

**U.S. GENERALIZED SYSTEM OF PREFERENCES  
GUIDEBOOK**



Office of the United States Trade Representative  
Executive Office of the President  
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# **U.S. GENERALIZED SYSTEM OF PREFERENCES**

## **GUIDEBOOK**

### **INTRODUCTION**

The U.S. Generalized System of Preferences (GSP) provides preferential duty-free entry for more than 4,650 products from approximately 140 designated beneficiary countries and territories. The GSP program was instituted on January 1, 1976, and authorized under Title V of the Trade Act of 1974 (19 U.S.C. 2461 et seq.) for a 10-year period. The authorization was renewed four times as follows:

- Through July 4, 1993, by the Trade and Tariff Act of 1984
- Through July 31, 1995, by the Uruguay Round Agreement Act
- Through May 31, 1997, by the Small Business Act of 1996
- Through June 30, 1998, by the Budget and Reconciliation Act of 1997

On May 30, 1997, the President made approximately 1,770 additional items from the least developed beneficiary developing countries (LDBDC) eligible for GSP duty-free treatment.

The Office of the U.S. Trade Representative (USTR) has prepared this guidebook as a reference to encourage the use of GSP duty-free treatment for fostering economic growth through the expansion of trade between the United States and the developing GSP beneficiaries.

Part I contains answers to frequently asked questions about how the program operates, particularly in light of recent changes in the law.

Part II presents up-to-date revisions in the program brought about by legislative reauthorizations and Presidential decisions such as changes in product and country eligibility under GSP. Part II also includes an outline of a sample petition for use in seeking changes in product or country eligibility for GSP treatment, legislation that authorizes GSP, and the Code of Federal Regulations (CFR) that explains how the GSP program is administered.

Parts III and IV are drawn from the Harmonized Tariff Schedule of the United States (HTSUS), which contains the official designations and appropriate tariff rates for imported articles. The HTSUS was adopted on January 1, 1989, and is updated annually. Parts III and IV contain the lists of HTSUS numbers and brief, unofficial descriptors of imported products that are eligible for duty-free treatment. The numbers in Part III identify the products that are GSP-eligible from most GSP beneficiaries; the numbers in Part IV identify the more than 1,770 products that are eligible for duty-free treatment only when imported from the LDBDCs.

Questions about the U.S. GSP not covered in this guidebook should be directed to the GSP Information Center, Office of the U.S. Trade Representative, Room 518, Washington, D.C. 20508 or by calling (202) 395-6971. GSP information is also available at the U.S. Embassies or Consulates and at [www.ustr.gov/reports/gsp/contents.html](http://www.ustr.gov/reports/gsp/contents.html) on the USTR web site.

Jon Rosenbaum  
Revised March 1999

## GSP INFORMATION REFERENCES

### GSP Information Center

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Tel:(202)395-6971 Fax:(202)395-9481)

USTR Public Reading Room 101  
Hours: 9:30-Noon; 1:00-4:00 p.m.  
Tel:(202)395-6186

### Related Internet Sites

GSP Guidebook..... [www.ustr.gov/reports/gsp/contents.html](http://www.ustr.gov/reports/gsp/contents.html)  
Press Releases..... [www.ustr.gov/press/index.html](http://www.ustr.gov/press/index.html)  
*Federal Register*..... USTR Homepage: [www.ustr.gov](http://www.ustr.gov)  
..... and: [www.access.gpo.gov/su\\_docs/aces/aces140.html](http://www.access.gpo.gov/su_docs/aces/aces140.html)  
USITC Trade Database..... [dataweb.usitc.gov](http://dataweb.usitc.gov)  
USITC Tariff Schedules..... [www.usitc.gov/taffairs.htm](http://www.usitc.gov/taffairs.htm)

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\* Does not participate in the regular GSP Annual Review

## **ABBREVIATIONS AND ACRONYMS**

ASEAN	Association of South East Asian Nations
CARICOM	Caribbean Common Market
CFR	Code of Federal Regulations
CNL	Competitive-Need Limitations
EAC	Tripartite Commission on East African Cooperation
GATT	General Agreement on Tariffs and Trade (now WTO)
GNP	Gross National Product
GSP	Generalized System of Preferences
HTSUS	Harmonized Tariff Schedule of the United States
IBRD	International Bank for Reconstruction and Development
IMF	International Monetary Fund
LDBDC	Least Developed Beneficiary Developing Country
MFN	Most Favored Nation (now NTR)
NTR	Normal Trade Relations
OMB	Office of Management and Budget
SADC	Southern African Development Community
SPI	Special Program Indicator
TPRG	Trade Policy Review Group
TPSC	Trade Policy Staff Committee
USAID	U.S. Agency for International Development
U.S.C.	United States Code
USITC	U.S. International Trade Commission
USTR	U.S. Trade Representative
WAEMU	West African Economic and Monetary Union
WTO	World Trade Organization

## **PART I: MOST FREQUENTLY ASKED QUESTIONS**

The following questions, which are among those most frequently asked by GSP program users, are provided here to further clarify the applicable rules and regulations. (See Part II.11.)

### **I.1 GSP-Eligible Articles**

#### ***Which imports qualify for duty-free treatment under the GSP?***

The imported merchandise must meet the following qualifications:

1. It must be included on the list of GSP-eligible articles.
2. It must be from a designated beneficiary country.
3. The beneficiary country must be eligible for GSP treatment for that article.
4. It must meet the value-added requirements.
5. It must be imported directly into the United States from the beneficiary country or association.
6. The exporter/importer must request duty-free treatment under GSP by placing an “A” before the HTSUS number that identifies the imported product on the appropriate shipping documents.

