



**UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT**

## **Generalized System of Preferences**

# **Handbook on the GSP scheme of the European Community**

**INT/97/A06**

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

## CONTENTS

	<b>Page</b>
Preface.....	5
Introduction.....	6
Checklist: how to benefit from the EC GSP scheme.....	7

### Part 1

#### **I. EXPLANATORY NOTES TO THE EC GSP SCHEME**

A	Industrial products.....	8
B	Agricultural products.....	11
C	Country-sector graduation.....	12
D	Special incentive arrangements.....	14
E	Special treatment for least developed countries.....	16
F	Special treatment for the Andean Goup and the Central American Common Market.....	16
G	Temporary withdrawal of the EC GSP scheme.....	16
H	Safeguards.....	17

### Part 2

#### **II. RULES OF ORIGIN UNDER THE EC GSP SCHEME**

A	Preamble.....	19
B	Origin criteria.....	19
C	Direct consignment conditions.....	26
D	Documentary evidence.....	27
E	Invoice declaration.....	30
F	Verification.....	30

### Annexes

- I. Council Regulation (EC) No. 3281/94 of 19 December 1994 applying a four-year scheme of generalized tariff preferences (1995 to 1998) in respect of certain industrial products originating in developing countries (OJ No. L 348 of 31.12.1994).
- II. Council Regulation (EC) No. 3282/94 of 19 December 1994 extending into 1995 the

application of Regulations (EEC) No. 3833/90, (EEC) No. 3835/90 and (EEC) No. 3900/91 applying generalized tariff preferences in respect of certain agricultural products originating in developing countries (OJ No. L 348 of 31.12.1994).

- III. Council Regulation (EC) No. 1256/96 of 20 June 1996 applying multiannual schemes of generalized tariff preferences from 1 July 1996 to 30 June 1999 in respect of certain agricultural products originating in developing countries (OJ No. L 160 of 29.6.1996).
- IV. Corrigenda (OJ No. L 82 of 12.4.1995)  
Corrigendum to Council Regulation (EC) No. 3281/94 of 19 December 1994 applying a four-year scheme of generalized tariff preferences (1995 to 1998) in respect of certain industrial products originating in developing countries (OJ No L348 of 31.12. 1994).
- V. Commission Regulation (EC) No. 2948/95 of 20 December 1995 (OJ No. L 308 of 21.12.1995) adapting the Annexes to Regulation (EC) No. 3281/94 of 19 December 1994 applying a four-year scheme of generalized tariff preferences (1995 to 1998) in respect of certain industrial products originating in developing countries .
- VI. Commission Regulation (EC) No. 2447/96 of 18 December 1996 (OJ No. L 333 of 21.12.1996) adapting the Annexes to Council Regulation (EC) No. 3281/94 applying a four-year scheme of generalized tariff preferences (1995 to 1998) in respect of certain industrial products originating in developing countries.
- VII. Commission Regulation (EC) No. 2448/96 of 18 December 1996 (OJ No. L 333 of 21.12.1996) adapting the Annexes to Council Regulation (EC) No. 1256/96 applying multiannual schemes of generalized tariff preferences from 1 July 1996 to 30 June 1999 in respect of certain agricultural products originating in developing countries.
- VIII. Commission Regulation (EC) No. 998/97 of 3 June 1997 (OJ No. L 144 of 4.6.1997) adapting the Annexes to Regulation (EC) No. 3281/94 of 19 December 1994 applying a four-year scheme of generalized tariff preferences (1995 to 1998) in respect of certain industrial products originating in developing countries.
- IX. Proposal for a Council Regulation (EC) applying the special incentive arrangements concerning labour rights and environmental protection provided for in Article 7 and 8 of Council Regulation (EC) 3281/94 and 1256/96 applying the scheme of generalized tariff preferences in respect of certain industrial and agricultural products originating in developing countries (29.10.1997).
- X. Council Regulation (EC) No 2623/97 of 19 December 1997 applying Article 6 of Regulations (EC) No. 3281/94 and (EC) No. 1256/96 on multiannual generalized tariff preferences schemes in respect of certain industrial and agricultural products originating in developing countries (OJ No. L 354 of 30.12.97).
- XI. Commission communication concerning a change of customs duty applicable pursuant to Council Regulation (EC) No 3281/94 applying a four-year scheme of generalized tariff preferences (1995 to 1998) in respect of certain industrial products originating in

developing countries (OJ No. C 384 of 18.12.97).

- XII. Proposal for a Council Regulation (EC) extending the coverage of Regulations (EC) Nos. 3281/94 and 1256/96 concerning the European Union's scheme of generalized tariff preferences for the benefit of the least developed countries (16.12.1997).
- XIII. Commission Regulation (EC) No. 12/97 of 18 December 1996 amending Regulation (EEC) No. 2454/93 laying down provisions for the implementation of Council Regulation (EEC) No. 2913/92 establishing the Community Customs Code (OJ No. L 9 of 13.1.1997).
- XIV. Origin of fishery products.

## Preface

This handbook is published under the auspices of the UNCTAD Technical Cooperation Project on Market Access, Trade Laws and Preferences (INT/97/A06). It is part of a series of publications aimed at assisting exporters, producers and government officials to utilize the trade opportunities available under the various GSP schemes. The publication of this handbook has been made possible thanks to a contribution from the EC Commission. The series comprises the following publications:

### **Publications in the “Generalized System of Preferences” series:**

Digest of rules of origin (TAP/133)  
 Digest of schemes (TAP/136)  
 Handbook on the scheme of the USA (TAP/163 - forthcoming)  
 Handbook on the scheme of Canada (TAP/247/Rev.3)  
 Handbook on the scheme of New Zealand (TAP/258/Rev.3)  
 Handbook on the scheme of Australia (TAP/259 - forthcoming)  
 Handbook on the scheme of Japan 1997-1998  
 Handbook on the scheme of the European Community (present volume)  
 Handbook on the scheme of Norway (forthcoming)  
 Handbook on the scheme of the Eastern European countries (forthcoming)  
 Handbook of the Lomé Convention IV  
 Utilizing the GSP (ITP/38)  
 Utilizing the Lomé Convention (ITP/Misc.37)  
 Commodity classification systems (TAP/315)  
 GSP rules of origin (TAP/317)  
 GSP focal point study (ITD/GSP/7)  
 List of GSP beneficiaries (ITD/GSP/22)  
 Trade laws of the EC (TAP/276 - forthcoming)  
 Trade laws of the United States (TAP/277)  
 Trade laws of Japan (TAP/299)

While every care has been taken to ensure that the information contained in this handbook is correct, no liability or claim may be made against the publisher. This document has no legal value. Only the Regulations published in the Official Journal of the European Communities, which have been the major sources used in preparing this handbook, have legal value.

The designations employed and the presentation of the material in this document 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.

For any further information on the publications listed above, please contact the UNCTAD Technical Cooperation Project on Market Access, Trade Laws and Preferences (INT/97/A06):

*Tel.*: +41 22 907 4944 *Fax*: +41 22 907 0044

*E-mail*: [laura.moresino@unctad.org](mailto:laura.moresino@unctad.org)

## Introduction

The first European Community Generalized System of Preferences scheme spanned an initial phase of ten years (1971-1981) and was subsequently renewed for a second decade (1981-1991). During this period, the EC-GSP was reviewed each civil year. The regulations for the EC GSP scheme were promulgated annually, usually in December, and applied for the next calendar year. The yearly reviews involved changes in product coverage, quotas, ceilings and their administration, beneficiaries and depth of tariff cuts for agricultural products. In 1991, at the end of the second decade, the scheme was due for major revision. However, pending the outcome of the Uruguay Round and other trade policy considerations, the 1991 scheme was extended with various amendments until 1994. On 1 January 1995 the new EC GSP scheme for industrial products entered into force, for a period of four years instead of the one-year application period under the previous scheme. The revision altered the whole structure of the scheme. The new scheme revolves around three key features, namely, tariff modulation, country-sector graduation and special incentive arrangements.

