

(T.D. 76-100)

Generalized System of Preferences

Generalized System of Preferences—Cost or value of materials produced in the beneficiary developing country

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., March 30, 1976.

Since the implementation of the Generalized System of Preferences (GSP) under Title V of the Trade Act of 1974 (Public Law 93-618, 88 Stat. 1978), hereinafter referred to as the "Trade Act", and the promulgation of sections 10.171-10.178 of the Customs Regulations (19 CFR 10.171-10.178) thereunder, a number of questions have been presented concerning what materials produced in the beneficiary developing country are to be included in the computation of the 35 percent criterion under Section 503 of the Trade Act. The following interpretations are being published in order to respond to those questions.

It is the position of the United States Customs Service that duty-free treatment under GSP will be accorded to an eligible article imported directly from a beneficiary developing country only if the sum of (1) the cost or value of the materials produced in the beneficiary developing country, as determined under the applicable law and Customs Regulations, plus (2) the direct costs of processing operations performed in such beneficiary developing country is not less than 35 percent of the value of the article as appraised in accordance with section 402 or 402a, Tariff Act of 1930, as amended (19 U.S.C. 1401a, 1402). The 35 percent criterion can be satisfied entirely by the cost or value of materials produced in the beneficiary developing country, the direct costs of processing operations, or, any combination of the two.

Section 10.177 of the Customs Regulations interprets the words "materials produced in the beneficiary developing country" as used in section 503(b)(2)(A)(i) of the Trade Act to include only constituent materials of which the eligible article is composed which are substantially transformed in the beneficiary developing country into new and different materials or articles of commerce, or which are wholly the growth, product or manufacture of the beneficiary developing country. Therefore, to be included as part of the 35 percent criterion a constituent element of the eligible article which is not wholly the growth, product, or manufacture of the beneficiary developing country must have undergone a substantial transformation

in the beneficiary developing country. That substantial transformation must result in a new material or article which is used in producing the eligible article which is exported directly to the United States. Such materials or articles which qualify for inclusion in the 35 percent requirement are referred to in this Treasury Decision as "substantially transformed constituent materials."

The following examples, which assume direct shipment from the beneficiary developing country to the United States, show the application of these rules:

Example No. 1. A product has an appraised value of \$100. The composition of the product includes \$20 of materials produced in the beneficiary developing country and the direct costs of processing operations amount to \$20. Since the materials produced in the beneficiary developing country plus the direct costs of processing operations exceed 35 percent of the appraised value, the product qualifies for duty-free treatment.

Example No. 2. The product has an appraised value of \$100. Materials valued at \$20 are imported into the beneficiary developing country where they are substantially transformed into a new and different article. The value of the new article is \$30. This new article then becomes a constituent element of the eligible article which is exported to the U.S. The direct costs of processing operations performed on the new article in order to manufacture it into the eligible article are \$10. The value of the substantially transformed constituent material, \$30, plus the direct costs of processing, \$10, exceed 35 percent of the appraised value of the eligible article. Hence, the eligible article qualifies for duty-free treatment.

Example No. 3. The product has an appraised value of \$100. Materials valued at \$20 are imported into the beneficiary developing country where they are manufactured directly into an article which is exported to the U.S. The direct costs of processing operations amount to \$30. The materials processed into the finished article are not themselves produced in the beneficiary developing country. Therefore the value of those materials cannot be added to the direct costs for processing operations to make up the 35 percent requirement.

Generally, goods that are undefined in final dimensions and shapes are considered materials, while goods that have been processed into a completed device or contrivance ready for ultimate use are not considered materials. For example, raw skins imported into a beneficiary developing country and tanned into leather could be a substantially transformed constituent material when used in the subsequent manufacture of a leather coat. Similarly, materials processed into certain articles may be considered substantially transformed constituent materials. For example, gold bars which are imported into a beneficiary developing country are cast into mountings—things in which a stone is not yet set. Such mountings are substantially transformed constituent materials of the eligible articles of jewelry when those mounting be-

come constituent elements of a ring mounted with a precious stone of the beneficiary developing country and then exported directly from that beneficiary developing country.

Articles produced by the joining and fitting together of components are not considered substantially transformed constituent materials. Articles of this kind may well have been substantially transformed, but they are not produced from substantially transformed constituent materials. Under this criterion, partially completed components which are completed and assembled in the beneficiary developing country into finished articles or components do not qualify as substantially transformed constituent materials. By the same token, most assembly operations and operations incidental to assembly will not qualify. For example, various electronic components and a bare but otherwise finished circuit board are imported into a beneficiary developing country and there assembled by soldering into an assembled circuit board for a computer. Although substantially transformed, the fabricated unit is not a substantially transformed constituent material of the computer, the exported eligible article produced in the beneficiary developing country.

Further questions concerning the interpretation of the term "materials" for GSP purposes may be submitted in accordance with Part 177 of the Customs Regulations (19 CFR Part 177). (043986)

(CLA-2:R:CV:S)

LEONARD LEHMAN,
Assistant Commissioner,
Regulations and Rulings.

[Published in the FEDERAL REGISTER April 6, 1976 (41 FR 14547)]

(T.D. 76-101)

Bonds

Discontinuance of consolidated aircraft bond (air carrier blanket bond)
Customs Form 7605

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., April 1, 1976.

The following consolidated aircraft bond has been discontinued as shown below:

Name of principal and surety	Date Term Commences	Date of Approval	Filed with district director of Customs; amount
Carrier: Aeroc Portuguese S.A.R.L. of Lisbon, Portugal, dba TAP Portuguese Airways in North America, 601 Fifth Avenue, New York, NY; The Ocean Indemnity Company 10/9/76	March 14, 1972	March 15, 1972	J.F.K. Airport; \$100,000

The foregoing principal has been designated as a carrier of bonded merchandise.

(RON-3-01)

LEONARD LEHMAN,
Assistant Commissioner,
Regulations and Rulings.

(T.D. 76-102)

Antidumping—Large power transformers from the United Kingdom

The Secretary of the Treasury makes public a modification of the finding of dumping with respect to large power transformers from the United Kingdom; Section 153.43, Customs Regulations, amended

DEPARTMENT OF THE TREASURY,
Washington, D.C., April 1, 1976.

TITLE 19—CUSTOMS DUTIES

CHAPTER I—UNITED STATES CUSTOMS SERVICE

PART 153 — ANTIDUMPING

Modification of Dumping Finding

On November 14, 1975, there was published in the FEDERAL REGISTER (40 FR 53047) a "Notice of Tentative Determination to Modify or Revoke Dumping Finding" with respect to large power transformers from the United Kingdom. A finding of dumping applicable to this merchandise was published as T.D. 72-164 in the FEDERAL REGISTER of June 14, 1972 (37 FR 11773).

The above-mentioned notice set forth the reasons for the proposed modification, and interested parties were afforded an opportunity to make written submissions or request the opportunity to present oral views in connection therewith.

As a result of the publication of the notice, written views were received, and oral views were presented. Having analyzed these views, I hereby determine that for the reasons stated in the "Notice of