#### ***Which products are eligible for duty-free treatment?***

The GSP comprises two categories of eligible products defined at the 8-digit level of the HTSUS. The original list now includes approximately 4,650 articles that are duty free for all eligible GSP beneficiaries. The second list, added in 1996, made approximately 1,770 articles from the LDBDCs duty free. The LDBDCs are countries which the World Bank has estimated to have incomes (1996 GNP per capita) below \$786. See Parts III and IV for the lists of articles eligible for duty-free treatment under GSP. These lists contain most dutiable manufactures and semimanufactures and selected agricultural, fishery, and primary industrial products not otherwise duty free. Articles eligible for GSP treatment are also identified in the current edition of the HTSUS, which is published by the U.S. International Trade Commission (USITC). The complete 1998 HTSUS can be downloaded from the USITC home page, purchased from the U.S. Government Printing Office, or inspected at the USTR Reading Room, the field offices of the Department of Commerce, and the U.S. Embassies or Consulates.)

#### ***Can any article be designated as eligible for GSP?***



No. Certain articles are prohibited by law (19 U.S.C. 2461) from receiving GSP treatment. These are articles that were not eligible for GSP on January 1, 1995, and include most textiles, watches, footwear, handbags, luggage, flat goods, work gloves, and other leather wearing apparel. In addition, any other articles determined to be import-sensitive cannot be made eligible for GSP. In this regard, the GSP law specifically cites steel, glass, and electronics.

***How is an article identified as eligible for GSP in the HTSUS?***

Table 1 presents three HTSUS entries to illustrate characteristic variations in the treatment given to different GSP articles. Under each entry for a GSP-eligible product in the HTSUS, the letter **A**, **A+**, or **A\*** in the “Special” column identifies the entry as GSP-eligible under certain conditions. The letter **A** designates articles that are generally GSP-eligible for GSP-eligible developing countries. The letter **A+** indicates articles that are GSP-eligible only for imports from the developing countries identified in the HTSUS as LDBDCs. (See Part II.2.) The letter **A\*** identifies articles that are GSP-eligible except for imports from one or more specific countries that have lost GSP eligibility for that article. (See Part II.7.) The HTSUS indicates the GSP status of various articles as follows:

**Table 1. Examples of Selected Articles from HTSUS**

HTSUS No.	Article Description	% Rate of Duty		
		Column 1(MFN) <sup>1</sup>	Special	(Column 2)
8406.00.00	Steam turbines for marine propulsion	7.0	Free <b>A</b>	20
8429.11.00	Bulldozers for track laying	0.5	Free <b>A*</b>	35
8532.10.00	Electrical capacitors, fixed	4.7	Free <b>A+</b>	35

<sup>1</sup>Most Favored Nation (now called Normal Trade Relations) status refers to the right of World Trade Organization (WTO) members to have importing countries levy duties that are no higher than the duties the importing country levies on products it imports from any other country.

***What is the rate of duty on a GSP-eligible article?***

All imports of GSP-eligible articles are duty-free.

## **I.2 GSP Beneficiary Countries**

### ***Where are the official lists of the GSP-eligible countries, the LDBDCs, and the articles with country restrictions on eligibility?***

Sec. 4(a) of the General Notes at the beginning of the HTSUS contains the official list of the GSP-eligible countries. Sec. 4(c) contains the list of the LDBDCs. Sec. 4(d) contains the list of the imported articles that are not eligible for GSP treatment from the designated GSP countries, for example, where imports from a country have exceeded the competitive-need limitation (CNL). (See Part II.1, 2, and 7.)

### ***How does an importer request GSP treatment?***

The request is made by placing the Special Program Indicator (SPI), the letter “A” used as a prefix, before the HTSUS tariff number on the shipment entry documentation to indicate that a product is eligible for duty-free treatment under GSP.

### ***If the GSP program expires and is later renewed retroactively, must an importer pay duties in the interim?***

If the GSP program expires, importers cannot make claims for duty-free treatment under GSP for merchandise entered or withdrawn for consumption. Duties at the Normal Trade Relations (NTR) rate must be deposited. A claim for duty-free treatment may be made if the merchandise qualifies under another preferential program such as the Andean Trade Preference Act or the Caribbean Basin Economic Recovery Act.

### ***If the GSP program is renewed retroactively, how does an importer arrange to be reimbursed for tariffs paid during the period after the expiration and before the reauthorization of GSP?***

Importers who file their entries electronically should use the appropriate SPI (“A”) as a prefix to the tariff numbers of articles that would qualify for GSP if GSP were in effect at the time of the entry. The U.S. Customs Service has arranged for the timely processing of refunds of duties deposited on these GSP-eligible entries without requiring further action by the filer. The use of the SPI, in effect, constitutes an importer’s request for a refund of duties. For entries made without using the SPI,

refunds of duties deposited must generally be requested in writing. (For further information on securing refunds, see 63 *Federal Register* 115, page 32911, June 16, 1999.)

***How can the correct HTSUS classification of a product be determined?***

The U.S. Customs Service is responsible for classifying products under the HTSUS. Questions about a specific product HTSUS number should be referred to the Classification and Value Division. Questions about the appropriate classification of a product should be referred to the Office of Regulations and Rulings.

