

No 8/3/2008-RMTR
Government of India
Ministry of Commerce & Industry
Department of Commerce
(RMTR Division)

Udyog Bhawan, New Delhi.
Dated: 30th November, 2016.

To

As per list attached

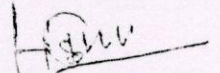
Subject: Certification of origin of goods for EU Generalised System of Preferences (GSP) with the Registered Exporter System – Concept Note.

Madam/Sir,

As you are aware, the European Union is replacing the current system of Certificates of Origin (COO) Form A by the competent authorities under EU GSP, with a system of self-certification of origin of goods by the exporters themselves using statement of origin. India has opted to switch over to the new system with effect from 1st January, 2017. A CONCEPT NOTE on the issue is enclosed for your reference and wide circulation among the stakeholders.

2. It is requested that this CONCEPT NOTE also may be circulated amongst the Local Users whom the exporters will be approaching for registration in the REX system.

Yours faithfully,



(Sanjay Kumar Chaurasia)

Under Secretary to the Government of India

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23/12/16

CONCEPT NOTE ON EUROPEAN UNION'S (EU'S) GENERALISED SYSTEM OF PREFERENCES (GSP) SCHEME OF SELF CERTIFICATION

INTRODUCTION

1. The GSP is a unilateral tariff preference scheme on goods provided by developed countries to beneficiary developing countries (BDCs). These preferences could include both zero duty and concessional custom duty access to imported goods originating in the beneficiary developing countries. The major countries who grant GSP preferences to developing countries are Australia, Belarus, Canada, European Union (EU), Japan, Kazakhstan, New Zealand, Norway, Russia, Switzerland, Turkey and the United States (US). However, the GSPs granted by the EU and the US are the most comprehensive in terms of quantum of exports from developing countries. Many of the developed countries also provide additional tariff preferences to a specified class of developing countries and most provide the greatest market access to Least Developed Countries (LDCs).

2. The principle was conceptualized by the United Nations Conference on Trade and Development (UNCTAD) and adopted during the UNCTAD II Conference in New Delhi in 1968. The objective of the GSP as enunciated in Resolution 21 (ii) adopted at the UNCTAD II Conference are to

- a) to increase BDCs export earnings;
- b) to promote BDCs industrialization; and
- c) to accelerate BDCs rates of economic growth

3. The legal provisions for the grant of GSP is given in a 1978 Decision of the erstwhile GATT (General Agreement on Tariffs and Trade) called the "Enabling Clause".¹ The specific provision of the GSP is given in para 2(a) of the Enabling Clause and is as under:

Preferential tariff treatment accorded by developed contracting parties to products originating in developing countries in accordance with the Generalized System of Preferences.

EU GSP

4. The European Union or the EU (which was earlier known as the European Economic Community) also grants GSP to beneficiary developing countries and was the

¹ Differential And More Favourable Treatment Reciprocity And Fuller Participation Of Developing Countries dated 28 November, 1978

first to do so in 1971. The scheme is subjected to comprehensive revision every 10 years. India is granted tariff preferences based on a "general arrangement" for developing countries and is listed in Annex 1 of the regulation 978/2012 dated 25.10.2012. However, the EU GSP has two "special arrangements" too which includes one for sustainable development and good governance which is also known as GSP+ while the other is for the least developed countries (LDCs) and is known by the term "Everything But Arms (EBA)".

5. Hence, there are three main variants (arrangements) or tiers of the EU GSP Scheme namely:-

- i. **The standard/general GSP arrangement**, which offers tariff reductions or elimination on identified products exported from beneficiary developing countries. The coverage includes two thirds of all product categories.
- ii. **the "GSP+" enhanced preferences** mean full removal of tariffs on essentially the same product categories as those covered by the general arrangement. These are granted to countries which ratify and implement 27 core international conventions relating to human and labour rights, environment and good governance;
- iii. **"Everything but Arms" (EBA) arrangement** for least developed countries (LDCs), which grants duty-free quota-free access to all products, except for arms and ammunitions.

