

## **Generalized System of Preferences**

# **HANDBOOK ON THE SCHEME OF THE REPUBLIC OF POLAND**

(INT/97/A06)

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

**Introduction**

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

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

It should be noted that the description of products is given in terms of the Harmonized Commodity Description and Coding System (HS) on which the Customs Tariff of the Republic of Poland is based, as products covered by the scheme are defined on an individual tariff line basis.

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

**BACKGROUND**

The Polish legislation implementing a system of tariff preferences in favour of developing countries was brought into effect on 21 October 1997. This Order of the Council of Ministers supersedes all previous legislation of the Polish system of Generalized Preferences previously in operation.

**DEPTH OF TARIFF CUTS**

Developing countries whose GDP is not higher than that of Poland are granted preferential rates equivalent to 80 per cent of the basic tariff. Least Developed Countries (LDC) are granted duty-free treatment.

**PRODUCT COVERAGE**

With the exception of those products listed in Annex I, all other dutiable products contained in the Harmonized Commodity Description and Coding System (Harmonized System, HS) defined at the four-digit level are covered by the Polish scheme.

**LIMITATIONS OF PREFERENTIAL IMPORTS**

There are no import limits or quotas, limiting preferential access to the Polish market.

**RULES OF ORIGIN**

In order to qualify for preferential tariff treatment, goods eligible for tariff preferences:

- must, in general, be transported directly to the Republic of Poland;
- must comply with the origin criteria specified for such goods by the Republic of Poland; and,
- must be accompanied by appropriate documentary evidence.

Direct consignment

The rule that originating products must be transported directly from the exporting country to the preference-giving country of destination is an important common feature of all GSP origin rules. Its purpose is to enable the customs administration of the importing preference-giving country to be satisfied that the imported products are identical with the products which left the exporting country, i.e. that they were not manipulated, substituted or further processed in any third country of transit.

General conditions

The Republic of Poland recognizes as directly transported:

- Products which do not pass through the territory of another country;
- Products which pass through the territories of countries other than the exporting beneficiary country, with or without transshipment or warehousing within those countries, provided that transport through those countries is justified for geographical reasons or exclusively on account of transport requirements<sup>1</sup> and that the products have remained

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<sup>1</sup> Polish GSP rules of origin make the provision that transport through countries other than the exporting beneficiary country must be justified for geographical

under customs control in the country of transit or warehousing, and have not entered into commerce<sup>2</sup> or been delivered for home use there and have not undergone operations other than unloading, reloading and any other operation required to keep them in good condition.

Additional conditions

Splitting up of loads and repacking, except packaging for retail sale, are allowed.

Origin criteria

Products exported from a beneficiary country may be divided into two groups:

- (a) Products "wholly-obtained", i.e. products which have been entirely grown, extracted from the soil or harvested within the exporting country or which have been manufactured there exclusively from any of these products. Such products of a preference-receiving country qualify for GSP treatment by virtue of the total absence of the use of any imported components or materials; and
- (b) Products which are manufactured wholly or partly from materials, parts or components imported into the beneficiary exporting country (or are of unknown origin). These products qualify for GSP treatment only if they have undergone "sufficient working or processing" in the beneficiary country (see below under "products with an import content or with a content of unknown origin").

Products "wholly obtained"

The Republic of Poland recognizes the following as products "wholly obtained" in a beneficiary country:

- (a) mineral products extracted from its soil or from its sea bed;
- (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 its vessels;
- (g) products made on board its factory ships exclusively from products referred to in (f) above;

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reasons or on account of transport requirements.

<sup>2</sup> Polish GSP rules of origin provide that the products must not have entered into commerce in the country of transit or warehousing.

- (h) used articles which are collected there and are fit only for the recovery of raw materials;
- (i) waste and scrap resulting from manufacturing operations conducted there;
- (j) products obtained there exclusively from the products referred to in (a) to (i), above; and,
- (k) products taken from the sea-bed or subsoil beneath the sea-bed outside a country are considered to be wholly obtained in the country that has rights to exploit that sea-bed or subsoil.

