

Government of India
Ministry of Commerce and Industry
Department of Commerce
Directorate General of Foreign Trade

11th February, 2019

Trade Notice No. 49/2019-20

To

1. RA's of DGFT
2. Customs Commissionrates
3. Members of Trade
4. Joint Secretary (Customs), Central Board of Excise & Customs, Department of Revenue

Subject: Policy to keep control on exporters using self certified system for EU-GSP Registered Exporter System

All the exporters are requested to submit fortnightly statements in prescribed format on Statement of Origin issued. They are also requested to respond to the verification requests by EU within the prescribed time limit, failing which the Registered Exporter Number (REX) may be annulled. Frequently Asked Questions (FAQs) in this regard are enclosed.



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Frequently Asked Questions (FAQs) on the EU GSP

Origin Criteria (WO or PSR)

Question 1: Is there any difference in tariff or customs preferences if the wholly obtained (WO) criteria is used instead of the product specific rule (PSR)?

Reply: No, the tariff or customs duty preferences are the same i.e either tariff elimination if the product is non-sensitive and tariff reduction if the product is sensitive irrespective of whether the criteria is WO or PSR.

Question 2: When should an exporter use the wholly obtained (WO) criteria?

Reply: The WO criteria under Article 44 of EU regulation 2446/2015 should be used when all the inputs namely raw materials and intermediates used in the export product are originating in India. In case, there is a doubt on the origin of any input, used in the export product the WO criteria must not be used.

Question 3: How does an exporter ensure that the inputs used are originating in India and hence the wholly originating (WO) criteria is met?

Reply: The origin of inputs, both raw materials and intermediates can be ensured through the suppliers declaration, whose format is given in Annex 22-15 and 22-16 of EU Regulation 2447./2015. The suppliers of these inputs have to furnish the suppliers declaration that the inputs are wholly originating in India. The WO can be used by the exporter only if all the suppliers declaration clearly mentions that the inputs meet the WO criteria. As a good practice, the exporter must not use the WO criteria if all the suppliers are unable to furnish this declaration stating that the inputs supplied are WO.

Question 4: Can the exporter use the tolerance rule (for use of non-originating inputs) for wholly obtained (WO) products?

Reply: Under EU GSP, the tolerance rule for use of non originating inputs is **not** applicable for WO criteria. Nevertheless, it is applicable for product specific rules (PSRs) under Annex 22-03 of EU Regulation 2446/2015 even if the rule states that "*all materials used should be wholly originating*".

Retrospective Issuance

Question 5: Can the “*Statement on Origin*” be issued retrospectively?

Reply: The “*Statement on Origin*” can be issued retrospectively from the date of application for registration of an exporter. For example, if an exporter made an online application for registration on 1 April but the REX number was issued only on 15 April; he can use the REX number allotted to him for issuance of “*Statement on Origin*” for exports made from 1 April onwards.

Question 6: Can an exporter issue a “*Statement on Origin*” in the intervening period between his date of application and the issuance of the REX number?

Reply: In the case of India, the REX number would be unique for an exporter and is known once the exporter decides on his Local User with whom the application is lodged. However, since the REX number has not been issued and is hence not in the EU’s system, the exporter cannot issue a “*Statement on Origin*” during the intervening period between the date of application and the date of issuance of this REX number. Nonetheless, once the REX number is allotted, he can issue a “*Statement on Origin*” for retrospective exports from the date of the application for registration.

Application for registration

Question 7: When an exporter provides an assent for sharing of data as per S.No 6 of the application, would the details of the buyer be disclosed?

Reply: No, the details of the buyers are neither sought in the application nor disclosed by the EU. By providing assent to the sharing of data in S.No 6 of the application, the only details which are shared and as given in Article 82.7 of Regulation 2447-2015 are:

- Name of registered exporter
- Address of registered exporter
- Contact details
- Indicative details of goods qualifying for GSP preferences (HS Codes)
- Identification number (TIN number)

Question 8: If an exporter has a multiple export product basket, who would be his Local User for Registration (REG)?

Reply: There is no regulation that bars the exporter from approaching any of the Local Users for REG which are the regional offices of the 17 Local Administrators for REG.. However, as a good practice he must approach the

Local User for REG who deals with his primary export product. The language used in Public Notice 51 dated 30.12.2016 is that the “---selection of the Local User for REG is to be made taking into account the products being exported-----”. The regional offices of the DGFT and EIC can be approached for all the products while some of the Local Users for REG specialize in specific products.

