

DFQF webinars

15 March 2021

***Duty-Free Quota-Free (DFQF) Market
Access and Rules of Origin for LDCs:
how to use the UNCTAD Handbook
and Database on GSP Utilization –
Part I: QUAD Countries***

Webinar for Lesotho, Malawi and Zambia

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UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT

UNCTAD



DFQF: Background

- 1968: UNCTAD II (New Delhi) Generalized System of Preferences (GSP): unilateral, non-reciprocal preferences
- 1974: Mandate given to UNCTAD to monitor utilization of trade preferences, especially by LDCs
- 1979: GATT Enabling Clause - special treatment for LDCs
- 1996: Singapore WTO Ministerial Conference (MC-1)
- 2005: Hong Kong, China WTO MC-5 – Measures in Favour of LDCs, including the Duty-Free Quota-Free Initiative
- 2013: Bali, Indonesia, WTO MC-9 – Decision on Preferential Rules of Origin for LDCs
- 2015: Nairobi, Kenya, WTO MC-10

DFQF : The 2005 Initiative

Developed-country Members shall, and developing-country Members declaring themselves in a position to do so should:

- a) Provide duty-free quota-free market access on a lasting basis, for all products originating from all LDCs by 2008 or no later than the start of the implementation period in a manner that ensures stability, security and predictability.
- b) Members facing difficulties at this time to provide market access as set out above shall provide DFQF access for at least 97% of products originating from LDCs, defined at the tariff line level by 2008 or no later than the start of the implementation period. In addition, these Members shall take steps to progressively achieve compliance with the obligation set above, taking into account the impact on other developing countries at similar levels of development, and, as appropriate, by incrementally building on the initial list of covered products.
- c) Developing country Members shall be permitted to phase in their commitments and shall enjoy appropriate flexibility in coverage

DFQF : How do I check if my product can benefit? (1)

1. Is my country a beneficiary of the DFQF scheme of my target market?
2. Is my product covered by the DFQF scheme of my target market?
3. What requirements does my product need to meet?
 - a) Rules of origin (RO): does my product comply?
 - b) Other requirements, e.g. mode of shipment of the goods
4. How can I prove it? → documentary evidence

DFQF : How to do I check if my product can benefit? (2)

1. *Is my country a beneficiary of the DFQF scheme of my target market?*

In principle, all 46 countries in the UN List....

Preference Giving Country (PGC)	Included	Excluded
Canada	Cape Verde, Samoa, Vanuatu	None
European Union	Equatorial Guinea, Vanuatu	Non-REX compliant
Japan	Vanuatu	None
USA	Samoa, Vanuatu	Bangladesh, Eritrea, Lao PDR, Sudan

¹ Central African Republic, Chad, Congo DPR, Djibouti, Equatorial Guinea, Samoa, Somalia, and South Sudan

DFQF : How to do I check if my product can benefit? (3)

2. Is my product covered by the DFQF scheme of my target market?

In principle, all products should be covered (at least 97% of the national tariff lines as agreed in Hong Kong).....

Preference Giving Country (PGC)		% of lines covered	Sectors Excluded
Canada		98.6%	Some agriculture and other animal products such as dairy, poultry and eggs
European Union (EU)		99.8%	Arms and ammunition
Japan		97.9%	Fish and crustaceous, footwear, milling & cereal products, sugar
USA	GSP	82.4%	Textiles and apparel, cotton, fibers, footwear, dairy, other animal products
	AGOA	97.5%	1800 products more than GSP, excluding certain canned fruits, sugar, peanuts, cotton, certain iron and steel flat products

DFQF : How do I check if my product can benefit? (4)

2. *Is my product covered by the DFQF scheme in my target market?*

- Check the tariff schedule of your target market
 - European Union: <https://trade.ec.europa.eu/access-to-markets/en/content/welcome-access2markets-market-access-database-users>
 - USA: <https://hts.usitc.gov/current>
- You will need at least the HS 4-digit code of your product, ideally the HS 6-digit code or even better the national tariff lines
- Your importer may help you with this

DFQF : Rules of Origin - Origin Criteria

- **Wholly obtained**
- **Substantial transformation / sufficient working or processing**
- **Methodologies**
 - Change of Tariff Heading (CTH, 4-digit HS code)
 - Ad valorem percentage criterion expressed as valued added or maximum allowance of non-originating inputs
 - Working or processing operations that confer originating status
 - EU and Japan use product-specific rules of origin (PSRO)
 - US and Canada across the board ad valorem percentage with exclusion of textiles and clothing where PSRO apply
 - Insufficient working or processing, simple operation
 - Cumulation and tolerance
- **Documentary evidence: Certificate of origin and direct consignment**