The terms "vessels or ship of a beneficiary country" and "factory ships or plant vessel of a beneficiary country" refer to ships or plant vessels which jointly satisfy the following conditions:

- (a) Are entered in a register or registered in a beneficiary country or the Republic of Poland;
- (b) Sail under the flag of a beneficiary country or the Republic of Poland;
- (c) Are, in part amounting at least 50 per cent the property of an individual who is a citizen of a beneficiary country or the Republic of Poland, or of corporate body, or of administrative unit without legal status with board of directors situated in one of these countries, manager or managers, chairman of board of directors and the majority of members of the board are citizens of a beneficiary country or the Republic of Poland, in which at least half of the capital belongs to a beneficiary country or the Republic of Poland, their public organisations or their citizens;
- (d) Their capital and officers are citizens of a beneficiary country or the Republic of Poland; and,
- (e) At least 75 per cent of their crew are citizens of a beneficiary country or the Republic of Poland.

Products with an import content or with a content of unknown origin

As indicated above, products which have been manufactured in a beneficiary country wholly or partly from imported materials, parts or components (including materials, etc. of undetermined or unknown origin) are considered as originating in that country if those materials, parts or components have undergone sufficient working or processing. In general terms, working or processing is regarded as sufficient if it transforms the specific nature and characteristics of the materials used to a substantial degree. According to the origin criterion applied by the Republic of Poland (process criterion), imported materials, parts or components ("inputs") are considered to have undergone sufficient working or processing if the finished product falls under a tariff heading at a four-digit level different from that of any of the materials, parts or components used in the process ("change in tariff heading"). However, since a change in tariff heading in some cases could be too liberal and some other cases too stringent a requirement to confer originating status to a product, such products are instead covered by a specific list in which the working or processing required to be carried out on the non-originating materials is laid down.

For a number of processes set out in the above-mentioned list, the rule requires the value of imported inputs not to exceed a given percentage of the value of the finished products. For the purpose of calculating whether the percentage is satisfied:

The value of imported inputs is defined as their customs value at the

time of importation into the beneficiary country or, in the case of inputs of undetermined or unknown origin, the earliest ascertainable price paid for them in that country. This also applies where the value of the originating materials used in the manufacture needs to be established; and,

The value of finished products is the ex-factory price of the products, less internal taxes refunded or refundable on exportation. The ex-factory price includes the cost of production and the producer's profit. Where the processing has been carried out successively in two or more factories, the price to be taken into account is that paid to the last manufacturer, provided that the price includes the value of all the products used in manufacture.

#### Minimal or insufficient processes

Irrespective of whether the product meets the change of tariff heading requirement, the following operations and processes alone do not confer originating status:

- (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 like operations);
- (b) Simple operations consisting of removal of dust, sifting or screening, sorting, classifying, matching (including the making up of sets of articles), washing, painting, cutting up;
- (c) (i) changes of packing and breaking up and assembly of consignments;
- (ii) simple placing in bottles, flasks, bags, cases, boxes, fixing on cards or boards, etc. and all other simple packing operations;
- (d) The affixing of marks, labels, or other like 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 in these provisions 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 (a) to (f), above; and,
- (h) Slaughter of animals.

#### Unit of qualification

For the purpose of the application of the rules of origin, the following provisions apply with regard to the unit of qualification:

- where under the terms of the Harmonized System a product composed of a group or assembly of articles is classified within a single heading, the whole constitutes the unit of qualification;
- sets in the sense of General Rule 3 of the Harmonized System shall be regarded as originating only when all component articles are originating. The set as a whole shall be regarded as originating provided that the value of the non-originating articles does not exceed 15 per cent of the total value of the set;

- accessories, spare parts and tools dispatched with a piece of equipment, machine, apparatus or vehicle which are part of the normal equipment and included in the price thereof or are not separately invoiced shall be regarded as one with the piece of equipment, machine, apparatus or vehicle in question.

