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Committee on Rules of Origin

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NOTIFICATION OF PREFERENTIAL RULES OF ORIGIN FOR LEAST DEVELOPED COUNTRIES

UNITED STATES

The following communication, dated 30 June 2017, is being circulated at the request of the delegation of United States.

Paragraph 4.3 of the 2015 Ministerial Decision on preferential rules of origin for least developed countries (WT/L/917/Add.1) requires preference-granting Members to notify preferential rules of origin as per the established procedures¹. In addition, as mandated by the Ministerial Decision, the Committee on Rules of Origin agreed, at its meeting of 2 March 2017, to a template for such notifications (G/RO/84).

Following such requirements, the following notification has been received from: United States.

A. BASIC INFORMATION

1)	Notifying member	United States
2)	Date of entering into force of Rules of origin and any substantive modification thereof	1 January 1976 https://www.gpo.gov/fdsys/pkg/STATUTE-88/pdf/STATUTE-88-Pg1978-2.pdf
3)	Date of expiration of Rules of origin if applicable	31 December 2017, see Section 201 of the Trade Preferences Extension Act of 2015, available at: https://www.congress.gov/114/plaws/publ27/PLAW-114publ27.pdf
4)	Title of the preferential scheme for which legislation on Rules of origin is applicable	Generalized System of Preferences
5)	Authority(ies) granting the preferential treatment	President of the United States (www.whitehouse.gov)
6)	National authorities in charge of Rules of origin administration	Office of the U.S. Trade Representative (www.ustr.gov) GSP Program Office 1-202-395-6971 gsp@ustr.eop.gov

¹ The relevant notification requirements are contained in Paragraph 2(d) of Annex 1 of the Transparency Mechanism for Preferential Trade Arrangements (WT/L/806) and in Paragraph 4 of Annex II of the Agreement on Rules of Origin.

B. INFORMATION ON RULES OF ORIGIN**I. BENEFICIARIES**

1) List of Beneficiaries	Presently, 120 countries beneficiaries under the U.S. GSP program. A full list of beneficiaries can be found in General Note 4 of the HTSUS. Please see: https://hts.usitc.gov/current Click on "General Notes, General Rules of Interpretation; General Statistical Notes" and then scroll down to General Note 4.
2) Eligibility	Beneficiary developing countries and articles eligible for duty-free treatment are designated by the President by Executive order in accordance with sections 502(a)(1) and 503(a) of the Trade Act of 1974 as amended (19 U.S.C. 2462(a)(1), 2463(a)). http://uscode.house.gov/browse/prelim@title19/chapter12&edition=prelim Click on "Subchapter V – Generalized System of Preferences".

II. CRITERIA FOR DETERMINING SUBSTANTIAL TRANSFORMATION

1) General criteria, if applicable for all products	The general rule of origin can be found in 19 USC 2463(a)(2). "§2463. Designation of eligible articles (a) Eligible articles (2) Rule of origin (A) General rule The duty-free treatment provided under this subchapter shall apply to any eligible article which is the growth, product, or manufacture of a beneficiary developing country if- (i) that article is imported directly from a beneficiary developing country into the customs territory of the United States; and (ii) the sum of- (I) the cost or value of the materials produced in the beneficiary developing country or any two or more such countries that are members of the same association of countries and are treated as one country under section 2467(2) of this title, plus (II) the direct costs of processing operations performed in such beneficiary developing country or such member countries, is not less than 35% of the appraised value of such article at the time it is entered."
(a) Definition of wholly obtained products	The definition for wholly obtained products can be found in 19 Code of Federal Regulations (CFR) 10.176. https://www.ecfr.gov/cgi-bin/text-idx?SID=f2b2023c0935e6cc23392ff36646ef13&mc=true&node=pt19.1.10&rgn=div5 "(a) Merchandise produced in a beneficiary developing country or any two or more countries which are members of the same association of countries—(1) General. Except as otherwise provided in this section, any article which either is wholly the growth, product, or manufacture of, or is a new or different article of commerce that has been grown, produced, or manufactured in, a beneficiary developing country may qualify for duty-free entry under the Generalized System of Preferences (GSP). No article will be considered to have been grown, produced, or

		manufactured in a beneficiary developing country by virtue of having merely undergone simple (as opposed to complex or meaningful) combining or packaging operations or mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article. Duty-free entry under the GSP may be accorded to an article only if the sum of the cost or value of the materials produced in the beneficiary developing country or any two or more countries that are members of the same association of countries and are treated as one country under section 507(2) of the Trade Act of 1974, as amended (19 U.S.C. 2467(2)), plus the direct costs of processing operations performed in the beneficiary developing country or member countries, is not less than 35% of the appraised value of the article at the time it is entered."
	(b) Describe the criteria for not-wholly produced products	No article which has undergone only a simple combining or packaging operation or a mere dilution in a beneficiary developing country will be entitled to duty-free treatment. 19 CFR 10.176(a)(2) (above) provides a non-exhaustive list of operations that are insufficient to confer origin.
	(c) Insert the formula for calculating <i>ad valorem</i> percentage	The formula for calculating the regional value content of the article can be found in 19 CFR 10.176(a)(1). Under the formula, the sum of the cost or value of the materials produced in the beneficiary developing country or any two or more countries that are members of the same association of countries, plus the direct costs of processing operations performed in the beneficiary developing country or member countries, must not be less than 35% of the appraised value of the article at the time it is entered.
2) Product specific rules of origin, where applicable		
	(a) Insert the link where the complete list of product specific rules of origin can be found.	N/A.
	(b) Insert the formula for calculating <i>ad valorem</i> percentage, when applied for product specific rule	N/A.
3)	Definition of non-originating material and originating material, if any	N/A.
4)	List of insufficient working process, if any	N/A.
5)	Rules for application of cumulation and related procedures if any	Eligible articles produced in two or more beneficiary countries are eligible for duty-free treatment if the countries collectively meet the rules of origin. In addition, an article produced in a least-developed beneficiary developing country (LDBDC) may count inputs from LDBDCs and beneficiary developing country (BDC) in its regional association towards the 35% domestic content requirement for satisfying the rules of origin for qualifying articles. General Note 4 of the HTSUS has the most recent list of GSP eligible countries, territories, and associations. There are currently 6 associations whose GSP eligible beneficiary members can benefit from this provision: the South Asian Association for Regional Cooperation (SAARC); the Andean Group (or Cartagena Agreement); the Association of Southeast Asian Nations (ASEAN); the Caribbean Common Market (CARICOM); the Southern African Development Community (SADC); and the West African Economic and Monetary Union (WAEMU).
6)	Any other information that member deems necessary	The Office of the U.S. Trade Representative publishes a GSP Guidebook. The most recent edition is available here: https://ustr.gov/sites/default/files/gsp/GSP%20Guidebook%20March%202017.pdf

