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The UNCTAD GSP Newsletter provides governments and exporters in developing countries, as well as other relevant stakeholders, with information on current developments in the generalized system of preferences (GSP) and related issues. The Newsletter is being issued twice a year while special issue may be published as and when information on significant developments in various preferential schemes becomes available.

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Contact:

Ms. Mina Mashayekhi
Head
Trade Negotiations and Commercial Diplomacy Branch
Division on International Trade in Goods and Services, and Commodities
United Nations Conference on Trade and Development (UNCTAD)

UNCTAD
Palais des Nations
CH-1211 Geneva 10
Fax: +41 22 907 0044
E-mail: gsp@unctad.org

➤ Proposed new EU GSP rules of origin

In November 2008, the European Commission issued the revised draft regulation on the proposed reform of its GSP rules of origin. The original draft, issued in October 2007, proposed an introduction of a single, across-the-board value-added criterion for determining the origin of products made up of imported inputs, thereby replacing its existing system of product-specific rules.¹ This original proposal needed to be revised in the face of various concerns expressed by various industries and groups, particularly in the areas of agricultural and processed agricultural products, fishery products, chemicals, metals, textiles and clothing and shoes.

The revised draft regulation reintroduced the three origin determination methods, i.e., change of tariff heading or sub-heading, a specific working and processing operation, and value-added requirement, giving up the application of a single and across-the-board value-added method previously proposed. Annex 1 of the revised draft regulation contains "the List of Products and Working or Processing Operations which Confer Originating Status" in which origin requirements are specified by using the three methods. This list is similar to the one contained in the rules of origin of the current EU GSP scheme. However, an attempt was made to make the new rules of origin as far as possible on a sector-by-sector rather than a product-by-product basis, and therefore the origin rules were simplified and in some cases relaxed. Relaxation of the rules is particularly notable for LDCs. For agricultural products (Chapters 1 to 24, except Chapter 3) origin requirements are yet to be defined.

The main features of the revised proposals on the reform of the EU GSP rules of origin can be summarized as follows.

- The revised proposals could be seen as being more liberal as compared to the existing rules but stricter than the original proposals, particularly for non-LDC developing countries. While the original proposal would have set the minimum

threshold level for local content requirement for developing countries at 30 per cent of the value of the product except for some products like textiles and clothing, the revised proposal seeks to raise the threshold to 50 per cent for many products for non-LDC developing countries. For some products, the revised regulation proposes to lower the current thresholds by 10 to 20 per cent.

- For LDCs, the threshold level of 30 per cent set out in the original proposal was mostly retained, reflecting the EU's stated objective of targeted relaxation of origin rules for these countries.
- For apparel products from LDCs, the revised draft proposes "single transformation" requirement. This means that apparels which are assembled from imported fabrics would confer origin. Single transformation requirement may be seen as a notable improvement for LDCs even comparing with the previous proposal that was based on minimum local content rule with 30 per cent value-added threshold. This is because it was not clear whether LDCs could meet this level of local content requirement. By contrast, single transformation requirement is largely seen as sufficiently liberal so as to allow LDCs to effectively meet the requirement. For non-LDC developing countries, the existing requirement based on "double transformation" rule largely remains. This implies that apparel exporting non-LDC developing countries which do not produce textiles could continue to face challenge in meeting effectively the origin requirement for apparel products.
- For some products, the revised draft proposes to include value-added requirements, alongside with other requirements such as change-in-tariff-classification rules, as an alternative origin conferring method, so that exporters can have choice between the two co-equal rules.

¹ See UNCTAD GSP Newsletter, Number 9, July 2008 (UNCTAD/DITC/Misc/2008/3).

- "Tolerance" level was raised from the current rule of 10 per cent to 15 per cent.² For agricultural products, the draft regulation provisionally set for 10%, but a final decision will be taken in the light of the rules still to be defined for agricultural products and processed agricultural products.
- Turkey has been added to the countries which bilateral cumulation is allowed. Currently, beneficiary countries can cumulate bilaterally with EU countries, Norway and Switzerland. However, like the current rule bilateral cumulation does not apply to agricultural products (HS 1 to 24).
- The currently allowed regional cumulation of origin, i.e., Group I (ASEAN), Group II (Andean Community, Central American Common market and Panama), and Group III (SAARC) is maintained, but the revised draft regulation lifted some conditions required under the current origin rules. These include the requirements that: the value added in originating country has to be greater than the highest customs value of the products used originating in the countries in the region; and proof of the originating status has to be established by a certificate of origin Form A issued in the first country. The revised draft regulation also allows cumulation between Groups I and III. Furthermore, extended cumulation with other preferential countries would be possible depending on the outcome of discussions.
- The burdensome direct transport rules under the current EU GSP rules of origin are relaxed. The current rules set conditions such as the products concerned must remain under the surveillance of the customs authorities in the country of transit or of warehousing, and evidence of this must be fulfilled by the production of a single transport document or a certificate issued by the customs authorities of the country of transit. The revised draft regulation deems that requirement of direct consignment is satisfied unless the customs authorities have reason to believe the contrary. In case of doubt, the customs authorities may request evidence of compliance such as bills of lading.
- In addition to the operations defined as "*insufficient*" under the current rules of origin, "mixing of sugar with any material" is newly included.
- The new system of the management and control of the origin rules proposed in the previous draft regulation remains the same.³ However, while valid length of certificate of origin previously proposed was 12 months, the revised regulation proposes for the period of 10 months. Under the current system, in cases when origin declaration is found wrong, importers are frequently spared from paying duties given that they acted in good faith and an error was made by the competent authority in exporting country. However, the new system would make importers liable for paying the duties. EU importers argue that this change would be a serious setback for them to imports under the EU GSP scheme.

