

Generalized System of Preferences

HANDBOOK ON THE SCHEME OF AUSTRALIA

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(INT/97/A06)

UNCTAD Technical Cooperation Project on Market Access,
Trade Laws and Preferences

NOTE

The designations employed and the presentation of the material in this publication do not imply the expression of any opinion whatsoever on the part of the Secretariat of the United Nations concerning the legal status of any country, territory, city or area, or of its authorities, or concerning the delimitation of its frontiers or boundaries.

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INTRODUCTION

This Handbook is intended to provide, in a consolidated and concise form, information regarding the tariff advantages available to developing countries under the scheme of generalized preferences of Australia, and the conditions under which goods may qualify for preferential treatment on importation into Australia.

The Handbook has been prepared by the UNCTAD Technical Cooperation Project on Market Access, Trade Laws and Preferences (INT/97/A06) primarily for use within the context of project activities.

It should be noted that products are described in terms of the Harmonized Commodity Description and Coding System upon which the Australian Customs Tariff Acts are based. However, matters involving technical interpretation of the Generalized System of Preferences (GSP) will be determined in accordance with the provisions of the relevant Australian Customs Tariff Act.

Although based on official texts, the Handbook cannot be regarded as a substitute for these texts. For more detailed information, authentic and up-to-date legal texts should be consulted.

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BACKGROUND

In 1966, Australia became the first country to introduce tariff preferences for developing countries. The scheme consisted of a non-reciprocal preferential arrangement under which specified manufactured and semi-manufactured goods could be imported from developing countries free of duty or at reduced rates of duty. The rationale for the scheme was to help developing countries compete against the products of developed countries on the Australian market.

DEPTH OF TARIFF CUT

The Australian System of Tariff Preferences (ASTP) is based on the general principle of a five percentage point margin of preference, where the General Tariff (GT) rate is 5 per cent or higher, for goods from beneficiary countries. Where the GT rate is less than 5 per cent, the ASTP rate is zero. In cases where a specific rate of duty applies, the ASTP rate is set at the GT rate less 5 per cent of the value of the goods. For example:

- (a) GT rate 5 per cent; ASTP rate free;
- (b) GT rate 20 per cent; ASTP rate 15 per cent;
- (c) GT rate \$5 per kilogram; developing country (DC) rate \$5 per kilogram, less 5 per cent of the value of the goods.

An example of the application of (c) is as follows:

Shipment of 100 kg valued at \$10 per kg; total value: \$1,000. GT rate \$1 per kg; duty payable: $\$1 \times 100 = \100 ; DC rate \$1 per kg less 5 per cent of the value payable: $\$100$ less (5 per cent of \$1,000) = $\$100$ minus $\$50 = \50 .

The preference margin does not apply to the excise duty component of import duties applying to certain potable spirits, tobacco and petroleum products because Australian-made products of the same kind are also subject to excise duties.

CHANGES TO THE SYSTEM

The ASTP has undergone a number of changes since it was introduced. With each review, more products were added to the list for ASTP. A major review was undertaken in 1985, as the scheme had become very complex to administer and was increasingly tying up government resources.

In 1986, the Government introduced a new scheme designed to be simple, easy to understand and administer, and fair. Under this new scheme preferences were applied to all dutiable imports.

In 1991, it was announced that from 1 July 1992 the preferential tariff arrangements for Singapore, Taiwan Province of China, Hong Kong (China) and the Republic of Korea would be adjusted for tariff items which were phasing down. This announcement took into account the strength of these economies and the capacity of their exporters to compete in the Australian market without the assistance of a concessional tariff.

Tariffs for those economies were to remain fixed at the 1 July 1992 rate (5 per cent below the general tariff rate at that date) until the general rate was reduced to that level during the programme of phased reductions. This would ensure that there were no rate increases for those economies. For items which already had a duty rate of 5 per cent, the products originating in those economies were to retain their current duty-free status.

In February 1993, it was announced that developing country preferences would be phased out for canned food, fruit juice and dried fruit coming from all but the least developed countries and South Pacific island territories. The elimination of developing country preferences was implemented by fixing the developing country tariff rate at its pre-1 July 1993 level until the general rate of duty was reduced to that level. After that time the general rate of duty would apply. There were no increases in tariff rates.