In a radical departure from the previous scheme, the new one does away with the quantitative limitation of GSP imports. This has been replaced by "tariff modulation", under which the individual "fixed duty-free amounts" and ceilings<sup>1</sup> (concerning sensitive industrial products) and "fixed reduced duty" amounts (concerning agricultural products) have been replaced by reduced rates of duty classified according to four categories of product sensitivity. The second main change in the new scheme is the introduction of an open policy of graduation, containing criteria for country-sector graduation. The new scheme also contains a country graduation mechanism which, according to article 6 of the Industrial Regulation,<sup>2</sup> is expected to enter into force on 1 January 1998. The third main change provides for special incentive arrangements to become operational on 1 January 1998. These special incentives operate on the basis of an additional margin of preference granted to beneficiary countries that comply with certain requirements related to labour standards and environmental norms. In addition, in July 1996 a new GSP scheme for agricultural products was promulgated. According to article 1 of the Agricultural Regulation,<sup>3</sup> the new scheme is established for the period from 1 January 1997 to 30 June 1999. The provisions contained in the GSP scheme for agricultural products are almost identical to those contained in the scheme for industrial products.

---

<sup>1</sup> For the definition of fixed duty-free amounts and individual duty-free tariff ceilings, see UNCTAD Document UNCTAD/ITD/GSP/9, July 1994.

<sup>2</sup> The term "Industrial Regulation" in the text refers to Council Regulation No. 3281/94 of 19 December 1994 applying a four-year scheme of generalized tariff preferences (1995-1998) in respect of certain industrial products originating in developing countries (see annex I).

<sup>3</sup> The term "Agricultural Regulation" in the text refers to Council Regulation No. 1256/96 of 20 June 1996 applying multiannual schemes of generalized tariff preferences from 1 July 1996 to 30 June 1999 in respect of certain agricultural products originating in developing countries (see annex III).

## **Checklist: how to benefit from the EC GSP scheme**

### **Step 1: check the product coverage**

- Establish the tariff classification of the product according to the Combined Nomenclature;
- Ascertain that the product is covered by the EC GSP scheme (HS 25-97);
- Check the country-sector graduation, since certain sectors of certain countries are excluded from the EC GSP scheme (see annex II, part 1 of the Industrial and Agricultural Regulations).

### **Step 2: identify the correct GSP rate**

- Check annex I of the Industrial and Agricultural Regulations to ascertain the correct product sensitivity category in which the product is listed, observing the precise tariff classification and product description;
- Identify the conventional MFN rate which applies to the product in the EC Customs Code;
- Apply the reduction granted to the product category in which the HS product is listed.

### **Step 3: investigate the possibility of obtaining additional preferences**

- There may be special treatment for the least developed countries, the Andean Group and the Central American Common Market;
- there may be special incentive arrangements for countries which respect international standards and meet environmental concerns.

### **Step 4: check the origin criteria**

- Ensure that the product complies with the origin criteria set by the EC.

### **Step 5: check the consignment conditions**

- ensure that the modalities governing the transport of goods from the preference-receiving country to the EC market fulfil the provisions laid down in the EC Regulations.

### **Step 6: prepare documentary evidence**

- fill in the certificate of origin Form A or the invoice declaration correctly; they are the official documents on which the EC customs authorities rely to grant GSP benefits to products.

**Part 1****EXPLANATORY NOTES TO THE EC GSP SCHEME****A. Industrial products**

The EC GSP scheme for industrial products is contained in Council Regulation 3281/94 (hereinafter the Industrial Regulation). The provisions contained in this Regulation are examined below.

*1. Product coverage*

Almost all processed and semi-processed industrial products, as well as ferro-alloys, falling within chapters 25-97 are covered by the EC scheme. The list of products covered is contained in annex I of the Industrial Regulation. A list of primary products excluded from preferential treatment is contained in annex IX of the Industrial Regulation.

*2. Depth of tariff cut*

For the products covered by the EC GSP scheme, the tariff cuts available are divided into four lists according to the import sensitivity of the products in relation to the EC market. The lists are contained in annex I of the Industrial Regulation, where the product coverage is divided into the different categories of sensitivity. The four categories of products to which different tariff cuts are applied are the following:

- (a) For very sensitive products, the GSP rate is 85 per cent of the MFN rate (15 per cent preferential margin) (annex I, part 1);
- (b) For sensitive products, the GSP rate is 70 per cent of the MFN rate (30 per cent preferential margin) (annex I, part 2);
- (c) For semi-sensitive products, the GSP rate is 35 per cent of the MFN rate (65 per cent preferential margin) (annex I, part 3);
- (d) For non-sensitive products, duty-free entry is granted (100 per cent preferential margin) (annex I, part 4).

The following excerpt from annex I of the Industrial Regulation concerns the very sensitive products and is intended to give guidance to GSP users on how to read the lists and use the EC GSP scheme.



### Very sensitive products

CN <sup>a</sup> Code	Description of goods
ex Chapter 50	Silk, except products listed in annex IX and products under heading No. 5003
ex Chapter 51	Wool, fine or coarse animal hair; yarn and woven fabrics, except products listed in annex IX and products under heading Nos. 5101, 5102, 5103 and 5104 00 00
ex Chapter 52	Cotton, except products listed in annex IX and products under heading Nos. 5201 00 and 5202
ex Chapter 53	Other vegetable textile fibres; paper yarn and woven fabrics of paper yarn, except products under heading Nos. 5301, 5302, 5303, 5304, 5305 and 5307 and subheading 5308 10 00
Chapter 54	Man-made filaments
Chapter 55	Man-made staple fibres
Chapter 56	Wadding, felt and non-woven special yarns; twine, cordage, ropes and cables, and articles thereof
Chapter 57	Carpets and other textile floor coverings
Chapter 58	Special woven fabrics; tufted textile fabrics; lace; tapestries; trimmings; embroidery
Chapter 59	Impregnated, coated, covered or laminated textile fabrics; textile articles of a kind suitable for industrial use
Chapter 60	Knitted or crocheted fabrics
Chapter 61	Articles of apparel and clothing accessories, knitted or crocheted
Chapter 62	Articles of apparel and clothing accessories, not knitted or crocheted
ex Chapter 63	Other made-up textile articles; sets: worn clothing and worn textile articles; rags, except products under heading No. 6310
ex 7202	Ferro-alloys, except products of subheading 7202 60 00

<sup>a</sup> Combined Nomenclature: for explanation, see footnote 4.

In the above excerpt, products classified in chapter 50 of the Combined Nomenclature (CN)<sup>4</sup> are included in the very sensitive list. This means that the GSP rate for those products is 85 per cent of the MFN rate. However, not all products classified in the Harmonized System (HS)

---

<sup>4</sup> The Combined Nomenclature (CN) is the custom classification nomenclature of the EC. The first six digits of the CN are identical to the Harmonized System. Further subdivisions are made at 8 digits (Combined Nomenclature subheadings) and at 10 digits (Taric code).

chapter 50 are covered, as the description of the goods in the second column of the table provides for products listed in annex IX of the Industrial Regulation (the list of primary products excluded from the GSP) to be excluded from GSP treatment, and products classified under heading No. 5003 (silk waste) are excluded simply because they are already free of duty under MFN rules. For the remaining products classified in chapter 50 and not listed in annex IX, a tariff reduction of 15 per cent is granted and the preferential rate of duty is 85 per cent of the MFN rate.

