



## GSP NEWSLETTER

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The UNCTAD GSP Newsletter provides governments and exporters in developing countries with information on developments in the generalized system of preferences (GSP), rules of origin and related issues. The Newsletter may be published as and when information on significant developments in various preferential schemes becomes available.

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## ➤ New GSP rules of origin of the European Union

On 18 November 2010, the European Commission (EC) adopted a new regulation on the rules of origin (RoO) for the European Union (EU) Generalized System of Preferences (GSP). This regulation, effective as of 1 January 2011 and contained in Commission Regulation (EU) No. 1063/2010, aimed at simplifying the EU GSP rules of origin. The reform process of EU GSP RoO began in 2003, and in 2007 the EC issued a proposed draft regulation, of which the then-existing rules were based on product-specific rules, with a single, across-the-board, value added method. The proposal, however, failed to be agreed to internally in the EU. In November 2008, the EC instead submitted a revised draft proposal, which formed the basis for Commission Regulation 1063/2010 that now became effective.

Like the previous EU GSP RoO, the new RoO employ three origin-conferring methods – (a) change in tariff classification; (b) specific working operation; and (c) value added criteria. However, in contrast to the previous RoO, which used extensive and complicated product-by-product criteria, the new RoO has reduced its use of product-specific criteria. In the case of agriculture and manufacture products, the current “Product List” contains about 290 product-specific criteria, as opposed to the 500 used previously.

The new RoO include revisions to the following areas:

- **Fishery products:** For fish caught outside territorial sea, a prior requirement that 50 per cent of the crew on the fish-catching vessel be EU or beneficiary country citizens has been removed. In addition, the value “tolerance” determination for fishery products (HS Chapter 16) is raised to 15 per cent from the previous 10 per cent.<sup>1</sup>
- **Manufacture products:** In contrast to the old RoO, the new RoO provide rules that are applicable specifically to least developed countries (LDCs) only, which impose lower, more easily satisfied requirements, for many manufacture products. Thus, allowance for the use of non-originating materials for many manufacture products under the value added criteria has been increased to 70 per cent. For non-LDC developing countries, too, allowances on non-originating materials for some manufacture

products (e.g. HS Chapters 34, 39, 40, 66, 71, and 84 to 94) have been increased. In addition, for many agricultural products, a weight tolerance determination has replaced the previous value tolerance determination for non-originating materials and sugar and general tolerance levels have been relaxed from 10 to 15 per cent.

- **Textile and apparel products:** For LDCs, the new RoO now permit “single-stage processing” (i.e. use of non-originating fabric will confer origin). For non-LDC countries, however, the existing requirement based on the “double transformation rule” (i.e. use of non-originating fabric is not permitted) largely remains. Both LDC and non-LDC general tolerance levels for some textile products (HS chapters 50-63) also remain the same.
- **Agricultural products:** New regulations allow for greater use of non-originating materials as requirements that materials be wholly obtained in the GSP-beneficiary country have been relaxed in many instances. In addition, the previous value tolerance determination has been replaced by a weight tolerance determination. Tolerance levels for both LDCs and non-LDCs, however, remain fixed at 15 per cent.
- **Cumulation:** The new RoO establish a simplified procedure for determining whether EU products sent to GSP beneficiary countries for further processing qualify for preferential treatment when imported back into the EU as a finished product. Moreover, GSP bilateral cumulation arrangements previously extended to the EU, Norwegian and Swiss products are also extended to Turkish products. However, like the previous RoO, agricultural products are excluded.

In addition, GSP countries can now apply for permission to cumulate non-agricultural components originating in countries with which the EU has a free trade agreement (FTA). If approved, a GSP beneficiary can then treat components originating in the FTA country as if they originated in the GSP country, provided that the FTA RoO would otherwise have been met.

In addition to the existing three regional cumulation groups, i.e., Group I (ASEAN), Group II (Andean Community, Central American Common market and Panama) and Group III

<sup>1</sup> “Tolerance” levels allow for the use of non-originating materials in the production of a given product up to a certain pre-determined threshold value.

