wts China

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China stops issuing outdated GSP certificates

Contacts

China

Martin Ng
Managing Partner
martin.ng@wts.cn
+ 86 21 5047 8665 ext.202

Conrad Lin
Manager
conrad.lin@wts.cn
+ 86 21 5047 8665 ext.223

Lizzie Li
Associate
lizzie.li@wts.cn
+ 86 21 5047 8665 ext.205

In brief

» China's customs authority has announced its decision to stop, from 1 December 2021, issuing Generalized System of Preferences (GSP) certificates of origin for goods shipped to 32 nations which have ended their GSP treatments to China.

» Assessment on historical and future duty exposure is advised for shipping China-made goods to the said 32 nations.

Feedback

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In detail

In response to 32 nations' withdrawal of Generalized System of Preferences (GSP) treatments to China goods, China's General Administration of Customs (GAC) has announced, by the notice GAC-2021-84 dated 25 October 2021, that it will accordingly stop issuing the GSP certificates of origin for goods bound for those nations, effective from 1 Dec 2021.

The 32 nations include 27 European Union (EU) members, the United Kingdom, Canada, Turkey, Ukraine, and Liechtenstein.

What are GSP treatments?

GSP is the scheme under which tariff preferences are granted unilaterally and non-reciprocally by developed countries to developing or least developed countries and places. One of the typical GSP benefits is a reduced tariff rate, usually 20% to 100% off the most favored nation tariff rates, apart from other procedural conveniences.

To enjoy the GSP tariff benefits, Chinese exporters are required to obtain a GSP certificate of origin (called "Form A") from China's GAC for the GSP scheme-listed goods to claim tariff benefits in the country of importation, the benefit-giving country.

Surprise or déjà vu?

It is not the first time that such a GSP status withdrawal has happened to China. Based on a GSP scheme and its criteria, the benefit-giving countries would at their discretion grant or cancel the GSP status recognition, without the obligation to allow for any negotiation or appeal mechanism.

GSP benefits withdrawal occurs when a GSP beneficiary country meets the specific economic criteria set up in the relevant GSP scheme – which will trigger "product graduation" or "country graduation" resulting in the removal of the products from a GSP beneficiary country, or removal of the country from the list of GSP beneficiary countries.

China has already witnessed a few cancellations in the past decade. Out of the forty countries (see appendix A) which have ever granted GSP benefits to China so far, most of them have one after another withdrawn China's GSP status (see table below).

Countries decided to withdraw China's GSP status	Countries' withdrawal date	China's decision to stop GSP certificates
Canada	1 January 2015	1 December 2021
27 EU countries	1 January 2015	1 December 2021
Japan	1 April 2019	1 April 2019
3 EAEU countries	12 October 2021	12 October 2021
UK, Turkey, Ukraine, Liechtenstein	Recent few years	1 December 2021

As observed from the table shown above, GAC's announcement is a belated administrative response to the decision of the 32 countries to lift GSP benefits to China goods made recently or in previous years.

So far, only three countries continue to grant GSP benefits to China, being Norway, New Zealand, and Australia.

What implications?

Once a GSP status is canceled, its implication should be the loss of the entitlement to the preferential GSP tariff rates (lower than the most favored nation rates and the normal rates). However, it is noted that China's Customs authority keeps issuing GSP certificates of origin for goods bound for countries which have canceled the GSP treatments to China, and some of the goods may still benefit from the GSP rates in some countries. It may give rise to a technical question that if there were incorrect declarations in the countries of importation.

Now with China GAC's formal announcement, the immediate effect will be the loss of the key document for GSP treatments for China goods being exported to the said 32 nations, effective from 1 December 2021.

Yet the new measure should not be interpreted as affecting all China goods shipped to GSP benefit-giving countries. To be exact, it affects only those China-made goods which can meet the GSP requirements, being:

1. Those listed under the relevant GSP scheme of the corresponding benefit-giving countries;
2. Those can qualify for obtaining China's GSP certificate of origin; and
3. Those which are directly shipped from China to the benefit-giving countries without any transshipment (some countries do not contain this criterion in their GSP scheme).