Further changes to developing country preferences were announced in the White Paper on Employment and Growth (Working Nation) of May 1994. The changes were implemented on 1 July 1994. Developing country preferences were to be phased out or removed for all goods not covered by the announcement of February 1993, except for those coming from the least developed countries and South Pacific island territories. There were no increases in developing country tariffs. Tariff rates applicable to imports affected by this change were to remain at levels applied before 1 July 1994 until the general tariff rate was reduced to the developing country tariff level. From this time on, the general rate was to apply. As with the changes in 1991, this announcement took into account the strength of these economies and the capacity of their exporters to compete in the Australian market without the assistance of a concessional tariff.

Where tariffs applied to goods from developing countries are currently zero or below 5 per cent, or where general tariff rates are not phasing down, there will be no change to current tariff levels. A high proportion (about two-thirds) of imports from developing countries are already duty-free when entering Australia.

- X Where general rates have already reached 5 per cent or are less than this (i.e. where developing country tariffs are zero) existing developing country preferences are maintained;
- X Where developing country rates have already fallen below 5 per cent but have not reached zero, they are frozen at those levels.
- X The five percentage point margin will continue to apply for the present where no tariff phasing is currently taking place (sugar, footwear parts, soda ash and passenger motor vehicle replacement parts). The developing country preference will be phased out for these products if general tariff reductions are undertaken at some time in the future.

In addition, over 40 per cent of Australia's GT rates are zero.

CURRENT SITUATION¹

The ASTP now applies to all products.² The current policy of the Australian Government is to restrict it to specified LDCs³ and specified South Pacific island territories, as listed in the Customs Tariff Act.⁴ The ASTP is currently being phased out for all other countries to which it applied in the past. This is being done in parallel with Australia's general tariff reduction programme, and it is the Government's policy that the tariffs applied will not rise for any of its trading partners. Because not all general tariffs are being reduced, the effect of this latter policy on the ASTP is that some countries not listed as specified LDCs (including Singapore, Taiwan Province of China, Hong Kong (China) and the Republic of Korea) continue to enjoy all or some of the tariff preferences for some products, and will continue to do so until Australia's GT rates are reduced further.

¹ As of 19 February 1998.

² See annex II for Handicraft By-Law.

³ Least developed countries.

⁴ See annex I.

RULES OF ORIGIN

To be eligible for preference under the ASTP, goods must comply with two rules of origin requirements:

- (a) The final process of manufacture must have been carried out in the country claiming preference: and
- (b) At least half of the total factory or works cost of the goods must consist of the value of labour and/or materials of one or more developing countries (for the purposes of this requirement any Australian content may be counted as if it were developing country content).

There is no direct shipment requirement in the Australian GSP.

Documentation

Documentation requirements have been kept to a minimum. In summary, exporters in developing countries have the option of:

- (a) Completing a declaration of origin on the face of the normal commercial invoice for the goods; or
- (b) Using the normal commercial invoice plus a completed Form A (Combined Declaration and Certificate of Origin).

Definitions and interpretations of the ASTP rules of origin

1. *Preference country*: "Preference country" means a country to which Australia applies a preferential rate of import duty.
2. *Preference area*: "Preference area" means the preference country and such other countries/territories whose materials when incorporated in goods may, in accordance with section 151 of the Customs Act 1901, be combined for the purpose of calculating the area content of those goods.
3. *Factory or works*: "Factory or works" is the place within the preference country where the manufacturing process occurs.
4. *The manufacturer*: "The manufacturer" means the person who undertakes the last process in the manufacture of the goods.

5. *Expenditure*: Expenditure on items for factory or works cost shall be included once only in the calculation of the factory or works cost.
6. *Depreciation of plant, equipment and buildings*: Depreciation of plant, equipment and buildings shall be calculated in accordance with generally accepted accounting principles, as applied by the manufacturer.
7. *Factory or works cost*: Factory or works cost covers the expenditure which is incurred directly by the manufacturer in the production of the goods, or which can be reasonably allocated to the production of the goods. It comprises materials, labour and overheads.
8. *Materials*: "Materials" are all inputs into the manufacturing process (other than those materials treated as overheads) used or consumed in the production of the finished goods, in the form in which they are received from a domestic or foreign supplier.