III. DOCUMENTARY REQUIREMENTS

1) Certificate of origin and other proofs of origin		
	(a) Requirement for certificate of origin and/or any other proof of origin, if any	A certificate of origin is not required, but when the article is not wholly the growth, product, or manufacture of a single beneficiary country, the exporter of the merchandise or other appropriate party having knowledge of the relevant facts shall be prepared to submit a declaration setting forth all pertinent detailed information concerning the production or manufacture of the merchandise. See 19 CFR 10.173: https://www.ecfr.gov/cgi-bin/text-idx?SID=61efe140c8a30e01ae54661a8c33c917&mc=true&node=se19.1.10_1173&rgn=div8
	(b) Authority to be designated for issuance of certificate of origin	See subsection (a) above.
	(c) Prescribed form of Certificate of origin and/or any other proof of origin	See subsection (a) above.
	(d) Any other procedures applied for certificate of origin and/or any other proof of origin, if any	N/A.
2) Direct shipment		
	(a) Rules applicable for direct shipment, if any	In order to qualify for preferential treatment, the eligible article must be imported directly from a beneficiary country to the United States. The term "imported directly" is defined at 19 CFR 10.175.
	(b) Documentary requirement for proof of direct shipment including when the transport of consignment involves transit through one or more intermediate countries, if any	The documentary requirements can be found at 19 CFR 10.175. In general, if the shipment from a beneficiary country to the United States passes through the territory of any other country, the merchandise in the shipment cannot enter into the commerce of any other country while en route to the United States, and the invoice, bills of lading, and other shipping documents must show the U.S. as the final destination; or if the goods are shipped from the beneficiary developing country to the United States through a free trade zone in a beneficiary developing country, the merchandise cannot enter into the commerce of the country maintaining the free trade zone.

IV. VERIFICATION AND PENALTIES

1)	Procedure for verification of proofs of origin	The regulations related to examination, sampling, and testing of merchandise can be found at 19 CFR 151.1 through 151.16. https://www.ecfr.gov/cgi-bin/text-idx?SID=6a6d50ad25a755802a02b7b576771fdc&mc=true&node=pt19.2.151&rgn=div5
2)	Penalties for fraud and false declarations	In general, if a claim for preference under GSP is incorrect, the importer's claim of preference will be denied, and the importer must pay the applicable duty. If a Customs and Border Protection Officer finds any package that contains an article not specified on the invoice, and there is reason to believe the article was omitted from the invoice by fraud, gross negligence, negligence on the part of the seller, shipper, owner, or agent, a monetary penalty may be imposed, or in some cases, the merchandise may be seized or forfeited. (See e.g., 19 U.S.C. 1592, 19 CFR 162.) http://uscode.house.gov/view.xhtml?path=/prelim@title19/chapter4/subtitle3/part5&edition=prelim https://www.ecfr.gov/cgi-bin/text-idx?SID=6a6d50ad25a755802a02b7b576771fdc&mc=true&node=pt19.2.162&rgn=div5

3)	Authorities and procedures for appeal in the case of dispute on verification	An importer may disagree with the dutiable status after the entry has been liquidated. A decision at this stage of the entry transaction is requested by filing a protest and application for further review on CBP Form 19: https://www.cbp.gov/sites/default/files/documents/CBP_Form_19.pdf
4)	Requirement for preserving the documents related to issuance of certificate of origin	The exporter of the merchandise or other appropriate party having knowledge of the relevant facts who makes a claim of preference under GSP are required to maintain records to support that claim for a period of five years from the date of entry.
5)	Any other relevant information	N/A.

V. REFERENCE TEXTS

(a)	The legislative texts in one of the official WTO languages containing the preferential rules of origin applicable under a PTA granted under the Decision on Measures in Favour of Least-Developed Countries (Annex F of the Hong Kong Ministerial Declaration)	See Subsection II.1 above.
(b)	The full text of the administrative regulations concerning modalities for issuance, acceptance, retrospective issuance and replacement of certificates of origin or any equivalent declarations to be made, including any requirements related to stamps to be used along with notification of stamps	See Subsection III.1 above.
(c)	The full text and related administrative regulations of the modalities for the proof of movement of the consignment of the goods from the beneficiary countries to preference-giving countries including transit through third countries	See Subsection III.2 above.
(d)	The full texts of the modalities of the verification procedures and related penalties	See Section IV above.