

GSP

United Nations Conference on Trade and Development

Generalized System of Preferences

UNCTAD GSP NEWSLETTER

Number 9

July 2008

UNCTAD/DITC/Misc/2008/3

This UNCTAD GSP Newsletter provides government authorities and exporters in developing countries with information on current developments in the generalized system of preferences (GSP) and related issues. Several newsletters should be issued each year, while there will be special issues when relevant new information becomes available.

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➤ **Duty-free and quota-free market access for LDCs:
Recent developments in the GSP schemes of Japan and Switzerland**

Duty-free and quota-free market access for LDCs is on the international policy agenda and a major milestone was attained at the Sixth WTO Ministerial Conference in Hong Kong (Special Administrative Region of China) on 13–18 December 2005, when agreement was reached among WTO members to grant duty-free and quota-free market access for all products from all LDCs “by 2008 or no later than the start of the implementation period (of the Doha Round results) in a manner that ensures stability, security and predictability”, or to provide such treatment for at least 97 per cent of products originating in LDCs by that time, progressively achieving 100 per cent coverage thereafter. An important commitment was also made to ensuring that applicable preferential rules of origin are “transparent and simple, and contribute to facilitating market access”.

In 2005, a number of developed countries had already met the target of 97 percent tariff line coverage. Since then, major improvements have been reported in Japan and Switzerland, where product coverage for duty-free and quota-free treatment has been extended to meet the 97 percent benchmark. This appears to leave the United States of America as the only major developed country that is yet to achieve the 97 per cent benchmark. On 1 April 2007, **Japan** extended the list of products from LDCs eligible for duty-free and quota-free treatment under its GSP scheme from 7,758 to 8,859, adding 1,101 products. This has increased its coverage of duty-free and quota-free treatment from 86.1 to 98 per cent in terms of tariff lines and over 99 per cent in terms of import value. Products newly eligible for

duty-free and quota-free treatment include live animals, processed food, fish and fish products, dairy products, fruits and vegetables, tea, cereals, vegetable oils, juice, kerosene, fuel oils, gas oils, plywood and raw silk.

On 1 April 2007, **Switzerland** introduced a new duty-free and quota-free market access scheme for LDCs under its GSP scheme, meaning improved product coverage and longevity of the scheme. As opposed to the previous practice of introducing a GSP cycle for 10-year period, the new Swiss GSP scheme is valid for an unlimited period of time. Under the new scheme, all LDCs enjoy duty-free and quota-free treatment for all originating products, with the exception of broken rice, animal feed, cane and beet sugar and chemically pure sucrose in solid form, which are subject to a progressive phase-in by September 2009. After this time, all products from all LDCs will be eligible for duty-free and quota-free treatment. Furthermore, such duty-free and quota-free treatment will also apply to all countries eligible for debt relief under the Heavily Indebted Poor Countries (HIPC) Debt Initiative, including nine non-LDCs (Bolivia, Cameroon, Congo, Côte d'Ivoire, Ghana, Guyana, Honduras, Kyrgyzstan and Nicaragua). Switzerland is also considering revising its rules of origin applicable to LDCs with a view to making them transparent and simple and so that they contribute to facilitating market access, as provided under the above-mentioned decision taken in Hong Kong. Revision is to be undertaken in cooperation with Norway and EU, as all three are to implement similar rules of origin for LDCs.

➤ **Duty-free and quota-free market access for LDCs:
Recent initiatives of China and India**

Under the 2005 Hong Kong ministerial decision, developing countries “declaring themselves in a position to do so” are also encouraged to provide duty-free and quota-free market access conditions to LDCs. Such developing countries are, however, “permitted to phase in their commitments” and “enjoy appropriate flexibility in coverage”. A number of developing countries have provided duty-free market access for LDCs, mainly under global and regional reciprocal tariff reduction

arrangements, such as the Global System of Trade Preferences and various regional trade arrangements. Recently, important steps have been taken by China and India to grant autonomously preferential duty-free tariff benefits to LDCs for a number of products.

Within the framework of the Asia-Pacific Trade Agreement, successor to the previous Bangkok Agreement, and together with other non-LDC

partners (India, the Republic of Korea and Sri Lanka), since September 2006 **China** has provided special preferential tariff treatment for 587 products exclusively to its LDC partners (Bangladesh and the Lao People's Democratic Republic) resulting in an overall 58.8 per cent preference margin for those LDCs. Furthermore, under its Framework Agreement on Comprehensive Economic Cooperation with ASEAN, China improved market access for its LDC partners (Cambodia, the Lao People's Democratic Republic and Myanmar) as of 1 January 2006, by increasing the numbers of duty-free lines from 335, 239 and 133, to 418, 330 and 220, respectively, as of 1 January 2006.

