

## **GSP 2012:**

# **IMPORTERS NEED IT SIMPLE, STABLE, PREDICTABLE**

## POSITION PAPER

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## EXECUTIVE SUMMARY

The current GSP will be replaced with a successor scheme taking effect on 1<sup>st</sup> January 2012. EuroCommerce wishes to contribute to the preparation of the GSP 2012-2015 at an early stage in order for the Commission to develop an easy-to-apply system that gives importers and retailers the critical mass of predictability, legal certainty and stability they need.

The very companies supposed to feel attracted by the GSP are importers and retailers in the EU. They operate in a highly competitive business environment and will base their planning on the GSP only if the system meets their specific expectations:

- **Simple rules**
- **1 year predictability**
- **Legal certainty**
- **Significant product coverage**
- **A GSP Plus that acts as a true incentive**
- **Proper & early stakeholder consultation**
- **Preferential rules of origin that work in practice**

In its previous GSP position paper adopted in 2006, EuroCommerce welcomed the improvements offered by the GSP 2005, especially the increased simplification and enhanced predictability (for example: no more annual graduation, GSP specific product classification replaced with HS chapters, a simpler incentive regime (GSP+) instead of the former social, environmental etc. incentive clauses, publication of the GSP more than half a year prior to its entry into force).

The GSP 2009 built on these achievements and further improved the predictability of the system. Importers and retailers were able to plan their sourcing in due time since the Commission published the draft GSP Regulation one year ahead of its entry into force. As the subsequent changes exclusively *enhanced* the preferential offer, traders were spared unnecessary losses and adjustment costs. The publication in the EC Official Journal in August 2008, however, came later than expected.

The GSP 2012 should consolidate and further develop the improvements contained in the current scheme and provide additional meaningful liberalisation for developing country exports. If the aim is to provide incentives to stakeholders to increase trade against the backdrop of preference erosion, the system must be even simpler, easier to apply, more predictable and give traders more legal certainty.

The examples of lead times for individual products listed in the annex to this paper illustrate this need. EuroCommerce encourages the European Commission to take full account of the concerns and needs of the very target group supposed to be attracted by the GSP – importers and retailers in the EU.

## 1. Importers' and Retailers' Needs

### 1.1. Simple Rules

- Simple structures & simple application, for importers and developing countries
- Suspension of nuisance duties
  - Duties should be totally suspended where preferential treatment results in ad valorem duties of 3% or less or in specific duties of EUR 5 or less
- Further simplification of the GSP Plus
- Simple rules are indispensable if the GSP is supposed to encourage use by SMEs

### 1.2. Predictability & Legal Certainty

- All elements of the new GSP must be known one year in advance, thus giving traders a reliable basis for their calculation.
  - The work on Commission and EU-27 level needs to be structured in a way as to enable the publication of the new GSP in the Official Journal not later than December 2010. To this end, the timing so far proposed by DG Trade (decision and publication in first half 2011) should be reviewed.
  - The same goes for the GSP Plus application round, scheduled for autumn 2011. EuroCommerce understands that the GSP Plus should give an accurate picture of the due implementation of the 27 relevant Conventions; however if the aim is to create an incentive to traders to import consciously from GSP Plus countries, the European Communities need to provide clarity on the country list at a much earlier stage; otherwise the incentive will de facto be meaningless for the first months of 2012 (as illustrated by the lead times listed in the annex to this paper).
- No return to annual graduation
- Early warning (one year) for any changes
  - An early warning mechanism for GSP users could be operated on the DG Trade website under the umbrella of the Export Helpdesk for Developing Countries.
  - Relevant information should also be provided in the languages of the main beneficiary countries.

### 1.3. Coverage

- General remarks
  - With preference erosion progressively undermining the attractiveness of preferential regimes, the GSP 2012 should state a bold incentive to its users by offering sound liberalisation of trade with its beneficiary countries.
- Country coverage
  - Selection criteria need to be based on objective development criteria (e.g. GDP per capita), not on sensitivity (e.g. import threshold)
- Product coverage
  - No sectoral or product-specific exclusions
  - There is still considerable scope in eliminating specific duties in the agricultural and processed sector.
  - Textiles and footwear should be integrated into the normal preferential offer.
  - No more distinction between sensitive and non-sensitive products

### 1.4. GSP Plus

- According to DG Trade, the GSP Plus gives essentially duty-free access for 6336 products. EuroCommerce encourages the Commission to further enhance this offer.
- The definition of “vulnerable” (article 8 GSP) should be reviewed. In order to qualify, a beneficiary country today needs to account for less than 1% less of the total GSP-covered imports. This percentage should be increased.
- The weak point of the current GSP Plus is the lack of predictability and stability, i.e. of two key prerequisites for the attractiveness of the regime for its users.
  - The current GSP Plus entered into force on 1<sup>st</sup> January 2009. The list of its beneficiary countries was published only on 12<sup>th</sup> December 2008, i.e. 2 ½ weeks before. As a result, many importers and retailers were unable to base their sourcing decisions for 2009 on the GSP Plus. The incentive was lost for the first months of 2009.
  - Unfortunately, rather than reproducing the same problem in 2012, the current timing announced by DG Trade foresees a GSP Plus application round in autumn 2011. Should this timeline be confirmed, it can be predicted that like in 2009 most of the incentive effect of the GSP Plus for the first half of 2012 will be lost.
- The temporary withdrawal of GSP Plus preferences may be justified in individual cases. However, it undermines the predictability of the regime and therefore affects the attractiveness of the GSP as a whole. Hence, EuroCommerce recommends that sufficiently early warning be given to economic operators before temporary withdrawal decisions enter into force.