#### Packing

Where under the General Rule 5 of the Harmonized System packing is included with the product for classification purposes, it shall also be included for the purpose of determining origin.

#### Cumulative origin

The Republic of Poland applies a system of cumulative origin. Under that system a preference-receiving country exporting to the Republic of Poland is allowed, for the purpose of the origin rules, to regard materials used in production, which have originated in another preference-receiving country, beneficiary under the Polish scheme, as if those materials had originated in the exporting country. For the purposes of granting cumulative origin, the origin of Polish products should be documented with EUR.1 shipment certificate issued by Polish customs authorities. In field 2 of shipment certificate notes "KRAJE KORZYSTAJACE Z GSP", "PAYS BENEFICIAIRES DU SPG", "GSP BENEFICIARY COUNTRIES" and "POLSKA", "POLOGNE" or "POLAND" should be provided. The certificate should be filled in in handwriting, written in ink, capital letters, or typed. The Form should measure 210 mm x 297 mm - a variation in length up to 8 mm longer, or 5 mm shorter is accepted,

For the purposes of granting cumulative origin the EUR. 1 shipment certificate should fulfill the following conditions:

- The Form should be printed in Polish or, if required by commercial conditions, in another language;
- The Form should be printed on white paper, containing no wood pulp, and weighing not less than 25 g/m<sup>2</sup>;
- The Form should be printed with a green guilloching pattern in the background making any attempted forgery by mechanical or chemical methods visible;
- The Form should bear the name and address of the printing house, or a sign enabling identification of the printing house;
- The Form should bear a serial number, printed or not, enabling its identification.

Preference-giving-country content

The Republic of Poland applies the preference-giving-country content rule under which inputs originating in Poland and embodied in products exported back to Poland under the GSP are considered to be wholly produced in the beneficiary country.

In case of certificates of origin written in Form A for products for which production materials originating in Poland were used and cumulative origin was granted, notes "KUMULACJA Z POLSKA", "CUMUL POLOGNE", or "POLAND CUMULATION" should be placed in field 4 of the certificate of origin written in Form A.

**Documentary evidence**

Claims for GSP treatment must be supported by appropriate documentary evidence as to direct consignment and the origin of the goods.

Evidence of direct consignment

In the case of exports to the Republic of Poland, evidence that the requirements of direct consignment have been fulfilled must, for products passing through the territory of a third country, be supplied to the customs authorities of the importing country by the presentation of:

- a through bill of lading drawn up in the exporting beneficiary country covering passage through the country or countries of transit; or
- a certificate issued by the customs authorities of the country of transit, *describing exactly the good*, stating the dates of unloading and reloading of the products or of their embarkation or disembarkation, identifying the ships used and certifying the conditions under which the products remained in the transit country; or
- failing these, any substantiating documents deemed necessary (for example, copy of the order for the products, suppliers' invoice, bills of lading establishing the route by which the products travelled).

Evidence as to the origin of the goods

Originating products must be accompanied by a Combined Declaration and Certificate of Origin, Form A, filled in by the exporter and stamped by a competent governmental authority of the exporting beneficiary country except as regards consignments of small value or postal consignments in respect of which special provisions apply (see below).

Certificate of origin presented in the form of Form A may be considered as proof certifying that goods origin in a beneficiary country, on condition that a beneficiary country has delivered to Główny Urząd Cel (GUC) - Polish Customs names and addresses of the organs authorised to issue certificates of origin on Form A and examples of seals used by these organs.

Each certificate shall measure 210 x 257 mm; a tolerance of up to plus 8 mm or minus 5mm in the length may be allowed. The paper used shall be white writing paper, sized, not containing mechanical pulp and weighing not 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 eye.

It shall be made out in Polish, English or French. If it is completed by hand, entries must be in ink and in capital letters.

