in practice, while the domestic Labour law does not conflict the provisions of the GSP+. Nevertheless, the deliberate and continuous violation of the right to freedom of association emphasizes that the government and its legal entities do not acknowledge the validity of the Labour rights. Although no high level of conflict between domestic legislation and the Labour provisions of the GSP+ exists, the internal validity is low.

The following table summarises the internal validity of the Fundamental Conventions of the ILO. A low level of validity has been defined as the existence of a law that violates a convention in its entirety. A medium level of validity has been interpreted as a violating law that affects a larger amount of workers, however does not violate a convention in its entirety. A low level of validity has been defined as the violation of subitems of conventions, which affect a smaller amount of workers.

	Bolivia	Costa Rica	Ecuador	El Salvador	Guatemala
Level of internal validity					




<i>Legend</i>		
 Low validity	 Medium validity	 High validity

Table 7: Internal validity of the labour rights conventions

Summing up, the chapter has shown that compliance with the GSP+ is generally low. Many severe labour rights violations exist despite the ratification of the labour rights conventions of the ILO. All factors that have been mentioned in the propositions are able to explain compliance. Especially the lack of determinacy of rules and the lack of credible sanctioning appear to be the most important factors in practice. A more detailed assessment on each proposition follows in the conclusion.



5 Conclusion

The goal of this outcome-centric case study was to identify the reasons for compliance with the labour provisions of the GSP+. The study has been divided into three sub-questions. The first one was answered by the literature review. It asked which factors generally explain compliance with international commitments. The most important ones have been detected and comprise:

- The determinacy of the rules
- The size of rewards and sanctions
- The credibility of sanctions and rewards
- The adoption costs for key players
- The appropriateness of the rules

Before the actual analysis assessed these influencing factors for the case of the GSP, the second sub-question had to be answered. It asked whether policy conditionality with regard to the labour rights provisions of the GSP+ are successful. To answer the question the first step of the analysis contains an evaluation of empirical data from two different data sets. The data was definite and showed that none of the five beneficiary countries has ever been truly compliant with the labour rights provisions of the GSP+ (see Table 4 and Figure 2). All countries feature a substantial amount of violations in law and in practice. Thus, the answer to the second sub question is that policy conditionality under the GSP+ is not successful. Knowing this, the third sub question was being answered, which asked which factors explain compliance. Thus, the previously identified influencing factors were analysed.

The first two factors present two formal conditions, namely preconditions of the GSP+. For the assessment thereof, an analysis of the Council Regulation of the GSP+ was necessary. It shows that neither the rules nor the sanctions are clearly and explicitly formulated. Especially the conditions that facilitate the countries with the benefits of the GSP+, are not clearly formulated. The description lacks detail and therefore provides the beneficiary country with room for manipulation of interpretation. The regulation merely demands the country to effectively implement the conventions, without specifying what this entails or even means. In addition to the conditions of the regulation, the sanctions provide rooms for manipulation of interpretation too. Overall, the language of the regulation is broad and facilitates manipulation of interpretation. Consequently, the rules are not determinate and the sanctions are not stipulated as severely as in the agreement. Based on assumption one and two the likeliness of compliance decreases.



The third assumption indicated that the credibility of conditionality is important. Thus, it is necessary for incompliance to result in sanctioning. Moreover, conditionality has to be superior to other strategic interests. The analysis shows that despite manifold violations of the conventions, none of these five countries was ever temporarily removed from the scheme. Despite that, investigations were filed against Bolivia and El Salvador. Although both countries violated the conventions that are incorporated in the GSP+, none of them was sanctioned. Thus, assumption three is applicable since a low credibility of sanctioning results in decreasing likelihood of compliance.

The fourth assumption deals with the adoption costs of key players. The literature review has revealed that if adoption costs are high the likeliness of compliance decreases. Despite the expectation that adoption costs of the labour rights provisions would be low, since the ratification of most of them happened decades ago, the incompliance suggests otherwise. Moreover, workers are expected to be the winners of the GSP+ due to its aim of improving their rights. Nevertheless, they appear to be the losers, because despite the agreement and its social clause, the respect for labour rights is still insufficient. The actual winners are the expected losers, the key actors who are anticipated to pay the adoption costs. These are employers and the government. For the specific countries, it was difficult to identify if opposing attitudes towards the GSP+ and its adoption exist. A research of newspaper articles and government sources exemplifies that none of the five countries mentioned labour rights provision or the social dimension of the GSP+. The only information that can be found refers to the extension of beneficiary status and the economic benefit that the GSP+ has. Therefore, it can be assumed that the adoption costs are high and therefore, the compliance is low. However, the analysis did not find any proof for the amount of adoption costs. Moreover, it has become clear that the government or the employers have not paid the true adoption costs of the GSP+ yet.