COVERAGE

6. The list of products which are eligible for tariff preferences for exports from India is given in Annex V of the regulation 978/2012 dated 31.10.2012. It includes both agricultural and industrial products and is listed under the HS classification. However, the coverage of agricultural products is limited since it is sensitive for the EU. The implementing EU regulation 1213/2012 dated 17 December, 2012 lists the suspension of the tariff concessions on specific products for some beneficiary countries based on a trade share criteria. This includes India and the duration of this suspension is from **1 January, 2014 to 31 December 2016**. The tariff preferences for India that have been suspended are three mineral products, organic and inorganic chemicals, other chemicals (some

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fertilisers, dyes, essential oils, soaps, explosives etc), raw hides and skins, leather, textiles, motor vehicles, bicycles, aircraft and ships. This was done since India's exports under the EU GSP exceeded the thresholds prescribed in the scheme. After the suspension of preferences on some products, the coverage of the EU GSP Scheme for India includes products such as animals and their products; dairy products; marine products; plants; fruits and vegetables; coffee; spices; oilseeds; vegetable oil; processed food; wines and spirits; tobacco products; some fertilisers; plastics; rubber; leather articles; wood articles; clothing; footwear, glass; ceramics; gems & jewellery; iron & steel; base metals; machinery; railway; instruments & appliances; watches; musical instruments; furniture; toys & games; and miscellaneous manufactured articles..

7. In the EU Regulation 330/2016 dated 8 March, 2016; India has been graduated out of other product categories namely minerals, chemicals (only organic and inorganic), textiles, gems and jewellery, iron and steel, base metals and automotives (except railways). The period of this suspension is from 1 January, 2017 until 31 December, 2019; and hence the coverage of EU GSP products for exports from India during this period would include the product categories of animal products; vegetable products; animal and vegetable fats and oils; prepared foodstuff; fertilisers, tanning/dyeing extracts; essential oils and cosmetics; soaps; albuminoidal substances; photographic goods; miscellaneous chemicals; plastics; rubber; leather; wood and articles thereof; clothing; footwear; headgear; umbrellas; articles of prepared feather; articles of stone; ceramics; glassware; mechanical machinery; electrical machinery; railway equipment; optical instruments; clocks; musical instruments; furniture, toys/ sports goods; and miscellaneous manufactured articles.

THRESHOLDS FOR GRADUATION:

8. The thresholds for graduation for any GSP beneficiary are that the average imports over three consecutive years from them exceeds 17.5% of total EU GSP imports. However, for textile and apparel, the threshold is 14.5% of total EU GSP imports.

MARGIN OF PREFERENCE:

9. The products eligible for tariff preferences under EU GSP are categorized as sensitive or non-sensitive. For the non-sensitive products, the tariff is eliminated under

the GSP. However, for sensitive products, the ad valorem duty is reduced by 3.5% points while the specific duty is reduced by 30%. For example, in the case of a sensitive product an advalorem duty of say 10% is reduced to 6.5% which a specific duty of say €100/kg is reduced to €70/kg. However, for textiles and apparel both the ad valorem and specific duty are reduced by 20%.

RULES OF ORIGIN:

10. In order for goods to benefit from the customs duty preferences under the EU GSP upon importation into the EU, three conditions must be fulfilled:

- i. the goods must originate in a beneficiary country in accordance with the EU GSP RoO;
- ii. during transportation from a beneficiary country to the EU, the goods must not be altered, transformed or subjected to operations other than operations performed in order to preserve them in good condition; and
- iii. a valid proof of origin must be submitted (certificate of origin Form A, issued by the competent authorities in the beneficiary country, or invoice declaration, or as of 1 January 2017, a statement of origin on a commercial document).

11. The rules of origin under the EU GSP is given in the Regulation No 1063/2010 dated 18 November, 2010. There are no general rules of origin and the EU GSP uses the product specific rules or PSRs. These rules determine the origin of the product which is eligible for customs duty preferences for exports to the EU under the GSP Scheme. The agencies certifying the origin of a product under the EU GSP have to ensure that the exporter from the beneficiary exporter complies with these rules for exports under the EU GSP. These rules vary for different products and include criteria such as wholly originating, change in tariff classification (CTC), value addition, technical processes etc.