It can be seen from the above that the lists contained in annex I of the Industrial Regulation do not include all CN subheadings but only those to which GSP treatment is granted. Therefore it is extremely important for the GSP user to determine correctly the customs classification for the products according to the CN. Once this has been done, the user should check to see if the CN subheading in which the product is classified is contained in any of the four lists and then calculate the applicable tariff reduction according to product sensitivity.

In the case of silk yarn, which is on the list of very sensitive products, the calculation is as follows (note that the rates of preferential duty are rounded down to the first decimal place; if the calculation results in a preferential rate of 0.5 per cent or less, full exemption is applied):

<b>CN</b>	<b>Product description</b>	<b>1997 conventional MFN rate</b>	<b>Reduction</b>	<b>GSP rate</b>
5004 00 10	Silk yarn	4%	15%	3.4%

In the case of plywood, which is on the list of sensitive products, the GSP rate is 70 per cent of the MFN duty:

<b>CN</b>	<b>Product description</b>	<b>1997 conventional MFN rate</b>	<b>Reduction</b>	<b>GSP rate</b>
4412 13 11	Plywood consisting solely of sheets of wood, each ply not exceeding 6 mm thickness	10%	30%	7%

In the case of rear-view mirrors for vehicles, which are on the list of semi-sensitive products, the GSP rate is 35 per cent of the MFN duty:

<b>CN</b>	<b>Product description</b>	<b>1997 conventional MFN rate</b>	<b>Reduction</b>	<b>GSP rate</b>
7009 10 00	Rear view mirrors for vehicles	5%	65%	1.7%

In the case of a product like “anchors, grapnels and parts thereof, made of iron or steel” which are classified as CN 7316 00 00 and are on the list of non-sensitive products, duty-free is granted:

CN	Product description	1997 conventional MFN Rate	Reduction	GSP Rate
7316 00 00	Anchors, grapnels and parts thereof, of iron or steel	3.9%	100%	0

## B. Agricultural products

The EC GSP scheme for agricultural products is contained in Council Regulation 1256/96 (hereinafter the Agricultural Regulation), reproduced in annex III.

### 1. Product coverage

A great number of agricultural products falling within HS 1-25 are covered by the GSP scheme (see annex I of the Agricultural Regulation containing the complete list of agricultural products covered by the EC GSP scheme).

### 2. Depth of tariff cut

As for industrial products, the tariff cuts available for the agricultural products covered by the EC GSP scheme, are divided into four lists according to their import sensitivity in the EC market; the lists are contained in annex I of the Agricultural Regulation. The following GSP rates are applied to the four categories of products:

- (a) For very sensitive products, the GSP rate is 85 per cent of the MFN rate (annex I, part 1);
- (b) For sensitive products, the GSP rate is 70 per cent of the MFN rate (annex I, part 2);
- (c) For semi-sensitive products, the GSP rate is 35 per cent of the MFN rate (annex I, part 3);
- (d) For non-sensitive products, duty-free entry is granted (annex I, part 4)

The procedure to be followed by any exporter who wishes to know the GSP tariff applying to a specific agricultural product is exactly the same as the one previously described in the case of industrial products. For example, in the case of “other fish meat, frozen: of hake of the genus *Merluccius*”, which is on the list of very sensitive products, the calculation is as follows:

CN	Product description	1997 Conventional MFN rate	Reduction	GSP rate
0304 90 47	Other fish meat, frozen: of hake of the genus <i>Merluccius</i>	10.5%	15%	8.9%

In the case of frozen fillets of dogfish, which is on the list of sensitive products, the GSP rate

is 70 per cent of the MFN duty:

CN	Product description	1997 Conventional MFN rate	Reduction	GSP rate
0304 20 61	Frozen fillets of dogfish	10.5%	30%	7.3%

In the case of plaice, which is on the list of sensitive products, the GSP rate is 35 per cent of the MFN duty:

CN	Product description	1997 Conventional MFN rate	Reduction	GSP rate
0302 22 00	Plaice	10.5%	65%	3.6%

In the case of coffee which has not been roasted or decaffeinated, which is on the list of non-sensitive products, duty-free is granted:

CN	Product description	1997 Conventional MFN rate	Reduction	GSP rate
0901 11 00	Coffee, not roasted, not decaffeinated	3.3%	100%	0%

### C. Country-sector graduation

Country-sector graduation (article 4 of the Industrial and Agricultural Regulations) means that for products classified in certain HS chapters, grouped in 22 sectors in the case of industrial products (see annex II, part 1, of the Industrial Regulation) and in 12 sectors for agricultural products (see annex II of the Agricultural Regulation), certain countries are excluded from GSP treatment. The application of the country-sector graduation is based on certain criteria elaborated by the EC.<sup>5</sup> These criteria, for both agricultural and industrial products, are based on an index of export specialization taken together with a development index. The specialization index is based on the ratio of a beneficiary country's share of total European Community imports in a given sector to its share of total European Community imports in all sectors. The larger the sectoral proportion compared with the general proportion, the greater the specialization. The development index of beneficiary countries is calculated on the basis of a country's per capita income and the level of its exports, as compared with those of the Community. The combination of the two criteria avoids the crude effect of a simple specialization index, according to which a low-income country may be graduated from a sector in which it is particularly specialized. An excerpt from part 1, annex II, of the Industrial Regulation, which contains the list of country sectors to be graduated, is given below.

---

<sup>5</sup> See Regulation 3281/94, annex II, part 2, and Regulation 1256/96, annex II, part 2.

CN Code	Description of goods	Countries concerned
Chapters 25-27	Mineral products	Saudi Arabia Russian Federation Libyan Arab Jamahiriya
Chapters 28-30 and Chapters 32-38	Chemicals excluding fertilizers	China

The excerpt shows that mineral products falling in CN chapters 25-27 and originating in Saudi Arabia, the Russian Federation and the Libyan Arab Jamahiriya are excluded from GSP treatment. The same applies to products originating in China and classified in chapters 28-30 and 32-38.

It should be noted that there are no substantial differences between the graduation systems provided for industrial products and agricultural products. In the case of agricultural products for which the graduation mechanism of the Agricultural Regulation applies, the preferential margin was due to be reduced by 50 per cent on 1 January 1997 and by 100 per cent on 1 January 1998 (article 4, paragraph 3 of the Agricultural Regulation).

#### *1. Ancillary graduation clause and de minimis clause*

In the example given above, the Libyan Arab Jamahiriya and China are excluded from GSP treatment for the products mentioned because of the application of an ancillary graduation clause. According to this clause (article 5, paragraph 1, of both Regulations), the graduation mechanism also applies to countries whose exports to the Community of products covered by the scheme in a given sector exceed 25 per cent of beneficiary countries' exports to the EC in that sector. The clause applies irrespective of the development index when a beneficiary country's exports of GSP-covered products in a given sector exceed 25 per cent of all GSP beneficiaries' exports in that sector.

A *de minimis* clause is included in article 5, paragraph 2, of the Industrial and Agricultural Regulations. This clause provides that "the graduation mechanism shall not apply to countries whose exports to the Community of products covered by the scheme in a given sector do not exceed 2 per cent of beneficiary countries' exports to the Community in that sector".

#### *2. Phasing-in of graduation for industrial and agricultural products*

The application of country-sector graduation for industrial products is to be phased in, in accordance with the timetable contained in article 4, paragraph 3, of the Industrial Regulation, depending on the GNP per capita of the countries to be graduated from specific sectors:

- (a) For countries/territories with a per capita GNP of over US\$ 6,000 in 1991 (Bahrain, Brunei Darussalam, Hong Kong, Kuwait, Libyan Arab Jamahiriya, Nauru, Oman, Qatar, Republic of Korea, Saudi Arabia, Singapore, United Arab Emirates), based on data supplied by the World Bank, the preferential margin was reduced by 50 per cent as from

1 April 1995 and abolished as from 1 January 1996;

- (b) For other countries, the preferential margin was to be reduced by 50 per cent as from 1 January 1997 and abolished as from 1 January 1998 (see Commission communication, OJ C 384, 18.12.1997, containing the list of the products and countries concerned by this abolition);
- (c) For the countries subject to the ancillary graduation clause, graduation is applied in a single stage as from 1 January 1996, whatever their GNP per capita.