***Is the list of eligible articles and countries ever modified?***

Yes. The U.S. Government, through the GSP Subcommittee of the Trade Policy Staff Committee (TPSC), conducts an annual review of petitions to modify the eligibility of articles and countries for duty-free treatment. The GSP Subcommittee comprises representatives of the Executive Branch Agencies that have roles in U.S. trade policy formulation. (See page v for the list of these agencies.) A list of articles for which modifications have been petitioned and accepted for review is published in the *Federal Register* each summer, usually in mid-July. Public comments are invited, hearings are held, USITC advice is requested and prepared, all of which are reviewed by the GSP Subcommittee as it prepares its recommendations for Presidential decisions. The President's decisions are usually announced in late spring of the following calendar year and take effect on July 1.

***How does one petition for a modification in the list of articles or countries?***

Each year a *Federal Register* notice invites interested parties to petition the GSP Subcommittee for modifications in the list of products or countries eligible for GSP treatment. (See Part II.8 for a sample petition outline for anyone seeking modifications in the GSP product coverage.) Petitions must conform to the applicable rules and regulations contained in the Code of Federal Regulations (15 CFR Part 2007) in order to be accepted for formal review. Petitions must be submitted to the GSP Subcommittee by the scheduled submission date, usually in late spring, to be considered in that year's annual review. Petitions accepted for review are subject to public hearings and a full review by the GSP Subcommittee. Modifications made as a result of the annual review are implemented by Executive Order or Presidential Proclamation and are then published in the *Federal Register*.

***What is the schedule of GSP events during the year for Federal Register Notices, deadlines for petitions to modify the list of eligible products, reviews of beneficiary country practices, submissions for hearings, comments on the***

***USITC review, and announcement of decisions on petitions?***

Table 2 contains the schedule of GSP events for participating in the GSP reviews, but because of recent expirations and unscheduled reauthorizations of the program, the schedule of events may be modified occasionally.

**Table 2. Schedule of GSP Events**

<b>Action</b>	<b>Target Date</b>
Deadline for the acceptance of review petitions	June 1
Announcement of the petitions accepted for review	July 12
Public hearings and submissions of written briefs	September/October
USITC report on economic impact of petitioned actions	December
Public comment on USITC report	December/January
Publication of the early warning list (10-month statistics on GSP imports that were close to exceeding CNLs )	February/March
Announcement of the results of reviews	April 1
Effective date of changes	July 1

***Which factors must be considered when the list of eligible articles or countries is modified?***

When the GSP list is modified, the following factors must be considered:

1. The statement of a country requesting GSP eligibility
2. The effect that a modification would have on furthering the economic development of a beneficiary country
3. The anticipated impact on the U.S. producers of like or directly competitive products
4. The extent of the beneficiary developing country's competitiveness regarding eligible products

5. The extent to which other major developed countries are undertaking a comparable effort to assist developing countries by granting generalized preferences on imports of products from such countries

All decisions to modify the list of GSP-eligible articles are made in light of the extent to which beneficiaries accomplish the following:

- Offer reasonable and equitable market access for U.S. goods and services
- Protect U.S. intellectual property rights adequately and effectively
- Reduce trade-distorting investment policies/practices (including export performance requirements)
- Eliminate trade-distorting export practices
- Ensure internationally recognized worker rights, which include the following:
  - Right of association
  - Right to organize and bargain collectively
  - Prohibition of any form of forced or compulsory labor
  - Minimum age for child employment
  - Acceptable work conditions regarding, for example, minimum wages, work hours, and occupational safety and health standards

### ***What is the three-year rule?***

Many products not currently eligible for GSP may have been eligible previously or considered for eligibility since 1976. An article may not be considered for designation as GSP-eligible if it has been the subject of a formal review and denied eligibility during the previous three calendar years. The petition history of a product may indicate its current potential for obtaining GSP eligibility. The public version of petitions is on file at the Office of the USTR in Room 101. Interested parties may call (202) 395-6186 for an appointment to examine the files.

### ***Who makes the determinations regarding GSP product and country eligibility?***

The GSP Subcommittee of the Trade Policy Staff Committee, chaired by the Office of the U.S. Trade Representative, reviews GSP issues. All Executive Branch Agencies directly involved in trade participate in the interagency review of GSP eligibility modifications. The GSP Executive Director conducts the day-to-day operations and, together with the GSP Subcommittee, prepares recommendations for GSP eligibility modifications for the U.S. Trade Representative (USTR). After reviewing the proposed modifications, the U.S. Trade Representative decides which recommendations will be submitted to the President, whose final decisions are published in the *Federal Register*, usually in late spring.

### **I.3 Handicraft Textiles**

#### ***What is the certified handicraft textile arrangement?***

Six categories of textile products are eligible for GSP treatment when the GSP beneficiary has signed an agreement with the U.S. Government certifying that the items are handmade products of the exporting beneficiary. To date, such agreements have been signed with Botswana, Colombia, Egypt, Guatemala, Jordan, Macao, Malta, Morocco, Nepal, Pakistan (suspended June 30, 1996), Peru, Romania, Thailand, Tunisia, and Uruguay. GSP benefits for duty-free treatment of handicraft textile exports are available to other beneficiary governments that are prepared to initiate the required exchange of letters. The six covered tariff categories are 5701.10.13, 5702.10.10, 5702.91.20, 5805.00.20, 6304.99.10, and 6304.99.40.