Question9: If an exporter has units in Special Economic Zones (SEZs), Export Oriented Units (EOU) and DTA, who would be his Local User for Registration (REG)?

Reply: As indicated in the reply above, there is no regulation that bars the exporter from approaching any of the Local Users for REG which are the regional offices of the 16 Local Administrators for REG.. However, as a good practice he must approach the Local User for REG which has the jurisdiction of the primary product of his export. The language used in Public Notice 51 dated 30.12.2016 is that the “---selection of the Local User for REG is to be made taking into account the products being exported, nature of his unit (SEZ or DTA) etc”. Therefore, the exporter can take his own decision on whether he wants to approach the office of the relevant Development Commissioner of the SEZ or any of the other Local Users for REG.

Question 10: Who should sign the application for registration?

Reply: The application must be signed by an authorised signatory of the exporter. This could be a proprietor, partner, Member in the Board of Directors etc. However, in case of any exigency, a power of attorney would suffice.

Question 11: What are the documents to be prescribed for the application?

Reply: India's Local Administrator for administrative cooperation (ADC) has not prescribed any document for the application. However, some of the Local Administrator for REG have prescribed their own document set for their Local Users. Therefore, the practice may vary depending on the Local Users for REG. Some of the documents that have been prescribed by some of the Local Users for REG are copy of IEC, an undertaking that they are not insolvent etc.

Question 12: What should be the products that the exporter must mention in his application?

Reply: The exporter should specify all the products he is currently exporting or intends to export to the EU under the GSP. While, he can subsequently amend the details of his original application, he must exercise due diligence in ensuring that the product coverage is as wide as possible so that he does not have to approach the Local Users for REG frequently for amending his application..

Question 13: If the exporter wants to export a new product which is not listed in his application, does he have to modify his application before exporting?

Reply: There is no regulation of the EU that bars him from exporting a product under the GSP preference which is not listed in his application. Therefore, he can export any eligible product even if the same was not listed in the application. However, as a matter of prudence and good practice, the exporter must get his application modified with his local user as soon as possible to include the new product which he has exported. This is also the reason why the exporter must include a broad range of products in his initial application so that this situation does not arise.

Question 14: Since the format of the IEC number has been amended to an alphanumeric one (i.e. the PAN number), does the exporter whose has been registered with the erstwhile numeric IEC number, have to get a new REX number issued?

Reply: No, the exporters do not have get a new REX number issued. The local user would register the exporter as per the format of the IEC number he has i.e. whether 10 digit numeric (erstwhile IEC number) or the 10 digit alphanumeric (i.e. PAN number).

Self-Certification

Question 15: Who should be the signatory on the commercial document on which the “*Statement on Origin*” is made out?

Reply: The commercial document on which the “*Statement on Origin*” is made out should be signed by an employee of the exporter who would be taking on the responsibility of the veracity of the statement.

Question 16: What is the difference in the “*Statement on Origin*” for consignments below € 6000 and those above €6000?

Reply: The REX number is not required on the “*Statement on Origin*” for consignments which are below €6000. Else, the format of the “*Statement on Origin*” is the same and has to be made out on a commercial document such as commercial invoice, packing list of delivery notice.

Question 17: What are the documents that an exporter must maintain in the case of verification?

Reply: The commercial document on which the “Statement on Origin” is made out should be signed by an employee of the exporter who would be taking on the responsibility of the veracity of the statement

Miscellaneous

Question 18: Does EU GSP cover exports to a EU buyer who is importing for his unit in a 3rd country?

Reply: No, the EU GSP is applicable only for those exports which cross the EU customs territory and on which customs duty is leviable. Hence, any export to a 3rd country (barring the countries who use the EU GSP system such as Norway and Switzerland) irrespective of the nationality of the buyer is not eligible for EU GSP benefits.

Question 19: How much does India export under the EU GSP?

Reply: As per the data available for 2013-2015, more than half of India's exports to the EU are under the GSP preferences. The average exports from India to EU for the period 2013-15 is € 36.2 billion out of which € 19.5 billion is under the EU GSP.

Question 20: Whose name should appear on the commercial document?

Reply: For availing of EU GSP preferential benefits, the name of the exporter who is registered under REX must appear on the commercial document which has the statement of origin. In the absence of this, it is possible that queries may be raised by the EU customs.