### 3. *Country graduation mechanism*

Article 6 of the Industrial and Agricultural Regulations provides that "the most advanced beneficiary countries shall be excluded from entitlement under this Regulation as from 1 January 1998 on the basis of objective, clearly defined criteria". The criteria, which are applicable cumulatively, are as follows (article 1 of Regulation 2623/97, annex X):

- A per capita GNP exceeding US\$ 8.210 for 1995 according to the most recent World Bank figures;
- A development index, calculated in accordance with the formula and on the basis of the figures given in part 2 of annex II to both Regulations.

The Council of the European Community decided that the most advanced of the current GSP beneficiaries, namely Hong Kong, Singapore and the Republic of Korea, should be withdrawn from the list of countries and territories benefiting from the generalized preferences set out in annex III of the Industrial and Agricultural Regulations. Regulation 2623/97 is due to enter into force on 1 May 1998.

### **D. Special incentive arrangements**

Title II of both the Industrial and the Agricultural Regulations provides for "special incentive arrangements". These special incentives operate on the basis of an additional margin of preferences granted to beneficiary countries that comply with certain requirements related to labour standards and the environment. More specifically, under the social-clause incentive, additional preferences will be granted to countries that have adopted and applied in their national legislation the standards elaborated by the International Labour Organization (ILO) Conventions No. 87, concerning freedom of association and protection of the right to organize, No. 98, concerning the application of the principles of the right to organize and bargain collectively and No. 138, concerning minimum-age employment. Another incentive will be provided to countries that have adopted and applied in their domestic legislation the legal provisions incorporating the content of the international standards on environmental protection drawn up by the International Tropical Timber Organization (ITTO). Under articles 7 and 8 of the Industrial and Agricultural Regulations, both incentives were to become operational on 1 January 1998.

On 29 October 1997, the Commission of the European Community proposed that improvements in the social and environmental situation in GSP beneficiary countries should be

encouraged by doubling preferences for industrial products and increasing them by two-thirds for agricultural products (see annex IX). In particular, the preferential duty applying to industrial products originating in beneficiary countries which apply for special incentive arrangements and can show compliance with ILO worker protection and ITTO environmental standards, shall be reduced by an amount equal to:

- (a) 15 per cent of the Common Customs Tariff duty applying to the product in question for the products listed in part 1 of annex I to the Industrial Regulation (very sensitive products): therefore the total tariff reduction granted is 30 per cent;
- (b) 30 per cent of the Common Customs Tariff duty applying to the product in question for the products listed in part 2 of annex I to the Industrial Regulation (sensitive products): therefore the total tariff reduction granted is 60 per cent;
- (c) 35 per cent of the Common Customs Tariff duty applying to the product in question for the products listed in part 3 of annex I to the Industrial Regulation (semi-sensitive products): therefore the total tariff reduction granted is 70 per cent.

For agricultural products, the preferential duty shall be reduced by an amount equal to 66 per cent of the applicable preferential margin. These special reductions in duty shall not be accorded to the countries and sectors subject to the ancillary graduation clause (article 5, paragraph 1 of the Industrial and Agricultural Regulations) or to countries excluded under article 6 (country graduation mechanism).

In order to take advantage of the special incentive scheme, beneficiary countries' authorities have to apply to the Commission in writing, giving details of:

- Their domestic legislation incorporating the standards laid down in ILO Conventions Nos 87, 98 and 138 and of the ITTO standards; the full text of such legislation must be attached, together with an official translation into one of the official languages of the Community;
- The measures taken to implement and monitor these provisions effectively, any sectoral limits on their application, any breaches observed and a breakdown of such breaches by production sector;
- A commitment by the Government of the country in question to take full responsibility for monitoring the application of the special arrangements and the relevant administrative cooperation procedures.

The Commission shall examine the requests submitted by the beneficiary countries and, after consulting the Committee for Generalized Preferences created under article 17 of the Industrial Regulation, shall decide either to apply the special incentive arrangements to products originating in the requesting country on condition that the monitoring and administrative cooperation arrangements defined in articles 6 and 7 of the Commission Proposal are observed, or not to apply the special incentive arrangements to that country or to apply them only to certain products originating there, if it considers that the requesting country's legislation does not satisfy the required conditions.

## **E Special treatment for the least developed countries**

According to article 3, paragraph 1, of the Industrial Regulation, the least developed countries (LDCs) are granted duty-free access on products covered by the EC industrial scheme. Article 3, paragraph 1, of the Agricultural Regulation also grants duty-free entry to all products contained in annexes I and VI of the Agricultural Regulation (annex VI contains a much wider product coverage than annex I). Thus, preference-receiving LDCs are granted duty-free access on a substantial variety of agricultural products. The list of LDCs is contained in annex IV of the Industrial and Agricultural Regulations and corresponds to the list defined by the United Nations. It should be noted that the additional preferences are particularly relevant to LDCs which are not parties to the Lomé IV Convention, as the latter already enjoy duty-free access. The following LDCs are not parties to the Lomé IV Convention and do not benefit from any preferential tariff in the EC other than the GSP: Afghanistan, Bangladesh, Bhutan, Cambodia, the Lao People's Democratic Republic, Maldives, Nepal, Myanmar and Yemen..

On 16 December 1997, the Commission of the European Community proposed to extend GSP entitlement to certain products originating in the LDCs previously not covered by the scheme (see annex XII).

## **F. Special treatment for the Andean Group and the Central American Common Market**

According to article 3, paragraph 2 of the Industrial Regulation, industrial products originating in countries listed in annex V (Bolivia, Colombia, Ecuador, Peru and Venezuela) which are conducting anti-drug campaigns are granted duty-free entry. For the same countries and the countries of the Central American Common Market (Guatemala, Honduras, El Salvador, Nicaragua, Costa Rica and Panama), article 3, paragraph 2 of the Agricultural Regulation provides duty-free entry for the agricultural products contained in annex VI. However, not all the agricultural products listed in annex VI are covered. These exclusions are marked with an asterisk.

## **G. Temporary withdrawal of the EC GSP scheme**

According to article 9 of the Industrial and Agricultural Regulations, GSP treatment may at any time be temporarily withdrawn in whole or in part, in the following circumstances:

- (a) Practice of any form of forced labour as defined in the Geneva Conventions of 25 September 1926 and 7 September 1956 and International Labour Organization Conventions Nos. 29 and 105;
- (b) Export of goods made by prison labour;
- (c) Manifest shortcomings in customs controls on the export or transit of drugs (illicit substances or precursors) or failure to comply with international conventions on money laundering;
- (d) Fraud or failure to provide administrative cooperation as required for the verification of certificates of origin Form A;



- (e) Manifest cases of unfair trading practices on the part of a beneficiary country, including discrimination against the Community and failure to comply with obligations under the Uruguay Round to meet agreed market-access objectives;
- (f) Manifest cases of infringement of the objectives of the international conventions relating to the conservation and management of fishery resources.