The use of English or French for notes on the reverse side of the certificate is not obligatory.



Each certificate shall bear a serial number, printed or other wise, by which it can be identified.

It is the responsibility of the relevant certifying authority of the exporting beneficiary country to ensure that the application is duly completed.

The completion of box 2 (consignee) of Form A is optional.

#### Certificate issued retrospectively

Where, as a result of errors, involuntary omissions or any other special circumstances, no request for a certificate of origin was made when the products were exported, such a certificate may be issued after the actual exportation of the products to which it relates.

The appropriate government authority may issue a certificate retrospectively only after verifying that the information supplied in the exporter's request agrees with the corresponding export file and that a certificate of origin was not issued when the goods in question were exported.

A certificate so issued should bear in box 4 the endorsement "Wystawiono", "Issued retrospectively" or délivré "a posteriori".

#### Duplicate certificate

In the event of theft, loss or destruction of a certificate of origin, the exporter may apply to the certifying authority which issued it for a duplicate to be made out on the basis of the export documents in their possession. The duplicate Form A issued in this way should be endorsed, in box 4, with one of the following words: "Duplikat", "Duplicata" or "Duplicate" together with the date of issue and the serial number of the original certificate.

#### Replacement certificates

A replacement certificate should:

- (a) Provide the name of the person who applied for the original certificate in box 1;
- (b) Provide the name of the final recipient of goods, if known, in box 2;
- (c) Mention in box 4 the words "SWIATECTWO ZASTEPCZE", "CERTIFICAT DE REMPLACEMENT" or "REPLACEMENT CERTIFICATE" note, and the date of issue of the original certificate of origin and its serial number;
- (d) Provide in boxes 3-8 all the notes contained in these boxes on the original certificate;
- (e) Provide the invoice number in box 10;
- (f) Be authorised by the customs authority which issued the replacement certificate in box 11;
- (g) Provide the data referring to a beneficiary country and the destination country, consistent with the data provided in the original certificate in box 12 - this field should be signed by the person who applied for the issue of a replacement certificate;
- (h) The customs authority issuing the replacement certificate should write on the original certificate serial numbers of replacement certificates issued with specification for what quantity of goods they were issued;

and,

- (i) Customs authorities may, in justifiable cases, require that a copy of the original certificate be attached to the replacement certificate.

Consignments of small value and postal consignments

Products declared to be originating in a beneficiary country, which are sent as small packages to private persons by private persons or forming part of travellers personal luggage are granted preferential tariff treatment without documentary evidence being required, provided that their importation is occasional and not for any commercial purpose and on condition that the value of the products does not exceed the value limits established by the Polish customs authorities.<sup>3</sup>

Administrative cooperation

The correctness of certificates of origin may be subject to verification at any time, either at random or whenever there is reason to doubt the authenticity of the certificate or the accuracy of the information regarding the origin of the goods in question.

For this purpose, the Customs authorities may return the certificate of origin to the relevant authority of the exporting beneficiary country.

Where verification of a certificate of origin has been requested, it shall be carried out and the results communicated to the Swiss Customs authorities within six months. These results must be such as to make it possible to determine whether the contested certificate of origin relates to the goods actually exported, and whether these goods in fact qualify for the application of GSP treatment.

**Beneficiaries<sup>4</sup>**

The Republic of Poland grants preferences to 88 countries. Among them 47 are listed as least developed countries. An indispensable condition for the application of the scheme is that the government of the exporting country has notified the Polish Authorities of the names of the authorities of the country empowered to issue the Form A and provided specimen impressions of stamps used by the same authorities for that purpose.

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<sup>3</sup> To claim preferential treatment a special form known as Form APR should accompany each postal consignment.

<sup>4</sup> See annex II.

