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## Ask the Expert - Stuart P. Seidel, Baker & McKenzie LLP

### QUESTION

"Our forwarder/broker is stating that it would be beneficial for our company to use the GSP program when importing into the U.S.

(1) What is this program?

(2) And is there a benefit for the electronics distribution industry?"

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**The Generalized System of Preferences, or GSP** program allows certain goods from "designated beneficiary developing countries" or "least developed beneficiary countries" to enter the United States free of duty, provided that the goods are the growth, product or manufacture of the designated countries and they are shipped directly to the United States from the designated country.

In order to qualify, the sum of (1) the cost or value of the materials produced in the designated beneficiary developing country or least-developed beneficiary country or 2 or more countries which are members of the same association of countries which is treated as one country under section 507 (2) of the Trade Act of 1974, plus (2) the direct costs of processing operations performed in such least-developed beneficiary country or such member countries, must be not less than 35 percent of the appraised value of such article at the time of its entry into the customs territory of the United States. No article or material of a least-developed beneficiary developing country is eligible for such treatment by virtue of having merely undergone simple combining or packing operations, or mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.

To find out if a product qualifies for GSP treatment, you must look at the Harmonized Tariff Schedule of the United States (HTS) which is available on-line from the U.S. International Trade Commission at: <http://www.usitc.gov/tata/hts/>. Find the article that you are interested in and look at the columns labeled "Rates of Duty". In the "Special" column, look for the letter "A", or an "A\*" or an "A+". Those are the *program designators* for the GSP program. An A+ means that all designated least-developed beneficiary are eligible for preferential treatment for products under this tariff number. If an A appears, it means that all GSP beneficiary countries are eligible for preferential treatment for the covered articles. However, if an A\* appears, it means that products in that tariff number from certain designated countries are not eligible for preferential treatment.

The lists of designated beneficiary developing countries and territories, and associations of countries which are treated as one country, are found in General Note 4(a) to the HTS while the list of the least developed beneficiary developing countries is found in General Notes 4(b).

The lists of ineligible products and countries is found in General Notes 4(c) and (d) to the HTS.

By Law, certain products, including "import-sensitive electronics articles", may not be designated as GSP eligible products. However, other electronics products including many types of printed circuit assemblies, are eligible.

Person wishing to import articles under the GSP program should investigate their potential suppliers and insure that they maintain documentation showing that the goods, 1) originate in a GSP eligible country, and 2) the direct costs of processing operations performed in the designated GSP country (or member countries), are not less than 35 percent of the appraised value of the goods when entered into the United States.