In addition to above preferential treatment within the regional frameworks, China also grants unilateral duty-free treatment on 420, 399, 226 and 87 tariff lines to Cambodia, the Lao People's Democratic Republic, Myanmar and Bangladesh, respectively. As of July 2006, it also grants unilateral preferential duty-free market access to 286 categories of products exported from five LDCs, namely, Afghanistan, Maldives, Samoa, Vanuatu and Yemen.

A significant step was taken for African LDCs at the Beijing Summit of the Forum on China-Africa Cooperation in November 2006 when China announced that it would, "further open up China's market to Africa by increasing from 190 to over 440 the number of export items to China receiving zero-tariff treatment from the least developed countries in Africa having diplomatic ties with China". Accordingly, China undertook to improve its market access conditions with regard to 30 African LDCs: Angola, Benin, Burundi, Cape Verde, Central African Republic, Chad, Comoros, Democratic Republic of Congo, Djibouti, Equatorial Guinea, Eritrea, Ethiopia, Guinea, Guinea-Bissau, Lesotho, Liberia, Madagascar, Mali, Mauritania, Mozambique, Niger, Rwanda, Senegal, Sierra Leone, Somalia, Sudan, Tanzania, Togo, Uganda and Zambia. As of 1 July 2007, duty-free treatment has been extended to

454 tariff lines for 26 countries. Those tariff lines were decided bilaterally with the beneficiary LDCs, and are reported to cover some 94 per cent of their imports. The four remaining countries (Angola, Comoros, the Democratic Republic of Congo and Senegal), which continue to receive duty-free treatment on 194 tariff lines, are to receive the same treatment as the 26 countries once a bilateral exchange of letters is completed.

India, on the occasion of the India-Africa Forum Summit, New Delhi, on 7–9 April 2008, announced an initiative granting preferential market access for exports from all 50 LDCs, covering 94 per cent of the total tariff lines of India or 92.5 per cent of global exports of all LDCs. It is reported that the Indian Duty-Free Tariff Preference scheme for LDCs, effective as of 1 May 2008, grants duty-free market access for LDCs on 85 per cent of India's tariff lines. Tariff elimination would be progressive and implemented over a period of five years through five equal tariff reductions of 20 per cent per year of the current applied rates. For another 9 per cent of total tariff lines, or 468 tariff lines, India would provide preferential tariff reduction for LDCs through a prescribed margin of preference on the applied rates. Some of the products covered under the scheme include crude petroleum, ready-made garments (t-shirts, trousers), natural gas, non-industrial diamonds, non-alloyed aluminium, cotton, shrimps and prawns, tropical wood, aluminium ores, iron ores, tankers and other similar vessels, petroleum oils and copper ores. Individual LDCs wishing to be eligible for the scheme would need to submit a letter of intent to the Government of India.

Brazil and the **Republic of Korea** have also indicated their intention to adopt some initiatives in favour of LDCs. For instance, in 2006 Brazil indicated its intention to implement duty-free and quota-free market access to exports from 32 LDCs, while Korea is considering expanding duty-free treatment for LDCs beyond the 89 HS six-digit tariff lines currently covered.

➤ Proposed new EU GSP rules of origin

In October 2007, the European Commission tabled a draft regulation on the reform of its GSP rules of origin.¹ The draft is currently being

¹ Available at: http://ec.europa.eu/taxation_customs/customs/customs_duties/rules_origin/preferential/article_777_en.htm

discussed among EU member States, but EU member States apparently have differing views on the draft regulation. The Commission had expressed its intention to seek its entry into force as from 1 January 2009, but it has recently been reported that this target date has been deferred to July 2009.

The review of EU preferential rules of origin began in December 2003, when the Commission issued a green paper on future rules of origin. Based on subsequent intensive consultations, the Commission adopted a communication (COM (2005) 100 final) in March 2005 outlining the broad direction of its proposed reform of rules of origin. The reform suggested by the communication was geared towards simplifying and streamlining origin criteria, including cumulation rules, as well as administrative formalities and controls, especially to combat against fraudulent practices. The communication characterized the overall approach to the revision as instituting "appropriate rules, efficient procedures, and secured environment". It envisaged that the first practical application of this recommendation would be made in respect of the GSP.