Annex I**PRODUCTS NOT COVERED BY THE POLISH SCHEME AS OF 1997**

Silk fabrics, wool fabrics, cotton fabrics (at least 85% cotton), jute, linen yarn, linen fabrics, sewing threads, synthetic fibres, synthetic yarns, synthetic fabrics, carpets, plush fabrics, haberdashery, textile fabrics used for technical purposes, knitwear, clothes and accessories, other textile goods (e.g. blankets, curtains), leather and leather products, shoes, hats and caps, umbrellas, walking sticks, artificial flowers, processed flowers, precious or semi-precious stones, precious metals, jewellery, iron alloys, steel, steel products, cast iron products, copper wire and some copper products (e.g. pipes, wire). Automatic typewriters, non-electric typewriters, hand-dryers, microwave ovens, electric irons, phone and telecommunications equipment, microphones, loudspeakers, gramophones, non-rail vehicles, and their parts (except tanks, motorcycles, bicycles, wheel hairs, baby prams), yachts, rowing boats, kayaks, clocks, watches, revolvers, pistols, furniture, mattress, bedclothes, lamps, neon signs, luminous signs, petroleum oil, natural gas, natural rubber, soaps, explosives, live poultry, live pigs, meat and eggs (except mutton and goat meat), dairy, bird's eggs, natural honey, fresh apples, pears, and quinces, cherries, plums, nuts, dried fruits grain, malt, starch, hop cones, juices and plant extracts, swine fat, soya oil, margarine, beverage, alcohol, tobacco, sauces, vinegar, sugar and its products, grain, flour, milk and their products, vegetables, fruit and nut preserves (except preserved in vinegar, mushroom preserves, olive preserves, sweet corn preserves, yeast, sauces, ice-creams, soups.

Annex II**LIST OF BENEFICIARY COUNTRIES**A. Beneficiary countries (non-LDCs)

|                                    |                                |
|------------------------------------|--------------------------------|
| Algeria                            | Lebanon                        |
| Bolivia                            | Morocco                        |
| Cameroon                           | Mongolia                       |
| China, People's Rep. of            | Namibia                        |
| Colombia                           | Nicaragua                      |
| Côte d'Ivoire                      | Nigeria                        |
| Cuba                               | Pakistan                       |
| Dominican Republic                 | Papua New Guinea               |
| Ecuador                            | Paraguay                       |
| Egypt                              | Peru                           |
| El Salvador                        | Philippines                    |
| Ghana                              | St. Vincent and the Grenadines |
| Guatemala                          | Senegal                        |
| Guyana                             | Sri Lanka                      |
| Honduras                           | Swaziland                      |
| India                              | Thailand                       |
| Indonesia                          | Tonga                          |
| Jamaica                            | Tunisia                        |
| Jordan                             | Viet Nam                       |
| Kenya                              | Zimbabwe                       |
| Korea, Democratic People's Rep. of |                                |

B. Least Developed countries (LDCs)

|                                  |                          |
|----------------------------------|--------------------------|
| Afghanistan                      | Malawi                   |
| Angola                           | Maldives                 |
| Bangladesh                       | Mali                     |
| Benin                            | Mauritania               |
| Bhutan                           | Mozambique               |
| Burkina Faso                     | Myanmar                  |
| Burundi                          | Nepal                    |
| Cambodia                         | Niger                    |
| Cape Verde                       | Rwanda                   |
| Central African Republic         | Samoa                    |
| Chad                             | Sao Tomé and Príncipe    |
| Comoros                          | Sierra Leone             |
| Djibouti                         | Solomon Islands          |
| Equatorial Guinea                | Somalia                  |
| Ethiopia                         | Sudan                    |
| Gambia                           | Tanzania, United Rep. of |
| Guinea                           | Togo                     |
| Guinea-Bissau                    | Tuvalu                   |
| Haiti                            | Uganda                   |
| Kiribati                         | Vanuatu                  |
| Lao, People's Democratic Rep. of | Yemen                    |
| Lesotho                          | Zaire                    |
| Liberia                          | Zambia                   |
| Madagascar                       |                          |