

FILING OF GENERALIZED SYSTEM OF PREFERENCES CLAIMS

1 PURPOSE. This directive provides procedures and requirements for filing a claim under the Generalized System of Preferences (GSP).

2 POLICY. A claim for an exemption from duty on the grounds that the GSP applies shall be allowed by satisfying the requirements set forth in 19 CFR 10.171 through 19 CFR 10.178. Such claims will be allowed if the Port Director is satisfied that the requirements are met.

3 AUTHORITIES/REFERENCES. Title V of the Trade Act of 1974 as amended (19 U.S.C. 2461-2465) authorizes the President to establish a Generalized System of Preferences to provide duty-free treatment for eligible articles imported directly from designated beneficiary developing countries. 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)); 19 CFR 10.171 through 19 CFR 10.178. See General Note 4(a) of the Harmonized Tariff Schedule of the United States (HTSUS) for a listing of GSP-eligible countries.

4 DEFINITIONS.

4.1 Country. The term country means any foreign country, any overseas dependent territory or possession of a foreign country, or the Trust Territory of the Pacific Islands. In the case of an association of countries which is a free trade area or customs union or which is contributing to comprehensive regional economic integration among its members through appropriate means, including but not limited to the reduction of duties, the President may by Executive Order provide that all members of such association other than members which are barred from designation under section 502(b) of the Trade Act of 1974 (19 U.S.C. 2462(b)), shall be treated as one country for purposes of 19 CFR 10.171 through 19 CFR 10.178.

4.2 Produced in the beneficiary developing country. This term refers to the constituent materials of which the eligible article is composed which must either be: (1) wholly the growth, product, or manufacture of the beneficiary developing country; or (2) substantially transformed in the beneficiary developing country into a new and different article of commerce (see 19 CFR 10.177).

4.3 Items included in the direct costs of processing operations. These are costs either directly incurred in, or which can be reasonably allocated to, the growth, production, manufacture, or assembly of the specific merchandise under consideration (see 19 CFR 10.178).

4.4 Imported directly. For purposes of the GSP, imported directly means direct shipment from the beneficiary country to the United States without passing through the territory of any other country or being shipped through a third country provided the requirements of 19 CFR 10.175 are met.

4.5 GSP Special Program Indicators (SPI) in the HTSUS. The SPI "A" designates articles that are GSP-eligible from all GSP-eligible developing countries. The SPI "A+" indicates articles that are GSP-eligible when imported from the Least Developed Beneficiary Developing Countries (LDBDC). The SPI "A*" identifies articles that are GSP-eligible except when imported from one or more countries that have lost GSP eligibility for that specific article. (See HTSUS General Note 4.)

5 RESPONSIBILITIES. The Assistant Commissioner, Office of Field Operations; Director, Trade Programs; Directors, Field Operations; Port Directors and Assistant Port Directors will ensure that the procedures in this directive are followed.

6 PROCEDURES.

6.1 Claim made for duty-free treatment under the GSP. A claim for duty-free treatment under the GSP shall be made at the time of filing the entry summary, or its electronic equivalent, by placing on that document the Special Program Indicator (SPI) "A" as a prefix to the HTSUS subheading number for each article for which such treatment is claimed. Even though three SPI's are included in the "Special Column" of the HTSUS, only the "A" indicator is used when claiming GSP.

6.2 Imported directly. In order to qualify for duty-free treatment under the GSP, the article for which the claim is made shall be imported directly from a beneficiary country into the customs territory of the U.S. (see 19 CFR 10.175).

6.2.1 The Port Director may require that appropriate shipping papers, invoices, or other documents be submitted within 60 days of the date of entry as evidence that the articles were "imported directly", as that term is defined in 19 CFR 10.175. Any evidence of direct shipment required by the Port Director shall be subject to such verification as s/he deems necessary.

6.2.2 The Port Director may waive the submission of evidence of direct shipment when s/he is otherwise satisfied, taking into consideration such items as the kind and value of the merchandise, that the merchandise clearly qualifies for treatment under the GSP.

6.3.1 Country of origin requirement.

6.3.1 When a claim for duty-free treatment under the GSP is made, the article for which the claim is made must be the growth, product, manufacture, or assembly of either a beneficiary developing country or any two or more countries which are members of the same association of countries and imported directly from such beneficiary developing country or member countries to the United States to qualify for duty-free entry under the GSP.

6.3.2 In a case involving merchandise which is not wholly the growth, product, or manufacture of a single beneficiary developing country or any two or more beneficiary developing countries which are members of the same association of countries, duty-free entry under GSP may be accorded if the sum of the cost or value of the materials produced in the beneficiary developing country or any two or more countries which are members of the same association of countries which are treated as one country under section 502(a)(3), Trade Act of 1974, as amended (19 U.S.C. 2462(a)(3)), plus the direct costs of processing operations performed in such beneficiary developing country or member countries, is not less than 35 percent of the appraised value of the article at the time of its entry into the customs territory of the United States (see 19 CFR 10.176(a)).

6.3.3 No article or material shall be considered to have been grown, produced, manufactured or assembled 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.

6.4 Evidence of country of origin.

6.4.1 For merchandise covered in 6.3.2 above, the exporter of the merchandise or other appropriate party having knowledge of the relevant facts shall be prepared to submit directly to the Port Director, upon request, a declaration setting forth all pertinent detailed information concerning the production or manufacture of the merchandise (see 19 CFR 10.173).

6.4.2 The information necessary for preparation of the declaration shall be retained in the files of the party responsible for its preparation and submission for a period of 5 years. In the event that the Port Director requests submission of the declaration during the 5-year period, it shall be submitted by the appropriate party directly to the Port Director within 60 days of the date of the request or such additional period as the Port Director may allow for good cause shown. Failure to submit the declaration in a timely fashion will result in a denial of duty-free treatment (see 19 CFR 10.173(a)(1)(ii)).

6.4.3 Merchandise covered by a formal entry which is wholly the growth, product, or manufacture of a single beneficiary developing country shall include a statement to that effect on the commercial invoice provided to Customs from the exporter of the merchandise or other appropriate party (see 19 CFR 10.173(a)(2)).

6.4.4 Although the filing of the declaration that is provided for under section 6.4.1 of this directive will not be required for a shipment covered by an informal entry, the Port Director may require such other evidence of country of origin as deemed necessary to verify the claim.

6.5 Verification of documentation. Any evidence of country of origin submitted by the importer in support of a GSP claim shall be subject to verification and audit if the Port Director deems it necessary (see 19 CFR 10.173(c)).

6.5.1 During the course of a review, compliance assessment or audit, the importer may be required to provide supporting documentation as referenced in sections 6.2 through 6.5 in accordance with 19 USC 1509.

6.6 Questionable country of origin - Denial of claim. A claim made for duty-free treatment under the GSP shall be denied when the origin of an article either is not ascertainable or not satisfactorily demonstrated to the Port Director. Under such circumstances the article shall not be considered to have been produced in a beneficiary developing country and the Port Director shall treat the entry as dutiable.