The last determining factor was derived from social-constructivist theory and incorporated the appropriateness of rules. Therefore, an assessment of external and internal validity of the norms of the labour rights conventions had to be done. The external validity seems to exist due to the ratification by almost all countries in the world. Moreover, the ILO is a highly respected and acknowledged global organization. The internal validity of the fundamental conventions among the five beneficiary countries presents a more diverse outcome. It has been assessed by determining if conflicting domestic labour laws exist. In Bolivia a law on child labour has been introduced which clearly infringes the Minimum Age Convention (No.138). For Costa Rica, no labour law directly infringes a convention as a whole. Nevertheless, the violation of smaller provisions in the convention has been identified. The same applies to El Salvador.



Ecuador has a higher amount of conflicting national legislation, which infringes the right of freedom of association for many workers in the public sector. Guatemala has been identified as the worst labour rights violator. Nevertheless, no major conflicting domestic labour law has been found. It also concerns minor provisions. Nevertheless, the gravity of violations and the thus deliberate and poor execution of laws in practice can be linked to a consideration of rules as inappropriate and too strict. Hence, summing up one can conclude that Bolivia and Guatemala are not convinced of the appropriateness of the rules. Ecuador's violations target a rather large group but do not infringe a conventions or right in its entirety. Nevertheless, the infringed right can be expected to not be regarded as appropriate by the government. Although Costa Rica and El Salvador have domestic laws that infringe smaller provisions, the governments can be expected to consider the rules as appropriate.

Table 8 summarizes the findings of the analysis.

	Bolivia	Costa Rica	Ecuador	El Salvador	Guatemala
Determinacy of the rules	●	●	●	●	●
Size of rewards and sanctions	●	●	●	●	●
Credibility of sanctions and rewards	●	●	●	●	●
Adoption costs for key players	●	●	●	●	●
Appropriateness of the rules	●	●	●	●	●
TOTAL	0	2	1	2	0
Ranking	5th	1st	3rd	1st	5th

<i>Legend</i>		
● Decreases likeliness of compliance (score 0)	● Somewhat decreases likeliness of compliance (score 1)	● Increases likeliness of compliance (score 2)

Table 8: Impact of influencing factors on likeliness of compliance

It shows that the first four influencing factors do all decrease the likeliness of compliance for all countries. This conforms to the first analytical step, which detected incompliance and manifold violations by all countries. The last influencing factor shows variations. Hence, Bolivia and Guatemala are less likely to be compliant with the labour rights provisions of the GSP+.



Therefore, the two countries are ranked fifth place. Ecuador is more likely to be compliant with labour standards and is thus ranked third. Costa Rica and El Salvador are according to the analysis most likely to comply with labour rights and are therefore ranked as first place.

Coming back to the beginning of the analysis it is interesting to compare the ranking of the fulfillment of influencing factors to the ranking of the empirical data. Therefore, table 9 presents a direct comparison of the ranking from table 4 and table 8. It shows that Costa Rica and Guatemala were ranked identical. Costa Rica has the least violations of labour right and is most likely to be compliant with the labour rights provisions of the GSP+ according to the analysis. Guatemala is the worst labour rights violator and is least likely to comply with the GSP+. Bolivia, Ecuador and El Slavador have been ranked differently by the empirical data and the analysis of the influencing factors. While Bolivia was ranked as the country with the second least violations of labour rights, it has been ranked fifth, together with Guatemala and is thus rated as unlikely to comply with the GSP+. Thus, Bolivia has been rated superior by the empirical data. This can be explained due to the emphasis in the data set on the rights of freedom of association and collective bargaining. Bolivia does not significantly infringe these rights, however, violates conventions on child labour. Ecuador was identified as the second worst labour rights violator and ranked third in the analysis. El Salvador has been ranked third according to empirical data. However, the assessment of the influencing factors ranked El Salvador equally with Costa Rica on rank one, and thus as most likley to be compliant.

	Bolivia	Costa Rica	Ecuador	El Salvador	Guatemala
Ranking Table 4	2nd	1st	4th	3rd	5th
Ranking Table 8	5th	1st	3rd	1st	5th

Table 9: Comparison of rankings table 4 and table 8

Summing up the analysis has shown that all factors are able to explain (in)compliance with the policy conditions on labour rights provisions in the GSP+. The assumptions have been confirmed, because the opposite applies. Thus, the non-existence of the factors leads to incompliance. Therefore, the research question could have asked what explains incompliance. The answer to this question is the lack of determinacy of rules, non-severe sanctions, incredible sanctioning, high adoption costs and the consideration of the rules as inappropriate (low internal validity). Moreover, the research reveals that the EU can influence the majority of factors. Especially the determinacy of the rules, the size of rewards and severity of sanctions and the credibility of sanctions are at the hands of the European Union. The adoption costs and the appropriateness of the rules are factors that the EU can only influence indirectly.

