

U.S. GSP Program: MJS

**Office of the U.S. Trade
Representative**

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Today's Discussion

U.S. Generalized System of Preferences (GSP) Program:

- 1. Program overview**
- 2. GSP beneficiary eligibility criteria**
- 3. Eligibility review**
- 4. How the GSP program operates: eligible products, CNLs, waivers, rules of origin, cumulation within ASEAN, certified handicraft arrangement**

GSP Program

- Created by Congress as part of the Trade Act of 1974.**
 - Creates economic opportunities in 134 developing countries while expanding choices of U.S. industries and consumers.**
 - Provides duty-free treatment for 3,400 products from 134 developing countries;**
 - U.S. imports under GSP increasing: \$30 billion Jan. through Nov. 2006, up 23% over 2005.**
 - Extended, with broad bipartisan support, through December 31, 2008.**
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Eligibility factors and criteria the President must consider

- The President shall have due regard for four overall factors when modifying the lists of eligible countries and products (19 USC Section 2461)**

- The President shall NOT designate any country to be a GSP beneficiary if certain factors apply to that country (19 USC 2462(b)(2))**

- The President shall take other factors into account in determining whether to designate any country as a GSP beneficiary (19 USC 2462(c))**

- The following is a summary: be sure to refer to the statute.**

Eligibility Review

- submission of information by the country,
 - receipt of public comments,
 - full interagency review,
 - consultation with Congress (which looks closely at the details, including any commitments made by the country), and
 - decision by the President.
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The President shall have due regard for these overall factors when considering modifying the lists of eligible beneficiary developing countries & products...

1. the effect such action will have on furthering the economic development of the country through the expansion of its exports;
 2. the extent to which other major developed countries are undertaking a comparable effort to assist the country by granting generalized preferences with respect to imports of products of such country;
 3. the anticipated impact of such action on United States producers of like or directly competitive products; and
 4. the extent of the country's competitiveness with respect to eligible products.
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The President shall NOT designate any country to be a GSP beneficiary if any of the following factors apply (19 USC 2462(b)(2)):

- 1. A GSP beneficiary may not be a Communist country, unless such country receives Normal Trade Relations (NTR) treatment, is a WTO member and a member of the International Monetary Fund (IMF), and is not dominated by international communism;**
- 2. A GSP beneficiary may not be a party to an arrangement of countries nor participate in actions the effect of which are: (a) to withhold supplies of vital commodity resources from international trade or to raise the price of such commodities to an unreasonable level and (b) to cause serious disruption of the world economy;**

The President shall NOT designate any country to be a GSP beneficiary if any of the following factors apply (19 USC 2462(b)(2)):

- 3. A GSP beneficiary may not afford preferential treatment to products of a developed country that has, or is likely to have, a significant adverse effect on United States commerce;**
- 4. A beneficiary may not have nationalized, expropriated or otherwise seized property of U.S. citizens or corporations without providing, or taking steps to provide, prompt, adequate, and effective compensation, or submitting such issues to a mutually agreed forum for arbitration;**
- 5. A GSP beneficiary may not have failed to recognize or enforce arbitral awards in favor of U.S. citizens or corporations;**

The President shall NOT designate any country to be a GSP beneficiary if any of the following factors apply (19 USC 2462(b)(2)):

- 6. A GSP beneficiary may not aid or abet, by granting sanctuary from prosecution, any individual or group that has committed an act of international terrorism;**

- 7. A GSP beneficiary has not have taken or has not taken steps to afford internationally recognized worker rights, including: 1) the right of association, 2) the right to organize and bargain collectively, 3) freedom from compulsory labor, 4) a minimum age for the employment of children, and 5) acceptable conditions of work with respect to minimum wages, hours of work and occupational safety and health; and**

The President shall NOT designate any country to be a GSP beneficiary if any of the following factors apply (19 USC 2462(b)(2)):

- 8. A GSP beneficiary has not implemented its commitments to eliminate the worst forms of child labor.**
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Factors: 4 (nationalization), 5 (arbitral awards), 6 (terrorism), 7 (worker rights), and 8 (worst forms of child labor) shall not prevent a country's designation if the President determines a designation would be in the national economic interest and reports the determination and reasons to Congress.