² "Tolerance" rules allow for the use of non-originating materials in the production of a given product to a certain pre-determined threshold value even if that would not normally fulfil the origin requirement. For example, the EU current origin rule provides that a doll (HS 9502) imported from a beneficiary country can qualify for the EU GSP if the doll is manufactured from any imported materials which are classified in different heading, e.g. plastics, fabrics. However, the use of imported doll's parts (e.g. Doll's eyes) is not normally allowed as these are classified in the same tariff heading (HS 9502) as the doll itself. In this respect, the tolerance rule allows the use of these imported materials in the production of final products if they do not exceed certain threshold value level, 10 % of the ex-works price under the current EU rules of origin.

The revised draft regulation envisages entry into force of the new rules of origin from 1 January 2010 and of the new certificate origin system from

³ In the current EU rules of origin system, it is the competent certifying authorities in the beneficiary countries, which certify origins, while under the new system it would be "registered" exporters who provide statement on origin. Beneficiary countries must establish an electronic record of registered exporters and proper infrastructures to support the management of the new system.

1 January 2013. For the latter transition period

until 31 December 2016 is provided.

➤ **Duty-Free and Quota-Free market access initiative for LDCs: Recent initiative of Brazil**

In December 2006, first among both developing and developed countries, Brazil declared its intention to start granting DFQF market access to exports from 32 of the world poorest countries in early 2007. Brazil has taken no practical step in the direction. Reportedly, several Brazilian business groups were concerned about the provisions of duty-free and quota-free treatment for LDCs, such as textile, electronics, chemical, and machine equipment firms. They had requested for some 1300 products to be designated as sensitive and to be excluded from the proposed initiative while the authority wished to limit the exclusion to no more than 900 products. Imports from LDCs account for less than 1% of total Brazilian imports - out of which about 70% is constituted by oil imports from Angola. Nevertheless, producers in several sectors felt potentially vulnerable, such as apparel manufactures who could face increased competition from competitive Asian LDCs. A key concern of industry groups was transshipment of products from more competitive non-LDC exports such as China through LDCs. Therefore, several industries groups have argued for tighter rules of origin with the requirement on domestic value-added of at least 50 %, instead of the government's proposal of 40 %. LDCs are concerned that tight rules of origin requirements

could prevent them from fully benefiting from the opportunities offered by the initiative.

In December 2009, at the 7th WTO Ministerial Conference, H.E. Mr. Celso Amorim, Minister of External Relations, announced that, in line with the Hong Kong declaration, Brazil would grant duty-free-quota-free access for products from LDCs covering 80% of all tariff lines by mid-2010, which would be increased by 5% annually to cover all tariff lines by 2014. The Minister expressed his hope that this positive example would be followed by developed countries.

The specification of the initial product coverage is still being negotiated in Brazil between the government and the private sector, and a number of legal, technical and procedural aspects, including the modalities for the application of the rules of origins principle, would need to be determined for the initiative to become operational.

The Government of Brazilian has reaffirmed its commitment to implementing the initiative according to the announced time schedule, fully de-linked from the ongoing Doha Round negotiations.

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

Twenty-two GSTP Participants (out of the total 43 participants in the GSTP Agreement) conducting the Third Round of GSTP negotiations (Sao Paulo Round) met on 2 December 2009 at UNCTAD at ministerial level and adopted a decision on "modalities" for market access negotiations. The Ministerial Meeting was chaired by H.E. Mr. Jorge Taiana, Minister of Foreign Affairs and International Trade of Argentina. Over 20 high-ranking ministers attended the meeting. The Secretary-General of UNCTAD delivered a statement.

The Third Round of the GSTP negotiations was launched in 2004 on the occasion of the UNCTAD XI in Sao Paulo, Brazil. The GSTP, established in 1989, provides a framework for preferential tariff concessions and other measures of cooperation to stimulate trade between developing countries. GSTP is legally covered under the Enabling Clause under GATT 1994. Two previous rounds of GSTP negotiations have been held, but without far-reaching results.

Participants generally welcomed the adoption of the Modalities as a major milestone in the ongoing

GSTP negotiations, as well as South-South cooperation to boost South-South trade. The agreement was also heralded as a major response of the South to the crisis, as well as demonstrating their commitment to open markets and freer trade. Reference was made to the UN Conference on South-South Cooperation on 1-3 December 2009 in Nairobi, Kenya.

Major elements of the Modalities are as follows:

- Tariff reductions will be based on an across-the-board, line-by-line linear cut of at least 20% on their dutiable tariff lines, to be combined with request and offer and sectoral negotiations on a voluntary basis;
- Tariff reduction will apply at least 70% of dutiable tariff lines. There is flexibility for countries having duty-free tariff lines accounting for more than 50% of total tariff lines. For such countries, tariff reduction will apply to 60% of their dutiable tariff lines, instead of 70%.
- The cut will apply to the valid MFN tariff applied on the date of importation, or

exceptionally cut can be applied to MFN tariffs applied on the date of the conclusion of the GSTP negotiations.

- Algeria and Iran, as countries in the process of WTO accession, will be granted a differential treatment and flexibilities.
- Negotiations on GSTP rules of origin will be intensified with a view to conclusion no later than September 2010.
- Draft schedules will be submitted by March 2010, followed by 4 month to verify their draft schedules. By 30 September 2010, GSTP participants will submit their finalized schedules. Nigeria noted that the date for implementation needed to be calibrated so as to facilitate national ratification process.
- The results will be reviewed no later than 2 years after the start of the implementation period, including in respect of increasing margin of preference and product coverage, as well as operation of GSTP rules of origin.

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