(SAARC), a fourth group comprising Argentina, Brazil, Paraguay and Uruguay has been recognized. Group I (ASEAN) and Group III (SAARC) countries can also cumulate components while each arrangement must be first approved by the EU. In addition, product origin determinations within groups have been relaxed. Products are now deemed to originate in the last country in which the finished product is processed, provided the processing is more than a minimal operation. If the processing is minimal, the finished product will be deemed to originate in the group country that has provided the highest value of materials used to manufacture the finished product.

- **Documentation requirements:** GSP Form A certificate will be replaced by statements of origin that are issued by registered exporters and can be transmitted electronically. The provision will

become effective on 1 January 2017 (implementation may be delayed until 1 January 2020 for countries that face difficulties in implementing the system). The new RoO also make it possible to split consignments on route to the EU, provided such consignments remain under customs supervision in the transit country.

- **Direct transport provision:** The direct transport provision has also been replaced by a relaxed “non-manipulation” requirement. Unless customs authorities have reasonable doubts, products imported under GSP will be assumed to have met direct consignment requirements and systematic evidence of direct transport is no longer required. In case of doubt, however, EU customs authorities may still request evidence of compliance such as bills of lading.

## ➤ Duty-free and quota-free market access for LDCs: Initiatives of China, India, Brazil and the Republic of Korea

Efforts continued to improve market access conditions facing LDC exports in pursuance to the 2005 Hong Kong (China) World Trade Organization (WTO) Ministerial Declaration, which commits developed countries, and “developing countries declaring themselves in a position to do so”, to provide LDCs with duty-free and quota-free (DFQF) market access for LDCs. Developed countries were required by the Declaration to grant such market access conditions for at least 97 per cent of products originating from LDC countries by the start of the implementation period of the Doha Round’s results. Flexibilities are recognized for developing countries in implementing such schemes, both in terms of implementation modalities and product coverage. Major initiatives have been announced and implemented by several developing countries.

India’s DFQF initiative, first announced during the India-Africa Forum Summit in April 2008, grants DFQF access for LDCs on 85 per cent of tariff lines and partial duty reductions on another 9 per cent of tariff lines, including products of particular importance to LDC exports, such as cotton, cocoa, cane sugar, ready-made garments, copper and aluminium. India has set plans to progressively eliminate tariffs over a five-year period until the DFQF programme eventually covers 94 per cent of total tariff lines. LDCs seeking to apply for the scheme are required to submit a letter of intent to the Indian authority. For a good to qualify for

DFQF treatment, local value added content of exported goods must be at least 30 per cent and production must involve a change in tariff heading at the 4-digit level. While the DFQF programme does not permit cumulation across LDCs, imports sourced from India may be included in value added calculations.

Currently, 14 LDCs are fully integrated into the Indian DFQF programme. The majority of preferential imports originate from Asian LDCs. In addition, India also grants preferential access for Asian LDCs under the South Asian Association for Regional Cooperation (SAARC) and the South Asian Free Trade Agreement (SAFTA).

Brazil’s DFQF programme, first announced in 2008, is expected to grant preferential treatment to 80 per cent of LDC exports and subsequently expand to 100 per cent of LDC exports by 2014.

China offers 31 sub-Saharan LDCs duty-free treatment on 95 per cent of tariff lines, with an average preference margin of 10.4 per cent. In addition, certain Asian LDCs receive DFQF access for a lesser number of tariff lines. While 90 per cent of LDC imports - particularly oil and minerals - already enter China duty-free under the most favoured nation (MFN) rates, the Chinese initiative provides increased preferential access for some raw materials and processed products of interest to LDCs, such as sesame seeds, cocoa beans,

leather, copper and cobalt (but not raw cotton), as well as textiles, yarn and thread. RoO under the Chinese scheme require exports to undergo a 4-digit change of tariff heading or to have at least 40 per cent of value to be added locally. Cumulation among LDCs is not permitted.