In determining whether to designate any country as a GSP beneficiary, the President shall take into account these factors:

(19 USC 2462(c)):

- 1. An expression by a country of its desire to be designated as a GSP beneficiary country;**
 - 2. the level of economic development, including per capita GNP, the living standards of its inhabitants, and any other economic factors that the President deems appropriate;**
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In determining whether to designate any country as a GSP beneficiary, the President shall take into account these factors:

- 3) whether or not other major developed countries are extending generalized preferential tariff treatment to such country;**
- 4) the extent to which such country has assured the United States that it will provide equitable and reasonable access to its markets and basic commodity resources and the extent to which it has assured the United States it will refrain from engaging in unreasonable export practices;**
- 5) the extent to which such country provides adequate and effective protection of intellectual property rights, including patents, trademarks, and copyrights;**

In determining whether to designate any country as a GSP beneficiary, the President shall take into account these factors:

- 6) the extent to which such country has taken action to reduce trade distorting investment practices and policies, including export performance requirements, and to reduce or eliminate barriers to trade in services; and**

- 7) whether such country has taken or is taking steps to afford internationally recognized worker rights, including: 1) the right of association, 2) the right to organize and bargain collectively, 3) freedom from compulsory labor, 4) a minimum age for the employment of children, and 5) acceptable conditions of work with respect to minimum wages, hours of work and occupational safety and health.**

GSP: how it operates

Which articles are eligible for duty-free treatment?

- ❑ GSP-eligible products include most dutiable manufactures and semi-manufactures, and selected agricultural, fishery, and primary industrial products.
- ❑ Certain articles are prohibited by the GSP statute (19 USC Section 2463) from receiving GSP treatment, including certain textiles [produced with cotton, wool, manmade fiber, other vegetable fiber (linen and ramie)], watches, certain footwear and handbags, luggage, flat goods not made of silk, work gloves, and other leather apparel.

How does a U.S. import qualify for duty-free treatment under GSP?

- (1) It must be included in the list of GSP-eligible articles.
- (2) It must be imported directly from a designated beneficiary developing country (BDC) or association.
- (3) The BDC or association must be eligible for GSP treatment for that article.
- (4) The article must be the growth, product, or manufacture of a BDC and must meet the 35 percent value-added requirements.
- (5) The exporter/importer must request duty-free treatment under GSP by placing an "A" before the HTSUS number that identified the imported article on the appropriate shipping documents (form 7501).

Cumulation within ASEAN

- ❑ **That means that two or more ASEAN countries can work together to meet the 35 percent rule-of-origin requirement for a product when inputs come from outside the beneficiary.**
- ❑ **A non-LDC can work with an LDC in ASEAN to produce one of the 1400 products reserved for GSP-eligible export from LDCs, as long as the product is shipped directly to the U.S. from the LDC.**

What are Competitive Need Limitations (CNLs)?

- ❑ **Is a ceiling on GSP benefits for a product from a country and is a measure of competitiveness.**

- ❑ **A country will automatically lose its GSP eligibility with respect to a product if one of two competitive need limitations are exceeded during any calendar year:**
If U.S. imports from that country:
 - 1) **account for 50 percent or more of the value of total U.S. imports of that product; or**
 - 2) **exceed a certain dollar value. The dollar-value cap is increased by \$5 million annually; the limit was \$125 million in 2006, increased to \$130 million in 2007, and will be \$135 million in 2008.**

- ❑ **By statute, GSP treatment for an article exceeding the CNL terminates July 1 of the next calendar year.**

Are Competitive Need Limitations Ever Waived?

- Yes: President may grant a CNL waiver for a product imported from a beneficiary country.**
- How: Interested parties may petition for a waiver during the Annual Review process only when the product is below the CNL limit.**
- How: President places “great weight” on whether is reasonable and equitable access to country’s market for U.S. goods and services, and whether reasonable and effective protection of U.S. intellectual property rights is occurring.**
- If a waiver is granted, both the import percentage cap and annual trade cap are waived.**

GSP Certified Handicraft Arrangement

- ❑ Several categories of textiles become eligible for GSP duty-free treatment after a beneficiary has signed an arrangement with the United States to provide certification that the items are hand-made.
- ❑ 13 beneficiaries have done so: Afghanistan, Argentina, Botswana, Colombia, Egypt, Jordan, Nepal, Pakistan, Peru, Thailand, Tunisia, Turkey, and Uruguay.

What products are eligible?

- ❑ certain hand-loomed and folklore wall hangings;
- ❑ hand-loomed and folklore pillow covers;
- ❑ hand-woven tapestries;
- ❑ hand-loomed and folklore rugs, carpets and other textile floor coverings; and
- ❑ hand-loomed fabrics.

Questions?

USTR website: GSP guidebook, statute, GSP-eligible products:

- http://www.ustr.gov/Trade_Development/Preference_Programs/GSP/Section_Index.html

U.S. Tariff Schedule:

- <http://www.usitc.gov/tata/hts>

Department of Homeland Security: Customs & Border Protection:

- <http://www.customs.gov/xp/cgov/import/>
 - CUSTOMS FORM 7501:
<https://forms.customs.gov/customsrf/getformharness.asp?formName=cf-7501-form.xft>
 - <http://www.customs.treas.gov/xp/cgov/toolbox/publications/>

Thank you
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