5.1 Recommendations

This research has shown that the GSP+ entails many flaws. In order to enhance the policy it is firstly important to enhance the determinacy of conditions. The analysis emphasizes that the loose wording leaves room for the interpretation and manipulation of the conditions. Hence, specification could improve this issue. This includes a definition of the term effective implementation. Moreover, sanctioning needs to be specified too. It needs to be defined what a systematic and severe violation is as stipulated in the Council Regulation. Thus, there is a lack of clear criteria in the regulation. More determinant conditions would restrict and constrain the beneficiary countries and the European Commission from the interpretation of the rules.

Second, the sanctions need to be stipulated more severely and more clearly. Currently, the violation of human rights and labour rights conventions leads to a withdrawal of preferences of a maximum period of six months. The withdrawal can moreover only refer to a few products instead of all. Thus, the period of sanctioning should bear the possibility of extension and should not be limited to six months.

Third, compliance would be more likely if sanctioning was credible. So far, incompliance has only once resulted in sanctioning, however not in the case of the five beneficiary countries of this case study. The continuous and deliberate violation of the Fundamental Conventions of the ILO, which are incorporated in the GSP+, needs to be sanctioned by the withdrawal of preferences. It is debatable if the introduction of tariffs leads to improved labour rights, however policy conditionality becomes incredible and inefficient if sanctioning is not applied. This moreover underlines the need for a more transparent and critical evaluation by the EU and its monitoring agencies. The EU conducted a Mid-Term Evaluation of the GSP, which includes the GSP+. The report emphasizes that “the fear of losing GSP+ benefits [...] to have had an effect on the labour and social standards” (European Commission, 2017b, p.48). Here, the reports refers to the example of El Salvador who amended the national constitution in 2006 after identifying that it infringes one of the Fundamental ILO Conventions. Thus, the emphasis lies on positive achievements instead of the application of a more critical view. When confronting Development Solutions, the independent consultancy implementing the specific scheme, with the conflictive findings, the consultancy was not able to offer any comment or statement.

Fourth, adoption costs are a factor hindering countries from complying. This is an issue that is difficult for the EU to influence. It is possible for the EU to provide technical assistance and advice for the implementation of the Conventions. However, usually the implementation of



rules is not only a matter of skill, but also will. Therefore, the awareness and the promotion of the rules by policy makers and EU officials, such as the national EU ambassadors or the trade ministers should be increased. Because so far, merely economic benefits are being emphasized.

Lastly, internal validity of the rules is a major problem of the labour rights provisions of the GSP+. The analysis has shown that some countries incorporate or introduce legal provisions that infringe the Fundamental Conventions of the ILO. Overall, the consideration of the appropriateness of the rules is difficult for the EU to address, because it incorporates normativity and is defined by domestic factors. What the European Union can do is to emphasize the social conditionality dimension of the GSP+. This includes a more critical and transparent debate about the GSP+ and its efficiency. The EU should emphasize the GSP+ more as a project and be more critical of its development.

Consequently, it is questionable whether the GSP+ has contributed to the effective implementation of labour rights conventions and human rights conventions as a whole. In general, the success of the EU in promoting human rights as a trade policy instrument is limited. Despite the GSP, the EU moreover uses human rights clauses in bilateral trade agreements to foster human rights. However, EU trade policy lacks transparency and consistency. One major shortcoming is the deficiency of preventing potential negative impact of the EU trade policy itself. The instruments are addressed at incentivising and sanctioning human rights violations. However, these are committed independently from the GSP+ or bilateral trade agreements. Consequently, the instrument is not responsive to potential negative impacts on human rights by the policy itself. This problem could be dissolved by introducing regular Human Rights Impact Assessments (HRIAs) as part of the UN Guiding Principles on Business and Human Rights (Paasch, 2011). HRIA is an instrument which assesses the potential human rights impacts of for example corporate activity, government policies or trade agreements (Hamm & Scheper, 2011).

Another problematic are the possible effects of sanctioning and incentivising. Sanctioning can easily deteriorate human rights in a country and affect those, who are most vulnerable. By withdrawing preferences, it is usually the working class which suffers most. However, also the incentivisation can lead to human rights violations. As part of the Everything But Arms agreement of the GSP, Cambodia was incentivised to expand its sugar plantations due to the duty-free and quota-free access to the EU. The activities led to labour rights violations and human rights violations, however also caused severe environmental damage which affected 12,000 people. Thus, potential negative impact of the policy was not taken into consideration.



Lastly, the one-sidedness of sanctioning in human rights instruments in EU trade policies is a problematic issue. Trade unions and NGOs are highly critical and call trade policy as an instrument of EU protectionism because they only affect developing countries. Although transnational European companies are responsible for human rights violations too, they are never sanctioned while they profit from violations such as insufficient labour standards (Paasch, 2011).