12. The rules also lists out the criteria for wholly originating (WO) products. If any of these criteria are met, then one does not have to apply the product specific rules or PSRs. A WO product is assumed to have originated from the beneficiary country without any processing or inputs having been carried out or used from a another country. The key elements of the WO criteria under the EU GSP are:

- a) Mineral products extracted from the soil or seabed;
- b) plants and vegetable products grown or harvested there ;

- c) live animals born and raised there;
- d) products from live animals raised there ;
- e) products from slaughtered animals born and raised there ;
- f) products obtained by hunting or fishing conducted there;
- g) products of aquaculture where the fish, crustaceans and molluscs are born and raised there;
- h) products of sea fishing and other products taken from the sea outside any territorial sea by its vessels;
- i) products made on board its factory ships exclusively from the products referred to in point;
- j) used articles collected there fit only for the recovery of raw materials
- k) waste and scrap resulting from manufacturing operations conducted there;
- l) products extracted from the seabed or below the seabed which is situated outside any territorial sea but where it has exclusive exploitation rights;
- m) goods produced there exclusively from products specified in points (a) to (l)

13. Moreover, there are a set of minimal operations or insufficient processing stipulated under the EU GSP which by themselves would not confer the originating criteria despite the PSR having been fulfilled. Therefore, it is important that operations beyond this minimal list be carried out in India for these products to be eligible for GSP preferences. Some of these minimal operations or insufficient processing are:

- a) preserving operations to ensure that the products remain in good condition during transport and storage;
- b) breaking-up and assembly of packages;
- c) washing, cleaning; removal of dust, oxide, oil, paint or other coverings;
- d) ironing or pressing of textiles and textile articles;
- e) simple painting and polishing operations;
- f) husking and partial or total milling of rice; polishing and glazing of cereals and rice;
- g) operations to colour or flavour sugar or form sugar lumps; partial or total milling of crystal sugar;
- h) peeling, stoning and shelling, of fruits, nuts and vegetables
- i) sharpening, simple grinding or simple cutting;
- j) sifting, screening, sorting, classifying, grading, matching (including the making-up of sets of articles);
- k) simple placing in bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards and all other simple packaging operations;

- l) affixing or printing marks, labels, logos and other like distinguishing signs on products or their packaging;
- m) simple mixing of products, whether or not of different kinds; mixing of sugar with any material;
- n) simple addition of water or dilution or dehydration or denaturation of products

14. The value addition criteria for the PSRs under the EU stipulates the percentage of the non-originating material to the ex-works price of the export product. There are no specific options such as step up and step down method as is prevalent in some of India's FTAs. Some of the typical value addition criteria used in the PSRs under EU GSP are:

- a. Value of non-originating materials does not exceed "X" % of ex-works price
- b. Value from same or specific headings does not exceed "Y"% of ex-works price

15. The change in tariff classification (CTC) under the EU GSP consists of changes at the heading (HS 4 digit) and sub-heading (HS 6 digit) level. Some of the typical CTC rules used in the EU GSP are the following:

- a. Manufacture from materials of any heading
- b. Manufacture from materials of any sub-heading

16. Certain PSRs under the EU GSP also have technical processes specified in them for achieving the requisite originating criteria for exports to EU. Some of are specific to products categories such as :

- a. Wood products – planning, sanding, end jointing and slicing
- b. Textiles – weaving, spinning, printing and dyeing

EU SELF-CERTIFICATION:

17. Under the proposed EU GSP self-certification scheme, the exports with consignment value > € 6000 under the EU GSP would need to be self-certified by the exporter (rather than by a the approved agencies) from 1 January, 2017 onwards. This would be done through a statement on origin which has to be made out on a commercial document such as invoice. However, there is a transition period for the implementation of this scheme with an initial period of 1 year provided where the 3rd party certification under Form A is used.

18. There are three categories of agency(ies) to be designated in the beneficiary developing countries for implementation of this self-certification system. In the context of India, the following agencies would be given the three roles:

- i. **Agency for administrative cooperation:** Department of Commerce, Government of India which would be the nodal agency for interface with EU
- ii. **Local Administrators for Registration:** 16 agencies with contact details as per Appendix 1. They would be responsible to accessing the EU system and registering the local users.
- iii. **Local Users:** The designated officers of the Local Administrators who would register the exporters and allot them the REX (Registered Exporter) number.