Under article 9, paragraph 2, of the Industrial and Agricultural Regulations, temporary withdrawal is not automatic, but follows a certain procedure and investigation conducted by the Commission of the European Community. The procedure may be initiated by EC member States or an association that is not a legal entity which can show an interest in the withdrawal (article 10 of both Regulations), by lodging a fully substantiated complaint with the Commission. Once the procedure has been initiated, consultations between the Commission and the member States take place within eight working days in the Committee for Generalized Preferences. If the Commission finds, following the consultations, that there is sufficient evidence to justify investigation, it undertakes the following procedure under article 11 of both Regulations:

- (a) It announces the initiation of an investigation in the Official Journal of the EC (C series) and notifies the country concerned;
- (b) It commences the investigation, which can last up to one year and can be extended if necessary;
- (c) It gathers the information deemed necessary and verifies it with economic operators and the competent authorities of the beneficiary country concerned; an on-the-spot investigation may be carried out for this purpose;
- (d) It may hear interested parties following a written request presented within the period prescribed in the Official Journal announcing the initiation of the investigation;
- (e) When the investigation is completed, it may determine that the withdrawal of GSP is unnecessary and, after consulting the Committee for Generalized Preferences, terminate the procedure, or it may consider that the temporary withdrawal is justified and submit a proposal to the Committee, which will decide the question by a qualified majority.

On 24 March 1997, the Council of the European Community withdrew GSP entitlement from Myanmar in the light of that country's forced labour practices.

## **H. Safeguards**

In the EC GSP scheme there are two general safeguard clauses, both for industrial and agricultural products. The first safeguard clause provides that MFN duties on a particular product may be reintroduced at any time at the request of a member State or on the Commission's own initiative if "a product originating in one of the countries or territories listed in annex III (normal developing countries) is imported on terms which cause or threaten to cause serious difficulties to a Community producer of like or directly competing products" (article 14, paragraph 1, of both Regulations). This safeguard does not affect "safeguard clauses adopted as

part of the common agricultural policy under article 43 of the Treaty (of Rome), or as part of the common commercial policy under article 113 of the Treaty, or any other safeguard clauses which may be applied".

## Part 2

### RULES OF ORIGIN UNDER THE EC GSP SCHEME

#### A. Preamble

If preferential trade arrangements are to be granted goods produced or grown in a developing country, it has to be possible to determine which goods or products are really produced in the beneficiary country. The rules of origin exist to identify the goods produced in the beneficiary country and to ensure that the benefits provided through the preferential trade arrangements are confined to those products originating in the beneficiary country. One of the main purposes of the rules of origin is to ensure that goods produced in other countries and simply trans-shipped or given minimal processing in a beneficiary country do not benefit from trade preferences. However, the role of the rules of origin in international trade is not limited to preferential trade agreements. In fact, the notion of the origin of goods is an essential instrument in the implementation of any commercial policy, ranging from the negotiation of a free-trade area or the constitution of a regional economic grouping to the application of an anti-dumping duty or the issuance of an import licence.

The rules of origin in relation to the GSP are contained in Commission Regulation No. 2454/93 of 2 July 1993, which lays down provisions for the implementation of Council Regulation 2913/92 establishing the European Community Custom Code (hereinafter ECCC), as modified by Regulation No. 3254/94 and by Regulation No.12/97 (see annex XIII). Goods shipped to the EC market must comply with the rules of origin requirements if they are to benefit from the preferential tariff treatment provided under the GSP scheme. Goods not complying with the rules of origin requirements will be denied preferential treatment and normal duty will apply to the goods. The EC rules of origin, like other GSP schemes, comprise three elements:

- (a) Origin criteria;
- (b) Direct consignment conditions;
- (c) Documentary evidence.

#### B. Origin criteria

The origin criteria are at the core of the rules of origin. They determine how and when a product can be considered as originating in a GSP beneficiary country. Under the GSP, the origin criteria are defined as follows: a product shall be considered as originating in a beneficiary country if it has been either wholly obtained or undergone sufficient working or processing in that country (article 67 of the ECCC).

##### *1. Products wholly obtained*

Article 68 of the ECCC lays down a list of products considered to be wholly obtained. Products fall into this category by virtue of the total absence of imported input in their production. The following are considered to be wholly obtained in a country:

- (a) Mineral products extracted from its soil or from its seabed;
- (b) Vegetable products harvested there;
- (c) Live animals born and raised there;
- (d) Products obtained there from live animals;
- (e) Products obtained by hunting or fishing conducted there;
- (f) Products of sea fishing and other products taken from the sea by their vessels;<sup>6</sup>
- (g) Products made on board their factory ships exclusively from products referred to in (f);
- (h) Used articles collected there fit only for the recovery of raw materials;
- (i) Waste and scrap resulting from manufacturing operations conducted there;
- (j) Products extracted from the sea-bed or below the sea-bed which is situated outside its territorial waters, provided that it has exclusive exploitation rights;
- (k) Products produced there exclusively from products specified in (a) to (j).

2. *Products which are manufactured wholly or partly from imported materials, parts or components*

As mentioned above, a product is considered to be wholly obtained in a beneficiary country when it does not contain any imported input. When imported inputs are used in the manufacturing process of a finished product, the ECCC requires that these non-originating materials be sufficiently worked or processed. In particular, article 69, paragraph 1, of the ECCC specifies what is considered sufficient working or processing as follows: "non-originating materials are considered to be sufficiently worked or processed when the product obtained is classified in a tariff heading (at the four-digit level) which is different from those in which all the non-originating materials used in its manufacture are classified".

A derogation from this article provides that the total value of the non-originating materials used in the manufacture of a given product shall not exceed 5 per cent of the ex-works price of the final product, subject to certain conditions (article 71 of the ECCC).

**Example 1.** Let us suppose that a producer manufactures a chair from imported sawnwood. The chair cannot be considered as wholly obtained in one country because the producer has used imported sawnwood. Therefore it is essential to know if the sawnwood (the imported material) can be considered to have undergone "sufficient working or processing" according to the definition laid down in article 69. Since the product obtained, a chair, is classified under heading 9403 of the HS at the four-digit-level (which is different from heading 4407, where sawnwood is classified), we can determine that according to article 69 the sawnwood has been "sufficiently worked or processed" and that the chair qualifies as an originating product. In fact, following the

---

<sup>6</sup> The terms "their vessels" and "their factory ships" (see (f) and (g) above) only refer to vessels and factory ships which are registered or recorded in the beneficiary country or in a member State, which sail under the flag of a beneficiary country or of a member State or which are owned to the extent of at least 50 per cent by nationals of the beneficiary country or of a member State or by a company having its head office in the country or in one of the member States; of which the manager(s), chairman of the board and the majority of the members of such boards are nationals of that beneficiary country or of the member State and of which, in the case of companies, at least half the capital belongs to that beneficiary country or one of the member States or to public bodies or nationals of that beneficiary country or of the member States; of which the master and officers are nationals of the beneficiary country or one of the member States; and of which at least 75 per cent of the crew are nationals of the beneficiary country or of a member State (article 68, paragraph 2, of the ECCC) .

rule in article 69 (change of HS heading at the four-digit level), the final product is classified under a HS heading which differs (the numbers of the headings of the foreign inputs and those of the finished products are different) from that under which the imported inputs are classified. In our example, the non-originating foreign inputs (sawnwood) would be therefore considered sufficiently worked or processed and the final product (a chair) considered as originating in the exporter's country.

However, for a number of products, there are exceptions to the general rule of a change of tariff heading. Such products are covered by a single list stating the working or processing which must be carried out on the non-originating materials (see annex 15 to the ECCC).<sup>7</sup> The list contains a large number of particular products for which the conditions set out in column 3 of the list must be fulfilled rather than just the basic requirement of a change of tariff heading. For example, sausages and similar products under heading 1601 must be manufactured from animals listed in chapter 1. This means that if a producer wants to export sausages under the GSP, he cannot produce sausages from imported meat. However, he benefits from the GSP if he imports live animals classified in HS chapter 1 or if he manufactures his sausages from the meat of animals born and bred in his own country (in which case they are considered a wholly obtained product).