In other words, those China-made goods currently not qualified for a particular GSP scheme should not be disadvantaged; those affected and losing the GSP benefits will still have access to the normal certificate of origin if they can meet China's rules of origin but will be subject to the normal tariff rates (unless other preferential rates can apply). Meanwhile, China-made goods bound for Norway, New Zealand, and Australia will still have access to China's GSP certificates, as these three countries still maintain their GSP treatments to China goods.

WTS China observation

For any parties involved in shipping China-made goods to the said 32 nations in their sales or purchases, it is necessary to assess the implications and impacts for the loss of GSP benefits. The following steps are advised:

1. **Check sales/purchases involving GSP rates**

   The coverage of a GSP scheme varies from country to country. It is necessary to verify on per-scheme basis if any China-made goods were or will be shipped to the said 32 countries in sales or purchases.

2. **Assess contract terms and duty impact**

   The Incoterms and tax terms of a sales/purchase contract will decide who will bear the import duty (and the additional import duty). The import duty rates differ from one country to another and vary from one product to product. It is also necessary to check if any other preferential options are also available, e.g. most favored nation rates, free trade agreement rates, or RCEP rates. It is equally important to check if any previous import GSP-rates declarations could be considered as technically incorrect and would involve any remedial actions, based on the GSP scheme's rules and domestic laws of the country of importation.

3. **Prepare for notification and negotiation**

   If your company is in one of the 32 nations and buying China-made goods which have been enjoying GSP benefits, a prompt discussion with the Chinese suppliers (or subsidiaries) will be helpful regarding who will bear the extra tariff cost and if the normal certificate of origin can be obtained from China.

   If your company is in China, exporting China-made goods to the 32 nations and has been seeking GSP benefits there, a due notification should be made to the overseas customers (or affiliates) in those 32 countries on the loss of a GSP certificate, in addition to the discussion on the liability of the extra tariff cost.

4. **Conduct legal / tax review on amended contracts and documents**

   Due to the changes, corresponding amendments to the sales/purchase contracts and shipping documents should be conducted, and be subject to legal and tax review.

Appendix A

40 nations ever granted GSP benefits to China	37 nations stopped granting GSP benefits to China
Twenty-seven EU countries	Stopped
1. France	
2. Germany	
3. Italy	
4. Netherlands	
5. Luxemburg	
6. Belgium	
7. Denmark	
8. Ireland	
9. Greece	
10. Portugal	
11. Spain	
12. Sweden	
13. Finland	
14. Austria	
15. Poland	
16. Czechoslovakia	
17. Slovakia	
18. Hungry	
19. Malta	
20. Slovenia	
21. Lithuania	
22. Latvian	
23. Estonia	
24. Cyprus	
25. Bulgaria	
26. Romania	
27. Croatia	
28. UK	Stopped
Three EAEU nations	Stopped
29. Russia	
30. Kazakhstan	
31. Belarus	
32. Turkey	Stopped
33. Ukraine	Stopped
34. Canada	Stopped
35. Switzerland	Stopped
36. Lichtenburg	Stopped
37. Japan	Stopped
38. Norway	GSP benefits to China remain
39. New Zealand	GSP benefits to China remain
40. Australia	GSP benefits to China remain

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Conrad Lin
Manager

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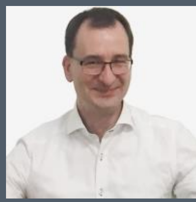
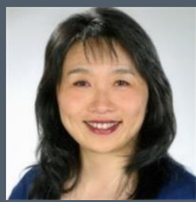
Lizzie Li
Associate
lizzie.li@wts.cn
+ 86 21 5047 8665 ext.221

Germany Contact

Ralf Dietzel
Partner
ralf.dietzel@wts.de
+49 (0) 89 28646 1745



Xiaolun Heijenga
Partner
xiaolun.heijenga@wts.de
+ 49-69-1338 456 320



WTS China Co., Ltd.
Unit 06-07, 9th Floor, Tower A, Financial Street Hailun Center,
No.440 Hailun Road, Hongkou District,
Shanghai, China 200086
T: +86 21 5047 8665
F: +86 21 3882 1211
www.wts.cn
info@wts.cn

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