RoO: Diagonal vs. Full Cumulation

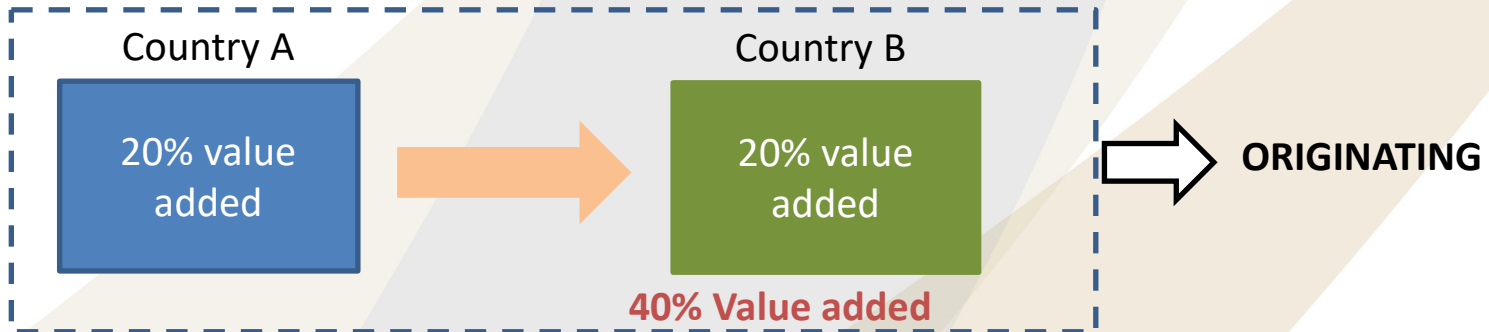
Assume a RoO of 40% value added

- **Diagonal Cumulation**



Under Diagonal Cumulation both countries A and B must meet the RoO of 40% value added

- **Full Cumulation**



Under Full Cumulation it is possible to add value in country A and in country B to reach 40% value added

Example of value tolerance

- **Example:** a doll (HS 9502); its rule of origin is: CTH.
- This means a manufacturer in Cambodia is allowed to import raw materials such as plastics, fabrics etc. which are classified in other chapters of the HS.
- Use of doll's parts (e.g. Doll's eyes) is not possible as these are classified in the same heading (HS 9502).
- However, the tolerance rule allows the use of these parts if they amount to not more than 15 % of the doll's value.

DFQF : Documentary Evidence

- Proof of Origin
 - Certificate of origin (declaration + certificate) stamped by Certifying authorities:
 - FORM A –Japan, waived for certain products
 - Special form for Textile and apparel (Canada)
 - Self-declaration, e.g. Registered Exporter's Statement of Origin (REX) in EU
 - Self declaration by Exporter (Canada)
 - Importer declaration (US)
 - AGOA apparel special Certificate
 - Small consignments: proof of origin may not be required
- Direct consignment
 - Direct shipment, e.g. a through bill of lading (TBL)
 - If in transit: certification by customs of transit countries with the exception of EU
 - Small consignments: evidence may not be required

DFQF : European Union (1)

- Coverage: Everything but arms (EBA) . Check the EU tariff schedule: [Regulation \(EU\) No. 2020/1577](#)
- Rules of Origin (RO): Regulations (EU) Nos. [952/2013](#) (the Code) & [2015/2446](#)
 - a) Wholly obtained: Art. 44
 - b) Other products: Substantial transformation (Art. 45)
 - i. Product-specific rules of origin (PSRO): Annex 22-03
 - ii. Non-originating inputs generally up to 70% of the ex-works price for LDCs vs. 50% for other developing countries
 - iii. Tolerance: Art. 45, 48 and Annex 22-03
 - iv. Insufficient working or processing: Art. 47
 - v. Cumulation: Art. 53-57
 - **Bilateral cumulation:** cumulation with materials originating in the EU, cumulation with materials originating in Norway, Switzerland or Turkey
 - **Regional cumulation:** cumulation with materials originating in another beneficiary country of the same region ex. ASEAN (limitations apply)
 - **Extended cumulation:** cumulation with materials originating in a country with which the EU has a preferential trade agreement subject to certain conditions
 - **Derogation:** Art. 64(6) of Regulation (EU) No. 952/2013

DFQF : European Union (2)