Against this backdrop, the draft regulation proposes significant changes to the current origin rules, both in terms of substantive origin criteria, and origin administration and procedures. In terms of substantive rules, the current EU rules of origin are based on a list-based approach that prescribes product-specific rules using change-of-heading, value added or specific processes, or a combination thereof, for defining what constitutes sufficient working or processing. Such product-specific rules, combined with the stringency of individual requirements, have often been found to impede beneficiary countries from effectively utilizing preferences under the EU GSP. In this regard, the draft regulation proposes replacing the current product-specific rules with a single, across-the-board, value-added criterion, with the minimum local value-added threshold of 30 per cent of the value of the products. As an exception to this general requirement, more stringent requirements would be applicable to: (1) certain listed agricultural, processed agricultural and fishery products; and (2) certain listed industrial products including textiles and clothing. These products are subject either to a higher local content value threshold (e.g. 50–55 per cent) or to additional product-specific requirements. Such exceptional rules are also applicable to LDCs but only in respect of products mentioned under (1). Thus, LDCs are subject to the minimum value-added threshold of 30 per cent with the only exception being certain listed agricultural, processed agricultural and fishery products. The proposed rules of origin can be considered as an improvement in terms of their simplicity, particularly for LDCs, although some stringent

rules remain applicable to the above-mentioned specific products.

As regards "wholly obtained" products, the proposed rules are identical to the existing ones except for the definition of "its vessels" and "its factory ships" in respect of marine products taken from the sea outside the territorial sea of a beneficiary country. The proposed rules eliminate the nationality requirement (i.e. to have the nationality of beneficiary countries or EU member States) for managers, chairs of the board of directors or the supervisory board, and the majority of the members of such boards, of the companies that own "vessels" or "factory ships", as well as for the masters and officers thereof. The proposed rules maintain, with some modification, other existing nationality requirements in respect of place of registration, flag, crew, ownership, place of head office and "main place of business" of the companies owning the vessels and factory ships.

The draft regulation proposes simplifying rules on regional cumulation by replacing the current twofold condition for the allocation of origin to a member country of a regional grouping – whereby a more-than-insufficient operation and the highest value added among countries involved are required to be in the country where the last processing is carried out – by a single condition based on more-than-insufficient processing. Under the current rules, regional cumulation applies to three regional groups, namely ASEAN, the Andean Community-CACM and Panama Permanent Joint Committee on Origin and SAARC. The proposed rules also provide that cumulation would be allowed for a regional group, if the countries belonging to a regional group apply identical rules of origin, and have undertaken the necessary measures to ensure compliance with the new EU GSP rules of origin and to provide the administrative cooperation necessary to ensure correct implementation.

Some uncertainty still surrounds regional cumulation, however. The draft regulation provides that regional cumulation would be permitted only for products for which the same sufficient processing threshold, as specified in the new rules, is applicable to all countries involved, which may preclude regional cumulation for products where different thresholds apply to LDCs and non-LDC beneficiary countries (i.e. certain industrial products such as textiles and clothing). Moreover, for products for which the same conditions for market access to EU countries do

not apply to each member countries of a regional group (i.e. under the “Everything but Arms” initiative, GSP Plus and the general GSP scheme), the Commission may establish a list of products excluded from cumulation for all or certain members of the regional group. The draft regulation indicates that the Commission would also consider how to address the maintenance of the regional cumulation possibilities applied under the current system.

Another major feature of the draft regulation is the proposed reform of the management and control of the rules of origin. Under the current system, the competent authorities in the exporting beneficiary countries are responsible for certifying origin. The problem that the EU has identified with such a system is that, in case of incorrect origin declaration, since importers acting in good faith are often not deemed liable for duties otherwise due, it has resulted in loss in tariff revenue for the EU. In this regard, the draft regulation introduces self-certification by exporters, under which registered exporters will be required to provide a

statement of origin, thus making clear their liability. The registration system is aimed at helping the competent importing authorities to conduct targeted post-export inspections. Access to the preferential scheme would be rendered conditional upon beneficiary countries establishing administrative structures for efficient management of the system, including an electronic record of registered exporters and a system of administrative cooperation for origin verification.

The draft regulation provides for a preparatory period for beneficiary countries so that the new management system would be applicable as from 1 January 2012. Until that time, the current system would continue to apply. The draft regulation also provides that, from 1 January 2012 to 31 December 2016, beneficiary countries which are not in a position to implement the registered exporter system may continue to apply the current system of proof of origin.

➤ UNCTAD PUBLICATIONS

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.2)

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 the United States of America (UNCTAD/ITCD/TSB/Misc.58/Rev.1)

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

GSP - List of Beneficiaries (UNCTAD/ITCD/TSB/Misc.62/Rev.2)

Improving Market Access for Least Developed Countries (UNCTAD/DITC/TNCD/4)

Trade Preferences for LDCs: An early assessment of benefits and possible improvements (UNCTAD/ITCD/TSB/2003/8)

All publications are available at:

<http://www.unctad.org/Templates/Page.asp?intItemID=1418&lang=1>