



The Estey Centre Journal of
**International Law
and Trade Policy**

Abstract

**Creating WTO Law by Stealth: GSP Conditionalities
and the *EC – Tariff Preferences Case***

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The WTO is witnessing an increasing intrusion of its remit into areas that hitherto were the preserve of the state. This makes the legitimacy of its law creation process critical. The article engages in analyses of the conditionalities in developed countries' Generalized System of Preferences (GSP) schemes, notably those of the EU. It argues that the maintenance of conditionalities in developed countries' GSP schemes can result in extra regulatory burdens for developing countries and can have the effect of creating WTO law by stealth. The analyses centre on the Appellate Body decision in the *EC – Tariff Preferences* case.

Keywords: conditionalities, developing countries, trade preferences.