The Republic of Korea has also provided increased market access for LDCs. Its DFQF programme for LDCs, initiated in 2008, provides preferential duty-free access on 85 per cent of tariff lines, and is expected to

cover 95 per cent of tariff lines by 2012. Of these lines, only 1,464 also qualify for MFN duty-free access, meaning that the DFQF initiative provides LDC exports with significantly improved access. Rules of origin require LDC exports to have at least a 50 per cent local value addition. Certain products of interest to LDCs - copper cathodes, raw tobacco and plywood - are eligible for duty-free access under the scheme while the coverage for apparels, textiles, agricultural and fishery products are yet to be improved.

### ➤ South-South trade cooperation: The third round of GSTP negotiations

In a promising development for South-South trade, developing countries party to the Global System of Trade Preferences (GSTP) adopted on 15 December 2010, at Foz do Iguaçu, Brazil, the Final Act concluding the Third Round of GSTP negotiations. The Round, known as the “São Paulo Round,” was launched in 2004 on the occasion of the UNCTAD XI quadrennial conference in São Paulo. The parameters of the tariff-cutting formula were agreed at a ministerial meeting held in Geneva in December 2009.

The Round’s results will reduce applied tariffs by 20 per cent on at least 70 per cent of dutiable products. While allowing countries flexibilities, the results will cut tariffs from applied rates, rather than WTO bound rates), thereby inducing effective liberalization. The resulting tariff concessions have broadened product coverage to 47,000 tariff lines, as compared to some 650 products included in the previous two rounds. More favourable treatment is provided to those participants in the process of WTO accession.

Twenty-two of the 43 GSTP members participated in the São Paulo Round. Eleven of these 22 participants exchanged tariff concessions amongst each other, and signed to a Protocol concluding the Round. They are: Argentina, Brazil, Paraguay and Uruguay (forming MERCOSUR), the Republic of Korea, India, Indonesia, Malaysia, Egypt, Morocco and Cuba. The results will enter into force with the ratification of at least four countries.

GSTP participants will further examine a possible modification to the existing GSTP rules of origin that are based on value added methods (i.e. requirement that foreign contents of a product should not exceed 50 per cent of its value), including by examining

complementing them with other origin determination methods, such as “change in tariff heading” method.

Trade among developing countries has come to represent genuine economic opportunities. South-South exports grew at 14 per cent between 1995 and 2009, far outpacing world total exports (9 per cent). The value of South-South trade increased five-fold, from just \$0.6 trillion in 1995 to \$3.1 trillion in 2008, and its share in developing countries total exports rose from 43 per cent to 53 per cent.

The GSTP represents significant opportunities. Collectively, the 43 GSTP economies represent a market of \$9 trillion in 2009, and some are among the most dynamic emerging developing economies. These economies generated an import demand of some \$2.2 trillion in 2009, or nearly 20 per cent of total world imports. Imports by the 11 countries signing the São Paulo Round results alone were around \$1 trillion, of which 10 per cent was intra-group trade. UNCTAD’s estimates find that the São Paulo Round results will generate welfare gains of \$2.5 billion for the 11 countries, with associated increase in exports and employment. They could be further increased to \$5.8 billion if all 22 countries that participated in the Round undertake tariff reduction.

The GSTP was established in 1989 as a framework for preferential tariff reductions and other measures of cooperation, including para-tariffs, non-tariff measures, to stimulate trade between developing countries. The UNCTAD secretariat has provided substantive and technical support to the operation of the GSTP agreement.

## Recent developments in the GSP schemes of the United States and the European Union

The United States GSP scheme expired on 1 January 2011 without legislative authorization required to extend the scheme beyond that date. The previous cycle of the United States GSP scheme expired on 31 December 2009, which was extended for one year through 31 December 2010. Since 1993, the GSP programme has expired eight times, with lapses of 1 to 15 months. Each previous renewal was made retroactive to the expiration of the programme. The African Growth and Opportunity Act (AGOA) was not affected by the lapse of the GSP scheme, which remains in force until September 2015.