19. All the exporters who are exporting or intend to export to EU under GSP would need to register on the **Registered Exporter (REX) System** of the European Commission. The registration would have to be done by the Local Users to whom the exporters would need to submit a form as given in Appendix 2. A REX number would be allotted to the exporters once the registration is completed. After receiving the REX number, the exporter would be in a position to issue the statement on origin on his own. He does not have to subsequently go to any of the agencies for issuance of a certificate of origin (Form A). However, he can avail of the services of the local administrators and users in cases where he has specific queries. Moreover, after registration, the exporter has to export under the EU GSP by only using the statement on origin (and not Form A).

20. Under the EU GSP self-certification, the exporter can issue a "statement on origin" which would be printed on a commercial document such as the invoice. The format of the statement on origin is as under:

The exporter "REX Number of exporter" of the products covered by this document declares that, except where otherwise clearly indicated, these products are of Indian preferential origin according to rules of origin of the Generalised System of Preferences of the European Union and that the origin criterion met is .

- *P (if wholly obtained)*
- *W "4 digit HS code of export product" if sufficiently worked or processed*
- *EU/ Norway/ Switzerland/ Turkey cumulation*
- *Regional cumulation (in case of SAARC cumulation)*

21. The exporters have the responsibility to ensure that the statement on origin complies with the requisite rule i.e. WO, PSR, cumulation etc. In case of any doubts, the exporters can avail of the services of the local administrators and users who may levy a fee commensurate with the cost of services rendered. A copy of the statement on origin

has to be sent to the local user and the exporter would need to maintain the requisite records of these statements of origin and supporting documents for a period of 5 years from the date of export.

22. In the eventuality of any request for verification from the EU, the Department of Commerce would decide on the local administrator/ user which would conduct this verification. The agencies may charge a fee for this verification which is commensurate with the cost of services rendered.

23. The role of the apex chambers of commerce and industry, export promotion councils, commodity boards, development authorities etc would be the following:

- i. Conduct outreaches and training programmes across the country to make the exporters aware of the EU GSP self-certification scheme.
- ii. Ensure that exporters (both existing and those intending to export to EU) register themselves on the REX system by going to the most convenient local user (who would be officers of the Local Administrators)

Annexure 1: List of India's Local Administrators

S. No.	Local Administrator	Name of Nodal officer	Designation	e-mail address	Contact No.
1	Textiles Committee	Mr. S. Ulaganathan	Director (EP&QA)	deppqa.tc@nic.in, chennai.tc@nic.in	0091-9444009979 0091-44-24615901, 0091-44-24610887
2	Directorate General of Foreign Trade (DGFT)	Mr. S.P. Roy	Joint DGFT	shyama.roy@nic.in	0091-8800523645 0091-11-23062240
3	Office of the Development Commissioner (Handicrafts)	Mr. A.K. Mohanty	Assistant Director (International Marketing)	mkt-dhc-textiles@gov.in	0091-8797387435 0091-11-26178675
4	Kandla Special Economic Zone (SEZ)	Mr. Rajesh Kumar	Deputy Development Commissioner	ddc.kasez-gi@gov.in	0091-9867641440 0091-2836-252273
5	Noida SEZ	Mr. Ram Baboo	Assistant Development Commissioner	adcrb@nsez.gov.in	0091-9810631365
6	SEEPZ SEZ, Mumbai	Mr. V.P. Shukla	Joint Development Commissioner	jdseeppz-mah@nic.in	0091-9920077698
7	Central Silk Board	Mr. P.M. Pandi	Deputy Director (Inspection)	ccbanssb@nic.in bangalore@silkmkindia.com	0091-22-28294729 0091-9481855373 0091-80-23120274
8	The Marine Products Export Development Authority (MPEDA)	Mr. Premdev K. V.	Deputy Director (Statistics)	premddev@mpeda.gov.in	0091-80-23421144 0091-9447450824 0091-484-2312838
9	Cochin SEZ	Mr. Saju K. Surendran	Deputy Development Commissioner	saju.ddc@gmail.com	0091-9711433050 0091-484-2413235
10	Export Inspection Council	Mr. Vivek R. Bidwai	Deputy Director	tech2@eicindia.gov.in	9850555147