#### ***Is any special paperwork necessary for a GSP shipment?***

For certified handicraft textile products eligible for GSP duty-free treatment, a triangular seal certifying the products' authenticity as handcrafted articles must be included with the commercial invoice to be accepted for entry. As noted, only products produced in those beneficiary developing countries that have completed an official exchange of letters with the U.S. Government can receive GSP treatment.

#### ***Do other countries maintain GSP programs?***

Yes. In addition to the United States, twenty-six other industrialized nations maintain GSP programs. The beneficiaries, products, and type of preferences granted vary for each donor country.

### **I.4 Competitive-Need Limitations and Requests for Waivers**

#### ***Do all beneficiary countries receive duty-free treatment on the entire list of***

***articles?***

No. A country may not be eligible for GSP treatment on certain imports for the following reasons:

- The GSP imports of an article from a beneficiary country exceed the competitive-need limitation.
- The country has been graduated from the program.
- The value added in the beneficiary country is insufficient to meet the GSP rule-of-origin requirement.
- The country fails to supply complete documentation or does not meet other U.S. Customs requirements.

***What are competitive-need limitations?***

Competitive-need limitations impose ceilings on GSP benefits for each product and country. A country will automatically lose its GSP eligibility for a product (which is defined by its HTSUS eight-digit tariff category) if the CNLs are exceeded. A beneficiary country loses GSP eligibility for a product if, during the previous calendar year, U.S. imports of a GSP article 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.

Legislation reauthorizing GSP in 1996 set the dollar limit at \$75 million for 1996 with an annual increase of \$5 million for each subsequent calendar year. GSP modifications that result from imports that exceed CNLs in one year take effect on July 1 of the next calendar year.

***Are the competitive-need limitations ever waived?***

Yes. The President may waive competitive-need limitations under the circumstances listed in Table 3.

***How are competitive-need limitations waived?***

An interested party may petition USTR in an annual review for a CNL waiver for a product when it is imported from a specific beneficiary. In deciding whether to grant a CNL waiver, the President is required to place “great weight” on the extent to which the beneficiary is providing

reasonable and equitable access to its market for U.S. goods and services, and the extent to which the beneficiary is providing reasonable and effective protection to U.S. intellectual property rights.

**Table 3. Types of Competitive-Need Limitation Waivers**

<b>Types of Waivers</b>	<b>50% Limit Waivable</b>	<b>Value Limit Waivable</b>
Petitioned Request	Yes	Yes
503(c)(E) No U.S. production	Yes	No
503(c)(D) LDBDC	No Limits	No Limits
<i>De Minimis</i>	Yes	No

***Are any limits placed on the President's CNL waiver authority?***

Yes. In general, the President may not grant a waiver for a GSP-eligible article if imports of it from all beneficiary countries equal or exceed 30 percent of the total value of the GSP duty-free imports in a calendar year. Furthermore, the President cannot grant a waiver for the import of a GSP-eligible product that exceeds 15 percent of total GSP imports if the originating beneficiary has either a per capita gross national product (GNP) in excess of \$5,000 or generates imports of GSP products that account for 10 percent or more of total GSP duty-free imports.

***How long do CNL waivers remain in effect?***

If the petitioned waiver is granted, both the percentage limit and the dollar limit are waived and remain



in effect until the President determines that such a waiver is no longer warranted because of changed circumstances.

***What is a 503(c)(E) waiver?***

Section 503(c)(E) of the GSP law provides for a waiver of the CNL percentage for certain GSP-eligible articles that were not produced in the United States on January 1, 1995. Articles that were determined not to be produced in the United States are listed in Part II.5. Interested persons may petition USTR to modify the list in an annual review. For those articles on this list, a 503(c)(E) waiver will automatically be granted each year when required.

***What is a de minimis waiver?***

The President may grant a waiver from the percentage provision when total U.S. imports from all countries of a product are small or *de minimis*. Like the dollar value CNL, the *de minimis* level is adjusted annually. In 1996 the level was set at \$13 million with an annual increment of \$500,000. Each year, a *de minimis* waiver will automatically be considered for imports of a GSP-eligible product from a beneficiary that exceeded the 50 percent CNL, provided total imports from all countries for the preceding year were below the dollar limit. Although such waivers cannot be requested by petition, public comments are accepted, nonetheless, early each year. Granting such waivers is a discretionary decision of the President.

***Does a special CNL exist for Least Developed Beneficiary Developing Countries?***

Section 503(c)(D) of the GSP law automatically waived all CNLs for the GSP beneficiaries designated as LDBDCs. (See Part II.2 for the current list of LDBDCs.)

***What happens if imports reach or exceed the CNLs during the year?***

Nothing. GSP eligibility for articles from countries that reach or exceed the CNLs will continue for the rest of the year and for part of the following year. In the meantime, the GSP Subcommittee conducts a review of import statistics to determine which articles have exceeded the CNLs for the previous calendar year. Articles that exceeded the CNLs lose eligibility for GSP treatment no later than July 1 of the following year unless a waiver is granted.

***Does the GSP Subcommittee publish a warning list of articles that may exceed the CNLs?***

Yes. USTR publishes a warning list based on statistics of GSP articles imported during the first 10 months of the past calendar year. The list generally appears early in the following year in the *Federal Register*.