Subject to (a), (b) and (c) below, the expenditure on materials will be taken as the manufacturer's actual costs in bringing the materials into the factory or works, inclusive of any freight component, but excluding any customs or excise or other duties paid or payable in respect of those materials:

- (a) Where any material has been supplied free of charge or at a reduced cost, the expenditure on that material will be determined in accordance with subparagraph 1(b) of Article 8 of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade;
 - (b) The Australian Customs Service may exclude the expenditure on any material (whether actual cost or normal market value) where it is satisfied that the material has been added to or attached to the goods solely for the purpose of artificially raising the level of qualifying content;
 - (c) If the Australian Customs Service determines that the expenditure on any material is in excess of the normal market value, it may determine the expenditure on that material.
9. *Materials of mixed origin*: "Materials of mixed origin" are those materials which include content from both the preference area and from elsewhere.

In calculating the expenditure of mixed origin incorporated in a final product for export to Australia, the cost of that material will be taken as:

- (a) Partly of qualifying area content provided that the last process of manufacture occurred in the preference country. Qualifying area content will be in direct proportion to the actual preference area content, i.e. if material has 30 per cent area content, then 30 per cent of the expenditure on that material will be included as qualifying content of the final good;
 - (b) Totally without area content if it does not meet the “last process of manufacture” requirement for the preference country.
10. *Inner containers*: “Inner containers” shall include any container or containers into which the goods are packed, but shall not include shipping containers (including pallets and like articles of air containers).
11. *Waste, scrap and recycled materials*: Expenditure on waste and scrap resulting from manufacturing or processing operations conducted in the preference area and expenditure on used articles collected in the preference area and fit only for the recovery of raw materials shall be considered as expenditures wholly incurred in the preference area.
12. *Labour*: The expenditure incurred under this heading includes:
- (a) Manufacturing wages and benefits (e.g. productivity bonuses, company vehicles);
 - (b) Other factory or works labour costs incurred in connection with:
 - management of the process of manufacture
 - receipt of materials
 - storage of materials
 - supervision
 - training
 - quality control
 - packing into inner containers
 - handling and storage of the goods within the factory.
13. *Overheads*: Expenditure incurred under this heading includes the costs of:

- (a) Inspecting and testing materials and the goods;
- (b) Insuring real property plant, equipment and materials used in the production of the goods; insuring work in progress and finished goods; liability insurance; accident compensation; insurance against consequential loss from accident to plant and equipment;
- (c) Dies, moulds, tooling, and the depreciation, maintenance and repair of plant and equipment, without regard to whether these items originate within the preference area;
- (d) Interest payments for plant and equipment;
- (e) Research, development, design and engineering;
- (f) Rent, leasing, mortgage interest, depreciation on buildings, maintenance, repair, rates and taxes for real property used in the production of the goods;
- (g) Leasing of plant and equipment, without regard to whether these items originate with the State member of the preference area;
- (h) Materials and supplies not being directly incorporated in the manufactured goods (e.g. energy, fuel, water, lighting, lubricants, rags), without regard to whether these items originate within the preference area;
- (i) Storage of the goods at the factory;
- (j) Royalties or licences in respect of patented machines or processes used in the manufacture of the goods, or in respect of the right to manufacture the goods;
- (k) Subscriptions to standards institutions and industry and research associations;
- (l) Factory security, provision of medical care, cleaning services, cleaning material and equipment, training materials, disposal of non-recyclable waste, safety and protective clothing and equipment, and the subsidization of a factory cafeteria to an extent not recovered by returns;
- (m) Computer facilities allocated to the process of manufacture of the goods;
- (n) Contracting out parts of the manufacturing process within the preference area;

But does not include the following (except as provided as above):

- (o) Costs relating to the general expense of doing business, such as the cost of providing executive, financial sales, advertising, marketing, accounting and legal services, and insurance;
- (p) Costs for telephone, mail and other means of communication;
- (q) The cost of shipping containers or any cost of packing the goods into them;
- (r) The cost of conveying, insuring or shipping the goods after their manufacture is completed;
- (s) Royalty payments related to a licensing agreement to distribute or sell the goods;
- (t) Rent, mortgage interest, depreciation on buildings, property insurance premiums, maintenance, repair, taxes and rates for real property used by personnel charged with administrative functions;
- (u) Manufacturer's profit; the profit or remuneration of any trader, agent, broker or other person dealing in the goods after their manufacture;
- (v) International travel expenses, including fares and accommodation;
- (w) Any other costs and expenses incurred after the completion of the manufacture of the goods.