S. No.	Local Administrator	Name of Nodal officer	Designation	e-mail address	Contact No.
	(EIC)				0091-11-23365540 0091-11-23341263 0091-11-23748189
11	Spices Board	Mr. Prabhu Pratap Kanel	Deputy Director (Marketing)	prabhu.kanel@nic.in	0091-9946011399 0091-484-2333610 (Ext. 234)
12	MEPZ SEZ	Mr. S. Parasuraman	Executive Assistant	ea@mepz.gov.in	0091-9444213018 0091-44-22623240
13	Coir Board	Mr. P.R. Ajithkumar	Director (Marketing)	Ajithkumar@coirboard.org	0091-9400144561 0091-484-2351900
14	Visakhapatnam SEZ	Mr. T.G.K. Jagannadham	Deputy Development Commissioner	ddc.vsez-ap@gov.in	0091-8130602660 0091-406-7304611
15	Falta SEZ	Mr. Ratan Nandan	Assistant Development Commissioner	r.nandan@nic.in	0091-9432405138 0091-33-22872263 0091-33-22877923 0091-33-22874092
16	Tobacco Board	Mr. Manoj Reddy	Manager (Marketing & Exports)	exports@indiantobacco.com	0091-9866076407 0091-863-2358068

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Annexure 2: Format of the application for Registration

APPLICATION TO BECOME A REGISTERED EXPORTER

For the purpose of schemes of generalised tariff preferences of the European Union,
Norway, Switzerland and Turkey ⁽²⁾

1. Exporter's name, full address and country. EORI or TIN ⁽³⁾
2. Contact details including telephone and fax number as well as e-mail address where available
3. Specify whether the main activity is producing or trading.
4. Indicative description of goods which qualify for preferential treatment, including indicative list of harmonised System headings (or chapters where goods traded fall within more than 20 Harmonised System headings).
5. Undertakings to be given by an exporter The undersigned hereby: <ul style="list-style-type: none">- Declares that the above details are correct.- Certifies that no previous registration has been revoked, conversely, certifies that the situation which led to any such revocation has been remedied.- Undertakes to make out statements on origin only for goods which qualify for preferential treatment and comply with the origin rules specified for those goods in the Generalised System of Preferences.- Undertakes to maintain appropriate commercial accounting records for production/supply of goods qualifying for preferential treatment and to keep them for at least three years from the end of the calendar year in which the statement on origin was made out.- Undertakes to cooperate with the competent authority.- Undertakes to accept any checks on the accuracy of his statements on origin

² The present application form is common to the GSP Schemes of four entities, the Union (EU), Norway, Switzerland and Turkey (the entities). Please note, however, that the respective GSP schemes of these entities may differ in terms of country and product coverage. Consequently, a given registration will only be effective for the purpose of exports under the GSP schemes that consider(s) your country as a beneficiary country.

³ The indication of EORI number is mandatory for EU exporters and re-consignors. For exporters in beneficiary countries, Norway, Switzerland and Turkey, the indication of TIN is mandatory.

including verification of accounting records and visits to his premises by the European Commission or Member States authorities, as well as the authorities of Norway, Switzerland and Turkey (applicable only to exporters in beneficiary countries).

- Undertakes to request his removal from the system, should he no longer meet the conditions for exporting any goods under the scheme.
- Undertakes to request his removal from the system, should he no longer intend to export such goods under the scheme.

.....
Place, date, signature of authorised signatory, name and job title

6. Prior specific and informed consent of exporter to the publication of his data on the public website

The undersigned is hereby informed that the information supplied in this application may be disclosed to the public via the public website. The undersigned accepts the publication and disclosure of this information via the public website. The undersigned may withdraw his consent to the publication of this information via the public website by sending a request to the competent authorities responsible for the registration.

.....
Place, date, signature of authorised signatory, name and job title

7. Box for official use by competent authority

The applicant is registered under the following number:

Registration

Number.....

Date of registration.....

Date from which the registration is valid

Signature and stamp
.....