In general, it would be desirable if future research embedded the method of policy conditionality towards partners of the European Union in development and trade. Thereby, research would facilitate the assessment of the EU's social globalisation via the promotion of norms. In addition to that, the research of this thesis could be extended by covering its limitations. Possibilities are the extension of beneficiary countries of the GSP+ and the coverage of the additional areas (human rights, good governance, and environment principles). Another interesting approach would be to analyse the effectiveness of the GSP+ by comparing the violations of labour rights of similar countries with and without GSP+ status. Nevertheless, this research has shown that identifying the underlying reasons can provide great insight, instead of merely analysing the effectiveness of a policy.

The Erasmus logo is a stylized, handwritten-style signature of the word "Erasmus" in a dark, cursive font.

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7 Appendices

ANNEX I

CIRI Coding Scheme Explanation

“A country should be scored as TWO even if police, the military, and other government personnel associated with public safety are prohibited from striking” (CIRI Coding Manual, 2013, p.65).

“A country should be scored as ONE “if there is reasonable protection of the right of freedom of association at the workplace and the right to collectively bargain, the country should receive a score of ONE if one or more of the following significant problems were present:

- Police, military, and other government personnel associated with public safety are not allowed to form unions or collectively bargain.
- Many public employees (not just police, military, firefighters or emergency workers) are not allowed freedom of association at the workplace or are not allowed collective bargaining rights (including the right to strike).
- Teachers or doctors are not allowed freedom of association at the workplace or are not allowed collective bargaining rights (including the right to strike).
- There is forced or compulsory labor (defined as work or service exacted under the menace of penalty and for which a person has not volunteered). "Work or service" does not apply where obligations are imposed to undergo education or training. "Menace of penalty" includes loss of rights or privileges as well as penal sanctions. The ILO has exempted the following from its definition of forced labor: compulsory military service, normal civic obligations, certain forms of prison labor, emergencies, and minor communal services.
- Children are employed when they should be going to school or the worst forms of child labor are practiced. These worst forms of child labor include slavery, debt bondage, forced labor, forced recruitment into armed conflict, child prostitution and pornography, involvement in illicit activity such as drug production or trafficking, and "work which, by its nature, or the circumstances in which it is carried out, is likely to harm the health, safety or morals or children
- There was discrimination in hiring or treatment at work: The government should prohibit all discrimination in employment based on race, national origin, or religion. Ignore discrimination based on gender. It is measured elsewhere.
- There is no minimum wage.
- Sympathy strikes are not allowed.
- Strikes for political reasons are not allowed.
- There is only one union allowed per industrial sector, territorial jurisdiction, or occupational classification, but that union operates independently from government authority.” (CIRI Coding Manual, 2013, p.66)



“A country-year should be coded as ZERO if it meets any of the following conditions:

- The government did not protect the rights of almost all private workers of worker rights to freedom of association at the workplace.
- The government restricts unions from political activity
- The government fails to act in the face of employer discrimination of workers trying to organize or specific attacks on unions by other groups.
- The government did not protect the right to bargain collectively of almost all private workers, which includes the right of private workers to strike.” (CIRI Coding Manual, 2013, p.67)

ANNEX II

Country	Score	Country	Score
Austria	0.38	Italy	0.91
Belgium	1.28	Latvia	1.25
Bulgaria	3.82	Lithuania	1.56
Croatia	1.31	Luxembourg	0.00
Cyprus	0.19	Malta	0.89
Czech Republic	2.38	Netherlands	0.18
Denmark	0.73	Poland	4.28
Estonia	1.28	Portugal	1.70
Finland	0.00	Romania	3.56
France	1.44	Slovakia	0.19
Germany	1.32	Slovenia	0.36
Greece	2.11	Spain	1.40
Hungary	2.73	Sweden	0.73
Ireland	0.87	United Kingdom	1.48
TOTAL		38.33	
Average:		1.37	

Table 10: LRI average score EU member states (Source: LRI (n.d.))

	2012		2015	
	Violations	Scores	Violations	Scores
Bolivia	19	3.43	19	3.47
In law	15	4.33	17	4.89
In practice	4	1.11	2	3.62
Costa Rica	16	2.90	16	2.90
In law	7	1.99	7	1.99
In practice	9	2.61	9	2.61
Ecuador	23	4.17	28	5.14
In law	16	4.55	17	4.86
In practice	7	2.05	11	3.28
El Salvador	29	5.28	27	4.95
In law	16	4.51	14	3.98
In practice	13	3.84	13	3.86
Guatemala	38	7.08	38	7.03
In law	10	2.86	14	4.02
In practice	28	8.36	24	7.12

Table 11: Violations and scores 2012 and 2015 (Source: Labour Rights Indicators, n.d.)