## 1.5. Stakeholder Consultation

- In-depth consultation of importers and developing countries
  - at an early stage (i.e. still in 2009)
  - on the basis of maximal transparency in the Commission's considerations
- If an impact assessment is carried out, it must assess the impact on *importers* as thoroughly as the impact on *producers*.
- Opinions by the Economic and Social Committee and DG Trade Civil Society Dialogue meetings can contribute to the stakeholder consultation, but not substitute it.

## 1.6. Preferential Rules of Origin

- To preserve and enhance the attractiveness of GSP preferences to importers and retailers, any reformed preferential rules of origin need to
  - strengthen the protection of importers' good faith.
  - increase predictability & legal certainty and
  - reduce red tape
- **European importers and retailers are seriously concerned about the current Commission proposal for amended GSP rules of origin, especially with the list of registered exporters. In its shape laid down in the Draft Regulation tabled by the European Commission, this list will act as a strong invitation to discontinue imports under the GSP in the future.**

Most European importers are not linked to suppliers in third countries (i.e. not belonging to an international group operating with subsidiaries in exporting countries). They will only use preferential regimes if they can rely on the full respect of the rules of origin. Otherwise the financial risk borne by importers in case of retroactive recovery of duties by customs authorities largely outweighs the short-term benefits of lower import tariffs.

These guarantees need to be obtained *before* the shipping of the goods in the exporting country. This is currently achieved by including a certificate of origin to the list of documents that the supplier must present to obtain payment for his cargo.

Should a problem arise, it is practically impossible for the importers having already paid their merchandise to take legal action against the supplier in order to recover the debt. Moreover, experience has shown that in many cases the exporting company does no longer exist if the legal action is taken years after the signing of the contract. Due to their very nature, this is a particularly serious problem for SMEs.

- Legal certainty is indispensable

In practice, importers buy documents, not products - in international trade transactions between exporters and importers the irrevocable payment is normally made upon presentation of the documents reliably representing the merchandise, not upon physical presentation of the merchandise itself.

Hence, the exporter (even if registered) should always be able and legally obliged to provide a Form A issued by a competent and independent authority if the importer so wishes.

In return for the preferences granted to the GSP beneficiary countries, it would only be fair to expect from them to provide the administrative structures necessary to enable orderly and legally certain trade transactions.

A solution that would duly respond to traders' need for legal certainty could be inspired by the double-checking system as it worked successfully in the textiles and clothing area. The procedure could be as follows:



A procedure along these lines would limit the scope for fraudulent indications by the exporter as it would enable possible cases of fraud to be discovered when the original GSP Form A is presented to the national customs authority.

- Out of the impasse: a proposal for compromise

To facilitate the identification of a possible compromise solution in the Origin Committee, EuroCommerce could also consider the following: The new Commission proposal already provides for a transitional period during which two different systems would be co-existing simultaneously: whereas some beneficiary countries would be subject to the new rules right away, others would continue to apply the current rules. If such a solution based on two simultaneous sets of rules is acceptable to the Commission and the Member States, EuroCommerce would assume that a similar solution could be agreeable to all parties: Countries who see an advantage in the registered exporters system could apply the latter, provided that they entitle all importers wishing so to request from the exporter a shipment certification issued by public authorities.

Having discussed the matter in depth with its members, EuroCommerce wishes to emphasize that it would be by no means acceptable to European importers if they were deprived of the possibility to request reliable certificates of origin issued by competent and independent authorities.

It is crucial that there is development cooperation available covering the area of GSP and its rules of origin. There must be funding and expertise set to increase the awareness and knowledge of the rules of origin, especially for those beneficiary countries that use the preferences under the GSP-scheme. This development cooperation or technical assistance should be available to governmental agencies (e.g. customs, tax and revenue authorities) as well as for exporters and forwarding agents.

- Protection of Importers' Good Faith

Article 220 II b Customs Code protects importers having trusted, in good faith, false declarations of origin. The protection granted by this provision is not ideal, but it is an important contribution to more legal certainty in preferential trade. It would be undermined by the list of registered exporters proposal submitted by the European Commission in that importers would be held fully liable in cases of incorrect declarations of origin issued by exporters.

Hence, it must be made sure that either the status quo be maintained or article 220 II b Customs Code be adapted in a way to provide importers with legal certainty of the correctness and reliability of statements of origin by registered and certified (by customs authorities) exporters.

## 2. Annex: Lead Times - Why GSP Users Need Predictability:

To illustrate the need for a simple, stable and predictable GSP, EuroCommerce wishes to specify below the lead times for individual groups of products.