On 23 December 2009, Presidential Proclamation 8467 granted Maldives GSP beneficiary status, which was suspended in 1995 for human rights reasons. The Proclamation also withdrew GSP eligibility for Trinidad and Tobago and least-developed beneficiary country status for Cape Verde, effective 1 January 2010. As regards AGOA, Presidential Proclamation 8468 has granted the Islamic Republic of Mauritania AGOA eligibility (effective 23 December 2009) while AGOA eligibility for Guinea, Madagascar and Niger were terminated (effective 1 January 2011). AGOA eligibility for seven additional countries – Côte d'Ivoire, Eritrea, Sudan, Zimbabwe, Mauritania, the Central African Republic and the Democratic Republic of Congo – were also withdrawn during 2010. Eligible in 2011 are 37 countries – Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cape Verde, Chad, Comoros, the Republic of Congo, Djibouti, Ethiopia, Gabon, the Gambia, Ghana, Guinea-Bissau, Kenya, Lesotho, Liberia, Malawi, Mali, Islamic Republic of Mauritania, Mauritius, Mozambique, Namibia, Nigeria, Rwanda, Sao Tome and Principe, Senegal, Seychelles, Sierra Leone, South Africa, Swaziland, the United Republic of Tanzania, Togo, Uganda and Zambia.

During a GSP renewal debate in 2009 the United States Congress briefly considered a major reform proposal of its preferential programmes. The proposed Bill H.R. 4101 (“New Partnership for Trade Development Act of 2009”) was proposed in the context of the United States policy debate on the extension of United States GSP scheme beyond the

then-expected expiration on 31 December 2009, but more broadly, in that of reforming substantially the design of United States preference schemes so as to harmonize various trade preference programmes by extending DFQF benefits for all products from all United Nations-defined LDCs. The bill might be seen as a reference point in the future debate on GSP extension and reform, as well as AGOA extension debate beyond 2015, in the United States.

The major thrust of the Bill was to immediately put in place DFQF market access conditions for all products for all United Nations-defined LDCs provided that they meet other GSP eligibility criteria. The major elements of the Bill were as follows: (a) Extend immediately DFQF for all products for all AGOA beneficiaries; (b) Extend immediately DFQF for all products for non-AGOA beneficiary LDCs (i.e. Asian LDCs) under GSP-LDCs. For certain apparel products, competitive Asian LDC exports (Bangladesh and Cambodia) would be subjected to quantitative restriction with DFQF applying only to 50 per cent of their exports in quantity terms; (c) Simplify and harmonize immediately rules of origin based on a single general rule based on 35 per cent value added rules (as is the case under existing United States preference programmes) and allow global full cumulation; (d) Provide DFQF treatment for all products for all United Nations-defined LDCs only as of 2020, thereby excluding non-LDC AGOA beneficiaries from the scheme.

Under the EU GSP scheme, the eligibility of Sri Lanka for its GSP+ scheme – a special incentive arrangement established to promote sustainable development and good governance – has been temporarily suspended on human rights grounds, although Sri Lanka remains eligible for standard GSP treatment. Panama, in turn, has been granted GSP+ eligibility, effective as from 1 July 2010 through 31 December 2011. Current GSP-plus beneficiaries also include Armenia, Azerbaijan, the Plurinational State of Bolivia, Colombia, Costa Rica, Ecuador, El Salvador, Georgia, Guatemala, Honduras, Mongolia, Nicaragua, Paraguay, Peru and the Bolivarian Republic of Venezuela.

## **UNCTAD PUBLICATIONS**

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Handbook on the Scheme of **Australia** (UNCTAD/ITCD/TSB/Misc.56)

Handbook on the Scheme of **Canada** (UNCTAD/ITCD/TSB/Misc.66)

Handbook on the Scheme of the **European Community** (UNCTAD/ITCD/TSB/Misc.25/Rev.3)

Handbook on the Scheme of **Japan** (UNCTAD/ITCD/TSB/Misc.42/Rev.3)

Handbook on the Scheme of **New Zealand** (UNCTAD/ITCD/TSB/Misc.48)

Handbook on the Scheme of **Norway** (UNCTAD/ITCD/TSB/Misc.29)

Handbook on the Scheme of **Switzerland** (UNCTAD/ITCD/TSB/Misc.28/Rev.1)

Handbook on the Scheme of **Turkey** (UNCTAD/ITCD/TSB/Misc.74)

Handbook on the Scheme of **the United States** (UNCTAD/ITCD/TSB/Misc.58/Rev.2)

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