**Example 2.** For most articles of apparel and clothing accessories that are not knitted or crocheted, classified in HS chapter 62, the list requires manufacture from yarn; this means that the use of imported fabric would not confer origin.

**Example 3.** For articles of plastic under HS heading Nos. 3922-3926, the list requires that the value of all non-originating inputs used in their manufacture should not exceed 50 per cent of the ex-works price of the product.

For certain products, as in the examples above, the rule of the single list requires that the value of imported inputs may not exceed a given percentage of the value of the finished product. In order to calculate the amount of imported inputs incorporated in the final product, the exporter must take into account the following:

- (a) The term "value" in the single list means the customs value at the time of the importation of the non-originating materials used or, if this is not known and cannot be ascertained, the first ascertainable price for the materials in the territory concerned;
- (b) The term "ex-works price" in the single list means the price paid for the product obtained to the manufacturer within whose enterprise the final working or processing is carried out: this price includes the value of all materials used in manufacture, minus any internal taxes which are, or may be, payable when the product obtained is exported.

---

<sup>7</sup> If in a rule of the list, two or more percentages are given for the maximum value of non-originating materials that can be used, then these percentages may not be added together. The maximum value of all the non-originating materials used may never exceed the highest of the percentages given. Furthermore, the individual percentages must not be exceeded in relation to the particular materials they apply to.

### 3. *Insufficient working or processing*

In some cases, insufficient working and processing may result in a change of tariff heading and the final product is not considered as originating in the country in question. The ECCC provides the following list of what would be considered insufficient working or processing (article 70):

- (a) Operations to ensure the preservation of products in good condition during transport and storage (ventilation, spreading out, drying, chilling, placing in salt, sulphur dioxide or other aqueous solutions, removal of damaged parts, and similar operations);
- (b) Simple operations consisting of the removal of dust, sifting or screening, sorting, classifying or matching (including the making-up of sets of articles, washing, painting, cutting-up);
- (c) Changing the packaging and the breaking-up and assembly of consignments, placing in bottles, flasks, bags, cases or boxes, fixing on cards, boards or other things, and all other simple packaging operations;
- (d) Affixing marks, labels and other similar distinguishing signs on products or their packaging;
- (e) Simple mixing of products, whether or not of different kinds, where one or more components of the mixture do not meet the conditions laid down by the Regulation to enable them to be considered as originating products;
- (f) Simple assembly of parts of products to constitute a complete product;
- (g) A combination of two or more operations specified in subparagraphs (a)-(f);
- (h) Slaughter of animals.

### 4. *Cumulative origin - regional cumulation (articles 72, 72a and 72b of the ECCC)*

The GSP rules of origin are, in principle, based on the concept of single country origin, that is, the origin requirements must be fully complied with in one exporting preference-receiving country, which must also be the country of manufacture of the finished products concerned. Under the schemes of some preference-giving countries, this rule has been liberalized so as to permit imported inputs from other beneficiary countries to be regarded as local content, thus easing compliance with the rules of origin requirements.

Under the EC GSP scheme, partial cumulation is permitted (subject to certain conditions) on a regional basis. Three regional economic groupings of preference-receiving countries are permitted to utilize the EC regional cumulation system, namely the Association of South-East Asian Nations (ASEAN: Brunei Darussalam, Indonesia, Malaysia, the Philippines, Singapore, Viet Nam and Thailand), the Central American Common Market (Costa Rica, El Salvador,

Guatemala, Honduras and Nicaragua) and the Andean Group (Bolivia, Colombia, Ecuador, Peru and Venezuela).

The withdrawal of one country or territory from the list of the countries and territories benefiting from generalized preferences by virtue of the criteria referred to in article 6 of the Industrial and Agricultural Regulations (on the country graduation mechanism) does not affect the possibility of using products originating in that country under the regional cumulation rules (see Council Regulation 2623/97, annex X).

Under the EC rules for partial and regional cumulation, materials or parts imported by a member country of one of these three groupings from another member country of the same grouping for further manufacture are considered as originating products of the country of manufacture and not as third-country inputs, provided that the materials or parts are already "originating products" of the exporting member country of the grouping. Originating products are those that have acquired origin by fulfilling the individual origin requirements under the basic EC rules of origin for GSP purposes.

Paragraph 1 of article 72a lays down the rules according to which the country of origin of the final product shall be determined:

"When goods originating in a country which is a member of a regional group are worked or processed in another country of the same regional group, they shall have the origin of the country of the regional group where the last working or processing was carried out provided that:

- (a) the value-added<sup>8</sup> there is greater than the highest customs value of the products used originating in any of the other countries of the regional group, and
- (b) the working or processing carried out there exceeds that set out in article 70 (insufficient working or processing) and, in the case of textile products, also those operations referred to at annex 16". (See Regulation 2454/93 of 2 July 1993).

When the above-mentioned conditions are not satisfied, the products shall have the origin of the country of the regional group which accounts for the highest customs value of the originating products coming from other countries of the regional group (article 72a, paragraph 2).

**Example 4.** EC rules of origin require cotton jackets (HS 6203) to be produced from "originating" yarn. With regional cumulation, however, preference-receiving country A may utilize imported fabrics from country B (note that these fabrics must already have originating status in B), which is a member of the same regional grouping, and the finished jacket will be considered as an originating product. This is because the imported fabric, which, again, must already have come from an originating producer in the same grouping, is counted under the cumulation rules as a domestic input and not as an imported input.

**Example 5.** The EC rules of origin require that cars classified under heading HS 8702 must not incorporate more than 40 per cent of imported inputs. A car manufactured in Malaysia, for example, may incorporate the following inputs (all prices are in US\$):

---

<sup>8</sup> "Value-added" means the ex-works price minus the customs value of each of the products incorporated which originated in another country of the regional group.

Inputs originating in Singapore	4,500
Inputs originating in the Philippines	1,400
Inputs originating in Japan	1,500
Value added in Malaysia (local content, labour costs, profits)	2,600
<b><u>Total (ex-works price)</u></b>	<b><u>10,000</u></b>

According to the partial cumulation provision of the EC, in order to calculate the percentage of imported inputs, the materials imported from Singapore and the Philippines will not be taken into account if they originate in these countries. Materials originating in other ASEAN member countries will not be considered as imported inputs. Therefore, only the components imported from elsewhere (in this hypothetical case, Japan, which is not an ASEAN member country) are to be considered as imported inputs. As the amount of the inputs from Japan is US\$ 1,500, equal to 15 per cent of the export price, and as this is less than 40 per cent, the car will be considered as originating in Singapore and will be entitled to GSP treatment.

Proof of the originating status of goods exported from a country belonging to a regional group to another country of the same group for further working or processing, or for re-exportation without further operations, shall be established by the certificate of origin Form A issued by the first country (article 72a, paragraph 4). On the basis of this certificate, a further certificate of origin Form A or invoice declaration made out in that country will establish proof of the originating status of the goods re-exported to the EC from a country belonging to a regional group (article 72a, paragraph 5).

**Example 6.** An exporter in country C wishes to export a finished product which contains imported inputs originating in countries A and B of the same regional grouping. The exporter will have to submit to the competent authority two certificates of origin Form A relating to the inputs originating in country A and country B, respectively, and issued by the competent authorities in each of these countries. On the basis of these two certificates, the competent authority in country C will then issue the final certificate of origin Form A relating to the finished product to be exported.

##### 5. Donor country content

Article 67, paragraph 2, of the ECCC provides that products originating in the European Community which are subject to sufficient working or processing in a beneficiary country are to be considered as originating in that beneficiary country. This provision further expands the cumulation options by allowing the use of inputs or intermediate products which have already acquired originating status in the EC.