### 2.1. Textiles and Textile Articles

#### 2.1.1. General remarks

10 months (in some cases 1 year). For some products and depending on the model of business this timeframe can be shorter.

In many companies, there are different kinds of cycles. All are market-related and respond to customers' expectations. Importers and retailers have no chance to change these timetables. They relate to seasonal products (summer/winter collections), basic items and fast fashion (10 or more collections, mini-collections and flashes per year).

#### 2.1.2. Seasonal Products (Summer/Winter Collections)

The first phase is designing and creating the collection (hereafter: summer collection).

- From January companies start with colours and themes.
- The collection must be ready end March.
- In April importers travel around the world to find parties who are interested to work with them.

For all parties involved, the beginning stage is an investment period, characterised by the expectation that the collection will bring about positive margins. In this period, companies start e.g. defining their promotional activities, printing catalogues, advertising etc.

- From May / June, salesmen samples are made for the sales department.
- From July to September: sales
- Early October: begin of final orders
- End November / December: delivery
- December / January: arrival of the goods in the warehouse; importers start supplying the merchandise to the retailers immediately.

Similar cycles apply for the winter collections.

The total period from development till delivery to points of sales is 13 months.

#### 2.1.3. Various basic (never-out-of-stock, work wear etc.) and fashion items

Repeat order for manufacturer

- Day 1 ordering to supplier
- Minimum 6 weeks, maximum 9 weeks for delivery of materials and accessories.
- Minimum 4 weeks for production and delivery to harbour production country.

- Shipping time 6-7 weeks
- Customs clearance 5 working days.

Total time: 18 weeks minimum, maximum 21 weeks. In this procedure there is no time reserved for any price negotiating and production time negotiating.

In case of a new item:

- Sending artwork to manufacturer by e-mail
- Price negotiating and proto sample to be delivered in EU (takes around 14 days to 20 days)
- Day 1 ordering to supplier
- Minimum 6 weeks Maximum 9 weeks for delivery of materials and accessories.
- Minimum 4 weeks for production and delivery to Harbour production country.
- Shipping time 6-7 weeks
- Custom clearance 5 working days.

Total time: 21 weeks minimum, maximum 24 weeks

#### **2.1.4. Ready-Made Garments**

Time horizon:

- Identifying suppliers and visiting them on the spot in order to gather information on production capacities, know-how, reliability, availability of raw materials etc. In the best case, this requires 4 to 6 months time.
- Subsequently, the first samples are ordered and examined. In most cases changes or improvements are indispensable and alternative samples need to be produced and examined. This involves an additional 8-12 weeks time.
- If these planning activities proceed smoothly and the orders for the next season are placed in October, the merchandise will be shipped in May of the following year and arrive in Europe some 25-30 days later, i.e. in June.

In other words, the time elapsing from the placing of the order with a new supplier to the shipment amounts to 9-12 months at least, 4-6 months of which are needed for the establishing of the contact and the pre-examination.

The supply and production times for garments depend strictly on the season. From the definitive order placement the lead times reach from 6 to 9 months.

#### **2.2. Footwear**

For footwear, conditions similar to clothing apply. Importers and retailers need to foresee lead times of 5 months at the very least.

### **2.3. Furniture**

Lead times for furniture reach from 4 to 7 months, depending on various factors such as location of production, type of the product, etc.

### **2.4. Vegetable Products**

The time elapsing between the conclusion of the contract, shipment and delivery varies depending on product type and country of origin. Vegetable products are normally shipped 4-6 weeks after the conclusion of the contract. The shipping time is normally around 4 weeks before the merchandise arrives at the customs warehouse. After 3 months of warehousing the merchandise is cleared through customs and delivered to the company's branch offices. Depending on the stock in the latter, several additional weeks elapse before the goods arrive physically in the supermarket. In summary:

- 4-6 weeks until shipment
- 8-10 weeks until arrival of the goods in the customs warehouse
- 20-22 weeks until customs clearance or delivery to the branch offices.

As contacts normally cover shipments over a period of several months (up to one year) in some cases the last shipments leave up to 12 months after the conclusion of the contract. Customs clearance and delivery are then delayed accordingly.

The shipping period depends on the harvesting periods (one or more harvests per year) and on the country of origin.

### **2.5. Foodstuffs**

Likewise, for most foodstuffs, lead times of several months need to be considered.

### **2.6. Other Products**

EuroCommerce will be happy to provide similar descriptions of lead times for other products to upon request.

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#### **EuroCommerce and the commerce sector**

EuroCommerce represents the retail, wholesale and international trade sectors in Europe. Its membership includes commerce federations and companies in 32 European countries.

Commerce plays a unique role in the European economy, acting as the link between manufacturers and the nearly 500 million consumers across Europe over a billion times a day. It is a dynamic and labour-intensive sector, generating 11% of the EU's GDP. One company out of three in Europe is active in the commerce sector. Over 95% of the 6 million companies in commerce are small and medium-sized enterprises. It also includes some of Europe's most successful companies. The sector is a major source of employment creation: 31 million Europeans work in commerce, which is one of the few remaining job-creating activities in Europe. It also supports millions of dependent jobs throughout the supply chain from small local suppliers to international businesses.