- Proof of Origin: **Introduction of REX Registered Exporter database**
- Regulation (EU) [consolidated version](#)
 - As of 2017 exporters in beneficiary countries have to register with their national competent authorities in the EU Registered Exporter (REX) system. A number is issued starting with the ISO 2-letter code of the country
 - Statements of origin are issued directly by a registered exporter in either English or French in general when the goods are exported and are valid 12 months
 - Control & verification: the national competent authorities carry out regular controls on exporters at their initiative. In case of a request from the European Commission, there will render all necessary support.
 - *De minimis*: no statement of origin needed for small packages (total value < 500 EUR), products with total value < 1 200 EUR or traveller's personal luggage
 - For consignments < 6 000 EUR, exporters outside of the REX system may claim preferences if they provide a statement on origin
- Direct Shipment requirement: Non alteration clause

EU PSROs: knitted garments

Chapter 61: EU GSP PSROs

HS	Product description	(a) LDCs	(b) Other beneficiary countries
Chapter 61	Articles of apparel and clothing accessories, knitted or crocheted: - Obtained by sewing together or otherwise assembling, two or more pieces of knitted or crocheted fabric which have been either cut to form or obtained directly to form	Manufacture from fabric	Knitting and making-up (including cutting)

EU: Examples of PSROs

- Requirement to use only wholly obtained materials:

HS Heading	Product description	Minimum working/processing required
Chapter 3	Fish and crustaceans, molluscs & other aquatic invertebrates	Manufacture in which all the materials of Chapter 3 used are wholly obtained

- Non-originating materials from certain positions can be used or are excluded from the working or processing:

HS Heading	Product description	Minimum working/processing required
1903	Preparations of cereals, flour, starch or milk	Manufacture from materials of any heading, except that of the product, in which: - The weight of materials chapters 2, 3, and 16 used does not exceed 20%

- Combination of rules: Maximum allowable non-originating content & CTH

HS Heading	Product description	Minimum working/processing required
8402	Steam or other vapour generating boilers	Manufacture from materials of any heading, except that of the product, <i>or</i> in which the value of all the materials used does not exceed 70% of the ex-works price of the product

DFQF : Japan (1)

1. Coverage: [Japan's Tariff Schedule](#) (GSP + LDC tariff rate)
2. Excluded products: some Fish and crustaceans, some agricultural products footwear, milling & cereal products (rice), sugar
3. [Rules of Origin for Japan's GSP scheme](#)
 - a) Wholly obtained
 - b) Other products: change of tariff heading (HS 4-digit) except for:
 - i. Minimal processes
 - ii. Goods required to satisfy specific conditions in order to obtain originating status without a change in the HS 4-digit: "[Single List](#)"
 - c) Donor Country Content Rule: applied with limited [exceptions](#)
 - d) Tolerance: *de minimis* for textiles and textiles articles (HS chapters 50-63): up to 10% of the weight

DFQF : Japan (2)

3. Rules for Transportation (Direct Shipment), but... transshipment or temporary storage in a bonded area or any other similar place under the supervision of the customs authorities of those transit countries is possible

4. Documentary Evidence

- a) Form A except for low-value consignments ($\leq 200\,000$ JPY) or goods whose origin is evident ([list](#))
- b) Certificate of Materials Imported from Japan
- c) Transport: a through bill of lading (TBL)

DFQF : USA – GSP for LDCs

1. GSP expired on 31 Dec 2020 but it is likely to be extended retroactively as it has happened in the past
2. Eligibility: All LDCs except Bangladesh, Eritrea, Lao PDR, Sudan
3. Coverage: around 5 000 products, i.e. 3 500 for developing beneficiary countries including LDCs and 1 500 only from eligible LDCs... [HTSUS 2021](#) (symbols: A+, A, A*)
4. Rules of Origin
 - a) General rule: the sum of the cost or value of materials produced in the beneficiary country plus the direct costs of processing must equal at least 35% of the appraised value of the article at the time of entry into the United States
 - b) Six associations are recognized and treated as one country: Andean Group, ASEAN, CARICOM, SAARC, SADC, and WAEMU
 - c) Direct Shipment requirement: transshipment possible with conditions of documentary evidence .Invoice should show the US as the final destination