Proof of originating status of Community products has to be provided in accordance with article 90b either by production of a EUR.1 movement certificate or by an invoice declaration. The ECCC provisions concerning the issue, use and subsequent verification of certificates of origin Form A shall apply *mutatis mutandis* to EUR.1 movement certificates and, with the exception of the provisions concerning their issue, to invoice declarations.



By virtue of paragraph 4 of article 67, the "donor country content" rules are also extended to products originating in Norway and Switzerland, insofar as these countries grant generalized preferences and apply a definition of the concept of origin corresponding to that set out in the EC scheme.

When the competent authorities of a beneficiary country are requested to issue a certificate of origin Form A for products manufactured with materials originating in the Community, Norway or Switzerland, they shall rely on the EUR.1 movement certificate or, where necessary, the invoice declaration (article 91, paragraph 1).

Box 4 on the certificates of origin Form A issued in the cases set out in paragraph 1 of article 91 shall contain the endorsement "Cumul CE", "Cumul Norvège", "Cumul Suisse" (in French) or "EC cumulation" "Norway cumulation", "Switzerland cumulation" (in English) (article 91, paragraph 2).

## 6. *Derogations*

Article 76 of the ECCC provides that there may be derogations from the provisions on rules of origin in the EC GSP scheme in favour of the LDCs when the development of existing industries or creation of new industries justifies them. For this purpose, the country concerned shall submit to the Community a request for a derogation together with the reasons for the request. The following, in particular, shall be taken into account when the request is considered:

- (a) Cases where the application of existing rules of origin would significantly affect the ability of an existing industry in the country concerned to continue its exports to the Community, with particular reference to cases where this could lead to cessation of these activities;
- (b) Specific cases where it can be clearly demonstrated that significant investment in an industry could be deterred by rules of origin and where a derogation favouring the realization of the investment programme would enable these rules to be satisfied in stages;
- (c) The economic and social impact of the decision to be taken, especially in respect of employment.

In order to facilitate consideration of the request for derogation, the country making the request shall furnish the fullest possible information in support of its request, covering the points listed below:

- Description of the finished product;
- Nature and quantity of the products processed;
- Manufacturing process;
- Value added;
- Number of employees in the company concerned;
- Anticipated volume of exports to the Community;
- Reasons for the duration requested;

- Other observations.

The same rules apply to any request for an extension.

The Community has recently granted a waiver from the definition of the concept of originating products for certain exports of textiles in order to take account of the special situation of four LDCs: the Lao People's Democratic Republic, Cambodia, Nepal (see Commission Regulations Nos 1713, 1714 and 1715/97 of 3 September 1997, OJ No. L 242 of 4.9.1997) and Bangladesh (see Commission Regulation No 2260/97 of 13 November 1997, OJ No. L 311 of 14.11.1997). The products, listed in the annexes attached to the above-mentioned Regulations, which are manufactured in those four LDCs from woven fabric (woven items) or yarn (knitted items) imported into those countries and originating in a country belonging to ASEAN excluding Myanmar, the South Asian Association for Regional Cooperation (SAARC) or the Lomé Convention shall be deemed to originate in the Lao People's Democratic Republic, Cambodia, Nepal or Bangladesh (article 1, paragraph 1). The derogation shall only apply to products imported into the Community from the Lao People's Democratic Republic, Cambodia, Nepal and Bangladesh during a specific period<sup>9</sup> up to the annual quantities listed in the attached annexes against each product.

### **C. Direct consignment conditions**

The second part of the rules of origin relates to the modalities of transport of goods from the preference-receiving country to the EC market. Once the goods in question have complied with the origin criteria, the exporter has to make sure that the shipment of his products follows the provision laid down in the ECCC. This requirement aims to ensure that goods shipped from a beneficiary country will be the same goods as those presented at the port of entry into the EC and that they have not been manipulated or further processed in third countries during shipment. As a general rule, article 78 of the ECCC requires that a product must be transported directly. According to the same article, the following shall be considered as transported directly from the beneficiary country to the Community or from the Community to the beneficiary country:

- (a) Products transported without passing through the territory of any other country, except in the case of the territory of another country of the same regional group where Article 72 is applicable;
- (b) Products constituting one single consignment transported through the territories of countries other than the beneficiary country or the Community, with, should the occasion arise, trans-shipment or temporary warehousing in those countries, provided that the products have remained under the surveillance of the customs authorities in the country of transit or of warehousing and have not entered into commerce or have been delivered for home use there, and have not undergone operations other than unloading, reloading or any other operation designed to preserve them in good condition;
- (c) Goods transported through the territory of Norway or Switzerland and subsequently re-

---

<sup>9</sup> From 1 August 1997 to 31 December 1998 for products imported from the Lao People's Democratic Republic, Cambodia and Nepal; from 15 October 1997 to 31 December 1998 for products imported from Bangladesh.

exported in full or in part to the EC or to the beneficiary country, provided that the goods have remained under the surveillance of the customs authorities of the country of transit or warehousing and have not undergone operations other than unloading, reloading or any operation designed to preserve them in good condition;

- (d) Products which are transported by pipeline without interruption across a territory other than that of the exporting beneficiary country or that of the Community.

Documentary evidence that the requirements of direct transportation have been fulfilled must, for products passing through the territory of a third country, be supplied to the customs authorities in the EC by the presentation of:

- (a) A through bill of lading covering the passage through the country or countries of transit; or
- (b) Certification issued by the customs authorities of the country or countries of transit:
- Giving an exact description of the products;
  - Stating the dates of unloading and reloading of the products or of their embarkation or disembarkation and identifying the ships used;
  - Certifying the conditions under which the products have remained in the transit country or countries; or
- (c) Failing these, any substantiating documents deemed necessary (for example, a copy of the order for the products, a supplier's invoice, or bills of lading establishing the route by which the products travelled).

## **D. Documentary evidence**

Apart from the documentary evidence relating to the direct consignment conditions, evidence of the originating status is provided by a certificate of origin Form A duly filled in by the exporter and officially certified by the competent authorities in the exporting beneficiary country. Exporters must be aware that the certificate of origin Form A is one of the official documents on which the EC customs authorities rely in order to grant GSP benefits to their goods. Therefore, it is of vital importance that it should be filled in correctly and in accordance with the rules contained in the ECCC.

### *1. Rules concerning the completion and issue of certificates of origin Form A (articles 81-89 of the ECCC)*

A certificate of origin Form A is issued only upon written application from the exporter or his authorized representative (article 81, paragraph 3). The exporter or his representative must submit with the application any appropriate supporting documents proving that the products to be exported qualify for the issue of a certificate of origin (such documents could be invoices, cost statements, bills of lading, etc.) (article 81, paragraph 4). The certificate of origin Form A must meet certain requirements, including those concerning paper quality and size, as follows (see annex V to Regulation 12/97, containing a specimen of the certificate of origin Form A):

- (a) Each certificate shall measure 210 × 297 mm; a tolerance of up to plus 5 mm or minus 8 mm in the length may be allowed. The paper used shall be white, sized, writing paper, that does not contain mechanical pulp and weighs no less than 25g/m<sup>2</sup>. It shall have a printed green guilloche-pattern background, making any falsification by mechanical or chemical means apparent to the naked eye.
- (b) If the certificates have several copies, only the top copy (the original) shall be printed on a green guilloche-pattern background. The original copy is the one to be sent to the EC importer.
- (c) Each certificate must bear a serial number, printed or otherwise, by which it can be identified. This serial number must be assigned to the certificate by the issuing government authorities.
- (d) The GSP Form A must be made out in English or French. If it is completed by hand, entries must be in ink and in capital letters.
- (e) The use of English or French for the notes on the reverse of the certificate (Form B) is not obligatory.
- (f) The certificate of origin Form A is issued by the appropriate governmental authority of the beneficiary country if the products to be exported can be considered products originating in that country (article 81, paragraph 5).
- (g) It shall be the responsibility of the competent governmental authority of the exporting country to take any steps necessary to verify the origin of the products and to check the other statements on the certificate (article 83).
- (h) The completion of box 2 of the certificate of origin Form A is optional. Box 12 shall be duly completed by indicating “European Community” or entering the name of one of the member States (article 81, paragraph 8).
- (i) The signature to be entered in box 11 of the certificate must be handwritten (article 81, paragraph 9).