ANNEX I***ASTP Beneficiary List***

Australia regularly reviews the beneficiaries of the scheme in line with the UN's list of least developed countries.

Afghanistan	Maldives
Bangladesh	Mali
Benin	Marshall Islands**
Bhutan	Mauritania
Botswana	Micronesia (Federated States of)**
Burkina Faso	Mozambique
Burundi	Myanmar
Cambodia	Nauru**
Cape Verde	Nepal
Central African Republic	Niger
Chad	Papua New Guinea***
Comoros	Niue*
Congo (Democratic Republic of the)	Rwanda
Cook Islands*	Samoa**
Djibouti	Sao Tome and Principe
Equatorial Guinea	Sierra Leone
Ethiopia	Solomon Islands
Fiji**	Somalia
Gambia	Sudan
Guinea	Togo
Guinea-Bissau	Tokelau*
Haiti	Tonga**
Kiribati**	Tuvalu**
Lao People's Dem. Rep.	Uganda
Lesotho	United Republic of Tanzania
Liberia	Vanuatu**
Madagascar	Yemen
Malawi	Zambia

* New Zealand territories granted preferences by Australia.

** Australia grants preferences under the South Pacific Regional Trade and Economic Cooperation Agreement (SPARTECA).

*** Australia grants preferences under the Papua New Guinea/Australia Trade and Commercial Relations Agreement (PATCRA) or SPARTECA, as appropriate.

ANNEX II***Handicraft By-Law***

The Handicraft By-Law (9340047) allows duty-free entry for all goods which conform with it.

1. Item 27 in Part II of Schedule 4 to the Customs Tariff Act 1987 applies to fabric containing not less than 90 per cent by weight of natural fibres, being fabric the Collector is satisfied is made by one or more of the following processes, and by no other process:

- X by hand;
- X by non-mechanical, non-powered tools held in the hand; or
- X produced on hand- or foot-powered looms.

2. This by-law also applies to goods containing not less than 90 per cent by weight of natural fibres, made up from fabric or yarn, that are hand crocheted, hand knitted, hand netted or handwoven, being goods the Collector is satisfied are made by one or more of the following processes, and by no other process:

- X by hand;
- X by non-mechanical, non-powered tools held in the hand; or
- X produced on hand- or foot-powered looms.

3. This by-law also applies to:

- (a) Textile fabric printed or dyed according to:
 - the traditional batik method;
 - the traditional tie and dye method;
 - the traditional hand block printing method;
 - the traditional kalamkari printing method; or
 - any other method of printing or dyeing that the Collector is satisfied is a traditional method in the country of origin;

- (b) Goods made by hand from the fabrics specified in subparagraph (a) above, being goods the Collector is satisfied are made by one or more of the following processes, and by no other process:
- by hand;
 - by non-mechanical, non-powered tools held in the hand;
- (c) Garments printed or dyed by one of the methods specified in subparagraph (a) above, after making up, being goods the Collector is satisfied are made by one or more of the following processes, and by no other process:
- by hand;
 - by non-mechanical, non-powered tools held in the hand.

4. This by-law applies to footwear, the produce or manufacture of a developing country, classified under 6403.59.00 in Schedule 3 of the Customs Tariff Act 1987, not incorporating wedges or platforms, and having:

- X outer soles of leather;
- X leather heels of a depth not exceeding 20 mm;
- X leather uppers without quarters; and
- X a vamp comprising two or more separate straps, being goods the Collector is satisfied are made by one or more of the following processes, and by no other process;
 - by hand;
 - by non-mechanical, non-powered tools held in the hand; or
 - produced on hand- or foot-powered looms.

5. For the purposes of the operation of paragraph 1 or 2 in relation to goods, the incorporation or inclusion in the goods of materials or components of a minor nature that are essential to the assembly or normal operation of the goods shall be disregarded.

6. This by-law does not apply to:

- (a) Curtains classified under 6303 in Schedule 3 to the Customs Tariff Act 1987; or
- (b) All towels and towelling.