New Generalized Systems of Preferences: What does it mean for you?

Countries excluded from new scheme

In October last year, the Council adopted a regulation amending the European Unions' (EU) Generalized Systems of Preferences (GSP). Said new GSP will apply as of January 1, 2014. Based on the GSP, goods originating in certain countries (i.e. the GSP beneficiary countries) may enjoy a lower customs duty rate upon import into the EU.

The most important changes of the new GSP can be divided into five main areas:

Country coverage: the list of beneficiary countries is re-evaluated and is substantially shortened.

Preference margins and product coverage: products covered by the preference schemes and margins for some of these products are changed.

Product graduation: preferential EU market access may be revoked for certain products from a given country if the import of such products from that country exceeds a percentage of the total imports of the same products from all beneficiary countries, changes are made in said thresholds and the concerning products and countries.

GSP+: GSP+ countries benefit from further reduced duty rates, the procedure for countries to apply for GSP+ and the criteria to be eligible for this scheme are changed.

Special safeguards: special safeguards are introduced for the textile, agriculture and fisheries sectors.

Now that the application date of the new GSP is coming closer, we would like to draw your attention to the more practical side of these changes. From this day until the day the new GSP will become applicable, we will regularly update you with practical examples of changes as well as examples of industries that may be impacted by these changes.

In this newsletter we will pay attention to the change in **country coverage** of the GSP and focus on the countries from which exports to the EU are impacted by the implementation of the new GSP. The industry that may specifically be impacted by the changes and which we will highlight in this newsletter is the **energy and resources industry.**

In next newsletters we will each time focus on another main area and highlight an industry that may be impacted in that respect.

Changes; country coverage

The EU's GSP currently consist of a general arrangement, which provides for lower duty rates for goods imported from 176 developing countries and overseas territories. A change that immediately catches the eye when looking at the new GSP, is the fact that this list of beneficiary countries is substantially shortened.

In the new GSP, countries are not eligible for the GSP anymore if, according to the World Bank, these have more than a certain minimum income per head of the population or if these are already entitled to preferential EU market access on the basis of a free trade agreement or otherwise.

Under the new GSP, only 89 countries remain listed as beneficiaries.

<u>Countries to be excluded from the GSP **without** alternative preferential EU market access</u>

Countries that will be excluded from the GSP and currently do not (yet) benefit from an alternative preferential EU market access, will basically fall into a gap as from January 1, 2014. From this date, the general duty rates will be applicable on all imports into the EU of products from said countries. These general duty rates may be considerably higher than the preferential duty rates that currently may be applied.

Examples of countries of origin for which this is relevant are:

- Argentina
- Aruba
- Bahrain
- Belarus
- Brazil
- Brunei
- Cayman Islands
- Cuba
- Falkland Islands
- Gabon
- Greenland
- Kazakhstan
- Kuwait
- Libya
- Malaysia
- Netherlands Antilles
- Norfolk Island
- Oman
- Qatar
- Russia
- Saudi Arabia
- United Arab Emirates
- Uruguay
- Venezuela

Countries to be excluded from the GSP **with** alternative preferential EU market access

For countries that will be excluded from the GSP and currently do (also) benefit from alternative preferential EU market access (see below examples), the impact should be assessed on a case by case basis.

Imports from these countries, which are already imported into the EU by applying the alternative preferential EU market access of the concerning free trade agreement, will not be affected by the new GSP.

However, imports from these countries, which are currently imported claiming a GSP duty rate will be affected. The impact may be twofold.

On one hand, an EU importer may want to benefit from the alternative EU market access as from January 1, 2014. However, the origin rules and criteria of the alternative EU market access (e.g. free trade agreement) may be different, e.g. considering cumulation and no-drawback provisions or the list rules. Surely the preferential origin certificates to be submitted when claiming the preferential duty rate upon import into the EU will be different. For example, an EUR1 certificate may need to be used in this respect instead of a Form A, which is used for the GSP.

On the other hand, the preferential duty rate under the alternative EU market access may be different compared to the preferential duty rate for the same product under GSP.

As said, such impact should be assessed on a case by case basis, per product and per country of origin.

Examples of countries of origin for which this is relevant are:

Euromed

- Algeria
- Egypt
- Jordan
- Lebanon
- Morocco
- Tunisia

Eastern and Southern Africa

- Seychelles
- Mauritius
- Zimbabwe

Economic Partnership Agreement Market Access Regulation

- Côte d'Ivoire
- Ghana
- Cameroon
- Kenya
- Namibia
- Botswana
- Swaziland
- Fiji

Pacific

- Papua New Guinea

Cariforum

- Belize
- St. Kitts and Nevis
- Bahamas
- Dominican Republic
- Antigua and Barbuda
- Dominica
- Jamaica
- Saint Lucia
- Saint-Vincent and the Grenadines
- Barbados
- Trinidad and Tobago
- Grenada
- Guyana
- Surinam

Other

- Mexico
- South Africa

Finally, please note that, once the new GSP enters into force, the status of countries is revised continuously, which could lead to more countries to be excluded from the GSP beneficiary list.

Impact for specific industries; energy and resources

An industry that may be impacted by this with respect to its imports into the EU is the energy & resources industry.

The list of countries to be excluded from the GSP without alternative preferential EU market access includes a number of important export countries of raw materials for the energy & resources industry. For example; Kuwait, Oman, Qatar, Russia, Saudi Arabia, the United Arab Emirates and Venezuela are important suppliers for products such as mineral oils. Under the current GSP, a preferential duty rate of 0% may be applicable upon import of mineral oils originating in these countries.

When, as of January 1, 2014, aforementioned countries are excluded from the GSP, the general duty rate may become applicable for said mineral oils which, for example, for jet fuel is as high as 4,7%. When looking at the volumes in which said products are often imported into the EU and the value these products normally represent, the extra duty burden on these imports under the new GSP may be substantial.

What to do?

If your company imports products into the EU from one or more of the aforementioned countries that will be excluded from the GSP, it is advised to check if your company is currently benefitting from preferential duty rates in this respect. Should this be the case, it is recommended to assess the impact of the new GSP on the duty rates applicable for these imports as of January 1, 2014. In this respect, should you now benefit from a preferential duty rate and should this no longer be available as of January 1, 2014 for the country or countries you are sourcing from, you should either take the (higher) general duty rate into account or take appropriate measures. Such measures may include sourcing from other countries, but can also be found in re-evaluating the customs classification and/or customs valuation of your products. In certain circumstances, for example when (some of) the product is eventually re-exported again from the EU, applying for customs authorizations to hold the products under customs supervision in the EU may also reduce the EU duty burden.

We can assist you by assessing your imports into the EU with regard to the new GSP regulation, check if these are impacted by the changes, what (new) duty rates may then be applicable and what options may exist to still reduce the (higher) duty burden.