***Can an interested party monitor the imports of an article?***

Yes. Several sources maintain a monthly compilation of all imports. The Foreign Trade Reference Room at the Department of Commerce can be contacted by telephone at (202) 482-2185 or by Internet at <http://www.ita.doc.gov/industry/otea/trade-detail/about.html>. The Office of Trade Data at the Census Bureau can be contacted by telephone at (301) 457-3041, by fax at (301) 457-4615, or by Internet at <http://www.census.gov/foreign-trade/www>. The statistics should be requested by the 8-digit HTSUS tariff number.

The early warning list of the 10-month import statistics is available for review each February in the USTR public reading room.

***Can a country ever have an article redesignated as GSP-eligible after the article has been removed from GSP eligibility?***

Yes. Redesignation of GSP eligibility for an article can be considered if U.S. imports of the article from the affected country fall below the CNL in a subsequent year. Interested parties may also petition for a CNL waiver to restore eligibility for a product.

## **I.5 Graduation from GSP**

***What is graduation?***

There are two types of graduation: The first type refers to the removal of GSP eligibility for one or more articles of a beneficiary country, for example, when its imports of an article or articles exceed the CNL. The second type refers to the mandatory removal of a beneficiary country's entire GSP eligibility, which occurs when a country's per capita GNP exceeds the threshold level of income set for high-income countries by the World Bank or the discretionary removal when a country is deemed no longer to be a developing country.

***How is mandatory country graduation implemented?***

Country graduation is required when the President determines that a beneficiary is a high-income country as defined by the official statistics of the International Bank for Reconstruction and

Development (IBRD) or the World Bank. In its *1998 World Development Indicators*, the World Bank set the threshold level of per capita GNP for high-income countries at \$9,636 on the basis of 1996 GNP statistics. The per capita GNP for upper middle-income countries ranged from \$3,116 to \$9,635; incomes for lower middle-income countries ranged from \$786 to \$3,115; low-income countries had incomes of less than \$786 a year.

When the President determines that a beneficiary has exceeded the middle-income level, its GSP benefits will be terminated on January 1 of the second year following the President's determination.

### ***How is product graduation implemented?***

Product graduation decisions are made by the President in the four following contexts:

1. When interested parties submit petitions to remove GSP eligibility for an article and are accepted for the annual GSP Product Review, the President may grant the petition.
2. When articles are newly designated, eligibility for individual beneficiaries may be precluded.
3. When countries are eligible for redesignation of GSP status for a specific article, redesignation may be withheld.
4. When an individual beneficiary country fails to provide access to its market or fails to protect internationally recognized worker rights or intellectual property rights, the country may be deprived of GSP eligibility for selected articles.

## **I.6 Rule-of-Origin Requirements**

### ***What are the rule-of-origin requirements for qualifying products as GSP-eligible for a beneficiary country?***

The sum of the cost or value of materials produced in the beneficiary country plus the direct processing costs must equal at least 35 percent of the appraised value of the product at the time of

entry into the United States.

***Can imported materials be counted toward the 35 percent value-added requirement?***

Yes, but only if the materials are “substantially transformed” into new and different constituent materials of which the eligible article is composed. If an imported article has been produced in part in several countries that are members of an association of countries contributing to the regional economic integration of its members, the articles will be accorded duty-free entry if the value of their collective production of the article accounts for at least 35 percent of the appraised value of the article. The level of value added is the same as would be required for a product imported from a single country. The U.S. Customs Service is charged with determining whether an article meets the GSP rule-of-origin requirements.

***How can an exporter in a developing country know the value at which the U.S. Customs authorities will appraise an article?***

In most cases, U.S. Customs will appraise the merchandise at the transaction value, that is, the price actually paid or payable for the merchandise when sold for export to the United States. This value would include the following elements:

1. The packing costs incurred by the buyer
2. The selling commission incurred by the buyer
3. The value of any assistance provided to the producer free of charge by the buyer
4. The royalty or license fee that the buyer is required to pay as a condition of the sale
5. The proceeds accruing to the seller of any subsequent resale, disposal, or use of the imported merchandise

In general, shipping and other costs related to transporting the GSP articles from the port of export to the United States are included neither in the value of the article nor in the value-added calculation.

***What costs may be included in the direct costs of processing?***

The direct costs of processing include all costs, whether directly incurred in or those that can be reasonably allocated to the growth, production, manufacture, or assembly of the merchandise in

question. These include the following:

- Actual labor, fringe benefits, and on-the-job training costs
- Engineering, supervisory, quality control, and similar personnel costs
- Dies, molds, and tooling costs, as well as depreciation on machinery and equipment
- Research, development, design, blueprints and engineering, and inspection and testing costs

***Which costs may not be included in the direct costs of processing?***

The costs that may not be included in the direct costs of processing are those that are not directly attributable to the merchandise being considered or are not “costs” of manufacturing. These costs include profit and general expenses and business overhead such as administrative salaries, casualty and liability insurance, advertising, and sales representative’s salaries, commissions, or expenses.

***Does the U.S. GSP contain any special provisions for beneficiary developing countries that are members of regional associations?***

Yes. A regional association contributing to the comprehensive regional economic integration of its members may be granted GSP cumulation benefits. A GSP cumulation benefit occurs when U.S. imports from association members are counted as if they were imported from one country for purposes of rule-of-origin requirements. A GSP cumulation benefit also occurs when an imported article that was produced in two or more eligible member countries of an association is accorded duty-free entry. The benefit is granted when the countries together account for at least 35 percent of the appraised value of the article, which is the same requirement for a single country.