DFQF : USA - AGOA

- AGOA was signed into law on 18 May 2000, was amended and renewed several times and is currently extended until 30 Sep 2025
- **Eligibility:** Designated Sub-Saharan countries that are GSP beneficiaries and meet certain requirements (general AGOA see [39 countries](#), for textiles and apparel eligibility see [this link](#))
- **Coverage:** AGOA could be called a “super GSP”.. it covers 97,5% of the US tariff lines.... [HTSUS 2021](#) (symbols: D)
- **Rules of Origin**
 - a) (i) same as GSP basic requirement but the cost or value of materials produced in the US may be counted towards the 35% up to a maximum amount not to exceed 15%; and cumulation with other AGOA beneficiaries is possible; (ii) no certificate of origin is required, but the exporter should be prepared to submit a [declaration](#)
 - b) Textile/apparel products: only if imported from designated AGOA beneficiaries (see [this link](#))
 - i. *Manufacture from fabrics*
 - ii. *De minimis and other special rules:* see p. 38 of the Handbook;
 - iii. [Certificate of origin](#) is required

DFQF and AGOA : USA – Examples

- **How much would wool jackets be charged if imported into the US?**
 - 1) Determine the HS 6-digit code for the product: 6203.33
 - 2) Search the HTSUS for 6203.33, identify the precise item(s):
6203.33.10 Jackets containing more than 36% by weight of wool
 - 3) MFN tariff: 22%
 - 4) Duty-free under AGOA (see in chapter 98 heading 9819)
- **How much would bay leaves be charged when imported into the US?**
 - 1) Determine the HS 6-digit code for the product: 0910.99
 - 2) Search the HTSUS for 0910.99, identify the item(s):
0910.99.07 Bay leaves
 - 3) MFN tariff: 3.2 cents per kilogram
 - 4) Duty-free under the GSP

DFQF : Canada (1)

1. Coverage: LDCT treatment in the [2021 Tariff Schedule](#)
2. Exclusion: Some agriculture and other animal products such as dairy, poultry and eggs
3. [Rules of Origin](#): SOR/2013-165 & SOR/2017-127
 - a) Wholly obtained: see p. 42 of the Handbook
 - b) Other products (except chapters 61 to 63):
 - i. at least 40% of the ex-factory price of the good as packed for shipment to Canada was produced in the LDCT country (with 20% from countries eligible for GPT)
 - ii. at least 40% of the ex-factory price of the good as packed for shipment to Canada was produced in more than one LDCT country or Canada (with 20% from countries eligible for GPT)
 - c) Chapters 61-63 (Textiles and clothing): special rules apply (see p. 43-44 of the Handbook)

DFQF : Canada (2)

3. Documentary evidence for origin

- Chapters 61-63: [Form 255](#) (Certificate of Origin – Textile and Apparel Goods Originating in an LDC)
- Other products: Form A or the Exporter's Statement of Origin ([Form CI1](#)) must be submitted as proof of origin to the Canada Border Service (CBSA) upon request

4. Direct Shipment requirement:

- Through bill of lading (TBL)
- A consignee in Canada must be identified

Part II: The GSP database

UNCTAD DATABASE ON GSP UTILIZATION

<http://gsp.unctad.org>

Objectives of the GSP database

- Disseminate Utilization Rates (UR) to Government officials, firms and researchers
- Increased utilization of trade preferences by Firms and MSMEs, especially in LDCs
- Better empowerment of trade officials during negotiations and trade policy making
- Useful tool for researchers

The main features of the Website design and reasons

- With respect to other websites – keep it simple and straight, tailored to the target groups
- The website design rotates around 3 functions:
 - A) Firms' view: understand the UR of my product
 - B) Government view: How my country is doing ?
 - C) Trade policy /Negotiations view: Where am I doing good /bad and what I can do to improve?
- Let's see now how it works in practice....gsp.unctad.org

Questions ?

Please raise your hand in MS Teams

EXERCISES

1. Find out the top 3 MFN-dutiable products at the level of HS 6-digit (HS sub-heading) exported from your country to at least one of the QUAD in 2018
2. For each of the above products, analyse how the GSP Utilization Rate has evolved over the period 2004-2018
3. Determine if the above products can benefit from DFQF treatment and if yes, which conditions they must meet



Thank you for your attention

"Mazzarello - geometrie del dare, nuovo futuro" is the work of Maurizio Cancelli.

Its architectural perspective emphasizes the interactions of governments, societies and economies from around the globe under the United Nations Framework. This collaboration highlights the earth, its resources and potentials, and fosters a recognition of local communities and their right to exist in their places of origin, with their own distinction and diversity. Maurizio Cancelli started his artistic research on the right to live in one's place of birth more than thirty years ago. His work is inspired by the mountainous terrain surrounding the village of Cancelli in the heart of Umbria, Italy.

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