The certificate should be made available to the exporter as soon as exportation takes place or when it is certain that it will take place. For the purpose of verifying whether the conditions for issuance have been met, the appropriate governmental authority has the right to call for any documentary evidence or to carry out any check which it considers appropriate (article 81, paragraphs 5 and 6).

## *2. Supplementary provisions related to the issuance of certificate of origin Form A*

According to article 82, paragraph 4, at the request of the importer and having regard to the conditions laid down by the customs authorities of the importing member State, a single proof of origin may be submitted to the customs authorities upon importation of the first consignment provided that:

- (a) The goods are imported within the framework of frequent and continuous trade flows of a significant commercial value;
- (b) The goods are the subject of the same contract of sale, the parties to which are established in the exporting country and in the Community;
- (c) The goods are classified in the same code (eight digits) of the Combined Nomenclature;
- (d) The goods come exclusively from the same exporter, are destined for the same importer and are made the subject of entry formalities at the same customs office in the Community.

This procedure shall be applicable for the quantities and a period determined by the competent customs authorities. However, this period cannot, in any circumstances, exceed three months.

*a. Issue of duplicate certificates of origin Form A*

In the event of theft, loss or destruction of a certificate of origin Form A, the exporter may apply to the competent governmental authority which issued it for a duplicate to be made out on the basis of the export documents in their possession (article 87). The duplicate Form A issued in this way must contain one of the following words: "DUPLICATE" or "DUPLICATA", printed in box 4. The duplicate, which must bear the date of issue and the serial number of the original certificate, will take effect as from that date.

*b. Certificates of origin Form A issued retrospectively*

A certificate of origin Form A may exceptionally be issued after exportation of the products to which it relates provided that (article 86):

- (a) The certificate was not issued at the time of exportation because of error, accidental omission or special circumstances; or
- (b) It is demonstrated to the satisfaction of the customs authorities that a certificate of origin Form A was issued but was not accepted on importation for technical reasons.

The competent governmental authority may issue a certificate retrospectively only after verifying that the particulars contained in the exporter's application agree with those contained in the corresponding export documents and that a certificate of origin Form A was not issued when the products in question were exported. Certificates of origin Form A issued retrospectively must bear the endorsement "issued retrospectively" or "délivré à posteriori", printed in box 4.

*c. Time limit for presentation of certificates of origin Form A*

According to paragraph 1 of article 82, a certificate of origin Form A must be submitted, within ten months from the date of issue, by the competent governmental authority of the beneficiary country to the customs authorities of the member State where the goods are presented.

*d. Presentation of certificates of origin Form A, after expiry of the time limits*

The second paragraph of article 82 states that certificates of origin Form A, submitted to the

customs authorities or the member State of importation after expiry of the ten-month period of validity, may be accepted provided that the failure to observe the time limit is due to exceptional circumstances. In other cases of belated presentation, the competent customs authorities of the importing member State may accept the certificates provided that the products have been presented to them before expiry of the time limit (article 82, paragraph 3).

*e. Discrepancies between statements made in certificates of origin Form A and those in other documents*

The discovery of slight discrepancies between the statements made in the certificate of origin Form A, the EUR.1 movement certificate or an invoice declaration and those made in the documents presented to customs for the purpose of carrying out the formalities for importing the products shall not *ipso facto* render the certificate null and void, provided that it is duly established that the document does correspond to the products concerned (article 92).

*f. Issuance and acceptance of replacement certificates of origin Form A by the EC, Norway and Switzerland*

By virtue of article 88, when originating products are placed under the control of a customs office in the EC, it shall be possible to replace the original proof of origin with one or more certificates of origin Form A, for the purpose of sending all or some of these products elsewhere within the Community, Norway or Switzerland. The replacement certificate of origin Form A shall be issued, on the basis of a written request by the re-exporter, by the customs office under whose control the products are placed and shall be regarded as the definitive certificate of origin for the products to which it refers. The top right-hand box of the replacement certificate shall indicate the name of the intermediary country where it is issued; box 4 shall contain the words “replacement certificate” or “certificat de remplacement”, as well as the date of issue of the original certificate and its serial number. A photocopy of the original certificate Form A may be attached to the replacement certificate.

## **E. Invoice declaration**

An invoice declaration may be made out by an approved Community exporter or by any exporter for any consignment consisting of one or more packages containing originating products whose total value does not exceed ECU 3,000 (article 90). An invoice declaration may be established if the goods concerned are considered as originating in the EC or in a beneficiary country. In the latter case, the beneficiary country shall assist the EC by allowing the customs authorities of member States to verify the authenticity of the document or the accuracy of the information regarding the true origin of the products in question.

## **F. Verification**

The information provided on certificates of origin Form A and invoice declarations may be verified at random or whenever the customs authorities of the importing EC countries have reasonable doubt as to the authenticity of the document or the accuracy of the information regarding the true origin of the goods (article 94, paragraph 1). For these purposes, the customs authorities in the EC may return a copy of the certificate of origin Form A or the invoice declaration to the relevant governmental authority in the exporting beneficiary country, giving where appropriate the reasons of form or substance for an inquiry (article 94, paragraph 2).

When an application for subsequent verification has been made by the customs authorities, such verification has to be carried out and its results communicated to the customs authorities in the Community within six months. The governmental authorities who issued the certificate of origin Form A are responsible for carrying out this inspection and reporting the results to the EC customs authorities. The results must establish whether the certificate of origin Form A in question applies to the products actually exported and whether these products were in fact eligible to benefit from the tariff preferences (article 94, paragraph 3).

If in cases of reasonable doubt no reply has been communicated to the EC customs authorities in the above-mentioned six-month period or if the reply does not contain sufficient information to determine the authenticity of the document in question or the real origin of the products, a second communication shall be sent to the authorities concerned. If after the second communication, the results of the verification are not communicated to the requesting authorities as soon as possible or at the latest within four months, or if these results do not allow the authenticity of the document in question or the real origin of the products to be determined, the requesting authorities shall (unless there are exceptional circumstances) refuse entitlement to generalized preferences (article 94, paragraph 5).

Where the verification or any other available information appears to indicate that the provisions concerning the proof of origin are being contravened, the exporting beneficiary country shall, on its own initiative or at the request of the Community, carry out appropriate inquiries or arrange for such inquiries to be carried out with due urgency to identify and prevent such contraventions. For this purpose, the Community may participate in the inquiries (article 94, paragraph 6)

For the purpose of subsequent verification of certificates of origin Form A, copies of the certificates as well as any export documents referring to them shall be kept for at least three years by the appropriate governmental authority of the exporting beneficiary country (article 94, paragraph 7).

In the case of replacement certificates of origin Form A issued by the customs authorities of Norway or Switzerland on the basis of a certificate of origin Form A issued by the competent authorities of the beneficiary country, Norway or Switzerland will assist the EC by allowing its customs authorities to verify the authenticity and accuracy of the said certificates. The verification procedure applies the principle of *mutatis mutandis*; the time limit is extended to eight months (article 89).

**[Note for Internet users: The Annexes to this Handbook are available in hardcopy only and can be obtained, free of charge, from the UNCTAD Secretariat:  
Fax : +4122 907 0044 or E-mail : [gsp@unctad.org](mailto:gsp@unctad.org) ]**