The CNLs will be assessed only against the country of origin and not against the entire association. Currently, qualified members of the following six associations can benefit from this provision:

- The Andean Group
- The Association of Southeast Asian Nations (ASEAN), excluding Brunei, Darussalam, Malaysia, and Singapore
- Member countries of the Caribbean Common Market (CARICOM)
- The West African Economic and Monetary Union (WAEMU)
- The Southern African Development Community (SADC)
- The Tripartite Commission on East African Cooperation (EAC)

The President has delegated responsibility to the U.S. Trade Representative for determining which members of SADC and EAC qualify for the cumulation benefit. The U.S. Trade Representative has determined that Botswana, Mauritius, and Tanzania are the qualifying members of SADC that are entitled to the cumulation benefit under GSP. (See Part II.3.)

## **I.7 “Imported Directly” Requirement**

***What is meant by the requirement that the article must be “imported directly”?***

The article must be shipped directly from the beneficiary country to the United States without passing through the territory of any other country. Or, if shipped through the territory of any other country, the merchandise must not have entered the commerce of that country while en route to the United States. In all cases, the invoices, bills of lading, and other documents connected with the shipment must show that the United States is the final destination of the imported article. (See 19 CFR 10.175(e) for the U.S. Customs Service definition of “imported directly.”)

***Is entrepot trade (articles transshipped between the beneficiary country and the United States) permitted?***

Entrepot trade is eligible for GSP under certain circumstances. Eligible articles shipped from a beneficiary developing country through a free-trade zone in any other beneficiary country will qualify for GSP as follows:

1. The eligible articles do not enter into the commerce of the country maintaining the free-trade zone.
2. The eligible articles do not undergo any operations other than sorting, grading, or testing; packing, unpacking, changing or packing; decanting or repacking; affixing marks, labels, or other distinguishing signs; or operations necessary to ensure that the articles are preserved in the condition they were in when they entered the free-trade zone. (See 19 CFR 10.175.)

***Are shipments also permitted to be made through free-trade zones in nonbeneficiary countries and still qualify for GSP?***

Yes. The procedure is as follows:

1. The eligible articles must remain under the control of the customs authority of the intermediate country while in transit through the free-trade zone.
2. The eligible articles do not enter into the commerce of the country maintaining the free-trade zone, except for sale at other than retail.
3. The eligible articles do not undergo any operations other than loading and unloading or other operations necessary to ensure that articles are preserved in the condition they were in when they entered into the free-trade zone.
4. For articles transshipped through former beneficiary countries that are members of regional associations (see Part II.3), the operations such as sorting, grading, or testing; packing, unpacking, changing or packing; decanting or repacking; affixing marks, labels, or other distinguishing signs; or operations necessary to ensure that the articles are preserved in the condition they were in when they entered the free-trade zone are permitted. (This exception currently applies to the products of the ASEAN beneficiaries that are transshipped through Brunei, Darussalam, Malaysia, and Singapore.)

***Are shipments permitted through a “non-independent territory” of any other country?***

Shipments from a beneficiary developing country to the United States may be made through the non-independent territory of another country, provided that

- (1) the article does not enter into the commerce of the territory while en route, and
- (2) the invoice, bills of lading, and other shipping documents show that the United States is the final destination.

***May the merchandise be purchased and resold, other than at retail, for export within the free-trade zone?***

Yes, as noted previously. However, for such transactions, two Certificates of Origin are required. One is required from the original beneficiary acknowledging that the merchandise is eligible for the U.S. duty-free treatment under GSP and contains the name of the consignee in the United States or in the free-trade zone. A second Certificate of Origin is required from the person responsible for the articles in the free-trade zone or from any other person having knowledge of the facts and declaring the operations that were performed within the free-trade zone.

(Revised 3/5/99)



**Part II: Information on Countries and Products Eligible for GSP  
and Procedures for Modifying the GSP Program**

- II.1 GSP-Eligible Beneficiaries
  - A. Independent Countries
  - B. Non-Independent Countries and Territories
- II.2 Least Developed Beneficiary Developing Countries
- II.3 Associations of Countries  
(Treated as One Country for GSP Rule-of-Origin Requirements)
- II.4 Criteria for Country Eligibility under GSP
  - A. Mandatory Criteria
  - B. Discretionary Criteria
- II.5 Articles Not Produced in the United States on January 1, 1995
- II.6 Articles and Countries Granted Waivers of All Competitive-Need Limitations
- II.7 Articles for Which the Identified Beneficiary Country is Ineligible for GSP Treatment
- II.8 Sample Outline for a GSP Petition
- II.9 *Federal Register* References for Presidential Documents (Executive Orders, Proclamations, and Memorandums Issued to USTR on GSP)
- II.10 Legislation Authorizing GSP
- II.11 Regulations of the U.S. Trade Representative Pertaining to Eligibility of Articles and Countries for the GSP Program (15 CFR Part 2007)

## II.1 GSP-Eligible Beneficiaries

### A. Independent Countries

The following independent countries are GSP-eligible beneficiaries:

Albania	Equatorial Guinea	Oman
Angola	Estonia	Pakistan
Antigua and Barbuda	Ethiopia	Panama
Argentina	Fiji	Papua New Guinea
Armenia	Gambia, The	
Bahrain	Ghana	Paraguay
Bangladesh	Grenada	Peru
Barbados	Guatemala	Philippines
Belarus	Guinea	Poland
Belize	Guinea-Bissau	Romania
Benin	Guyana	Russia
Bhutan	Haiti	Rwanda
Bolivia	Honduras	St. Kitts and Nevis
Bosnia and Hercegovina	Hungary	Saint Lucia
Brazil	India	Saint Vincent and the Grenadines
Bulgaria	Indonesia	Sao Tome and Principe
Burkina Faso	Jamaica	Senegal
Burundi	Jordan	Seychelles
Cambodia	Kazakhstan	Sierra Leone
Cameroon	Kenya	Slovakia
Cape Verde	Kiribati	Slovenia
Central African Republic	Kyrgyzstan	Solomon Islands
Chad	Latvia	Somalia
Chile	Lebanon	South Africa
Colombia	Lesotho	Sri Lanka
Comoros	Lithuania	Suriname
Congo	Macedonia, Former	Swaziland
Costa Rica	Yugoslav Republic of	Tanzania
Cote d'Ivoire	Madagascar	Thailand
Croatia	Malawi	Togo
Czech Republic	Mali	Tonga
Democratic Republic of The Congo	Malta	Trinidad and Tobago
Djibouti	Mauritius	Tunisia
Dominica	Moldova	Turkey
Dominican Republic	Morocco	Tuvalu
Ecuador	Mozambique	Uganda
Egypt	Namibia	Ukraine
El Salvador	Nepal	Uruguay
	Niger	

Uzbekistan  
 Vanuatu  
 Venezuela  
 Republic of Yemen  
 Zaire  
 Zambia  
 Zimbabwe

## **II.1 GSP-Eligible Beneficiaries**

### **B. Non-Independent Countries and Territories**

The following non-independent countries and territories are GSP-eligible beneficiaries:

Anguilla	Niue
British Indian Ocean Territory	Norfolk Island
Christmas Island (Australia)	Pitcairn Islands
Cocos (Keeling) Islands	Saint Helena
Cook Islands	Tokelau
Falkland Islands (Islas Malvinas)	Turks and Caicos Islands
French Polynesia	Virgin Islands, British
Gibraltar	Wallis and Futuna
Heard Island and McDonald Islands	West Bank and Gaza Strip
Montserrat	Western Sahara
New Caledonia	

## **II.2 Least Developed Beneficiary Developing Countries**

The least developed beneficiary developing countries are as follows:

Angola	Equatorial Guinea
Bangladesh	Ethiopia
Benin	Gambia, The
Bhutan	Guinea
Burkina Faso	Guinea-Bissau
Burundi	Haiti
Cambodia	
Cape Verde	
Central African Republic	
Chad	Kiribati
Comoros	Lesotho
Democratic Republic of Congo	Madagascar
Djibouti	Malawi

Mali  
Mozambique  
Nepal  
Niger  
Rwanda  
Sao Tome and Principe  
Sierra Leone  
Somalia  
Tanzania  
Togo  
Tuvalu  
Uganda  
Vanuatu  
Republic of Yemen  
Zambia

**II.3 Associations of Countries  
(Treated as One Country for GSP Rule-of-Origin Requirements)**

<p><b><u>Andean Group (Members of the Cartagena Agreement)</u></b></p> <p><b>Bolivia</b> <b>Colombia</b> <b>Ecuador</b> <b>Peru</b> <b>Venezuela</b></p>	<p><b><u>ASEAN (Members of the Association of South East Asian Nations)</u></b></p> <table border="0"> <tr> <td data-bbox="813 520 1138 772"> <p><b><u>GSP-Eligible</u></b></p> <p><b>Indonesia</b> <b>Philippines</b> <b>Thailand</b></p> </td> <td data-bbox="1138 520 1427 772"> <p><b><u>GSP-Ineligible</u></b></p> <p><b>Brunei</b> <b>Darussalam</b> <b>Malaysia</b> <b>Singapore</b></p> </td> </tr> </table>		<p><b><u>GSP-Eligible</u></b></p> <p><b>Indonesia</b> <b>Philippines</b> <b>Thailand</b></p>	<p><b><u>GSP-Ineligible</u></b></p> <p><b>Brunei</b> <b>Darussalam</b> <b>Malaysia</b> <b>Singapore</b></p>				
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<p><b><u>CARICOM (Member Countries of the Caribbean Common Market except the Bahamas)</u></b></p> <table border="0"> <tr> <td data-bbox="215 869 597 947"> <p><b>Antigua and Barbuda</b> <b>Barbados</b></p> </td> <td data-bbox="597 869 813 947"> <p><b>Grenada</b> <b>Guyana</b></p> </td> <td data-bbox="813 869 1427 947"> <p><b>St. Kitts and Nevis</b> <b>Saint Lucia</b></p> </td> </tr> <tr> <td data-bbox="215 989 597 1066"> <p><b>Belize</b> <b>Dominica</b></p> </td> <td data-bbox="597 989 813 1066"> <p><b>Jamaica</b> <b>Montserrat</b></p> </td> <td data-bbox="813 989 1427 1066"> <p><b>Saint Vincent and the Grenadines</b> <b>Trinidad and Tobago</b></p> </td> </tr> </table>			<p><b>Antigua and Barbuda</b> <b>Barbados</b></p>	<p><b>Grenada</b> <b>Guyana</b></p>	<p><b>St. Kitts and Nevis</b> <b>Saint Lucia</b></p>	<p><b>Belize</b> <b>Dominica</b></p>	<p><b>Jamaica</b> <b>Montserrat</b></p>	<p><b>Saint Vincent and the Grenadines</b> <b>Trinidad and Tobago</b></p>
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<p><b>Belize</b> <b>Dominica</b></p>	<p><b>Jamaica</b> <b>Montserrat</b></p>	<p><b>Saint Vincent and the Grenadines</b> <b>Trinidad and Tobago</b></p>						
<p><b><u>SADC (Southern African Development Community)</u></b></p> <p>Members that ratified the SADC Protocol and therefore qualify for cumulation benefits:</p> <table border="0"> <tr> <td data-bbox="215 1262 597 1297"> <p><b>Botswana</b></p> </td> <td data-bbox="597 1262 813 1297"> <p><b>Mauritius</b></p> </td> <td data-bbox="813 1262 1427 1297"> <p><b>Tanzania</b></p> </td> </tr> </table> <p>Members that have not yet ratified the SADC Protocol:</p> <table border="0"> <tr> <td data-bbox="215 1423 597 1579"> <p><b>Angola</b> <b>Congo</b> <b>Lesotho</b> <b>Malawi</b></p> </td> <td data-bbox="597 1423 813 1579"> <p><b>Mozambique</b> <b>Namibia</b> <b>Seychelles</b> <b>South Africa</b></p> </td> <td data-bbox="813 1423 1427 1579"> <p><b>Swaziland</b> <b>Zambia</b> <b>Zimbabwe</b></p> </td> </tr> </table>			<p><b>Botswana</b></p>	<p><b>Mauritius</b></p>	<p><b>Tanzania</b></p>	<p><b>Angola</b> <b>Congo</b> <b>Lesotho</b> <b>Malawi</b></p>	<p><b>Mozambique</b> <b>Namibia</b> <b>Seychelles</b> <b>South Africa</b></p>	<p><b>Swaziland</b> <b>Zambia</b> <b>Zimbabwe</b></p>
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<p><b><u>WAEMU (West African Economic and Monetary Union)</u></b></p> <p><b>Benin</b>                      <b>Mali</b>  <b>Burkina Faso Niger</b>  <b>Cote d'Ivoire</b>              <b>Senegal</b>  <b>Guinea Bissau</b>              <b>Togo</b></p>	<p><b><u>EAC (The Tripartite Commission for East African Cooperation)</u></b></p> <p>The following are to qualify for cumulation benefits after signing the EAC treaty:</p> <p><b>Uganda</b>                      <b>Kenya Tanzania</b></p>
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## II. 4 Criteria for Country Eligibility under GSP

**A. Mandatory Criteria:** Section 502(b) of the GSP law sets forth the criteria that each country must satisfy before being designated a GSP beneficiary. These criteria are listed below, with references to the GSP law in parentheses.

1. A GSP beneficiary may not be a Communist country, unless such a country receives Normal Trade Relations treatment, is a member of the General Agreement on Tariffs and Trade (GATT) and the International Monetary Fund (IMF), and is not dominated by international communism (502(b)(2)(A)).
2. A GSP beneficiary may not be a party to an arrangement of countries and participate in actions the effect of which is to withhold supplies of vital commodities or raise the price of such commodities to an unreasonable level and cause serious disruption of the world economy (502(b)(2)(B)).
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 (502(b)(2)(C)).
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 (502(b)(2)(D)).
5. A GSP beneficiary may not have failed to recognize or enforce arbitral awards in favor of U.S. citizens or corporations (502(b)(2)(E)).
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 (502(b)(2)(F)).

7. A 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 (502(b)(2)(G)).

Failure to meet criteria 4 through 7 may not prevent the granting of GSP eligibility if the President determines that such a designation would be in the national economic interest of the United States.

**B. Discretionary Criteria:** Section 502(c) of the GSP law sets forth the following criteria that the President must take into account in determining whether to designate a country as a beneficiary developing country for purposes of the GSP program. These criteria are listed below, with references to the GSP law in parentheses.

1. An expression by a country of its desire to be designated as a GSP beneficiary country (502(c)(1))
2. The level of economic development, including per capita GNP, and any other economic factors that the President deems appropriate (502(c)(2))
3. Whether other major developed countries are extending generalized preferential tariff treatment to such a country (502(c)(3))
4. The extent to which such a country provides equitable and reasonable access to its markets and refrains from unreasonable export practices (502(c)(4))
5. The extent to which such a country provides adequate and effective protection of intellectual property rights, including patents, trademarks, and copyrights (502(c)(5))
6. The extent to which such a 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 (502(c)(6))
7. Whether such a 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 (502(c)(7)).





## II. 5 Articles Not Produced in the United States on January 1, 1995

Section 503(c)(E) of the Trade Act exempts from the competitive-need limitations set by section 503(c)(1)(A)(i)(II) certain articles if like or directly competitive articles were not produced in the United States on January 1, 1995. The competitive-need limitation set forth in Section 503(c)(1)(A)(i)(II) mandates the termination of duty-free treatment of an article by July 1 of the calendar following the one in which imports of that article by a beneficiary exceed 50 percent of all U.S. imports of the article.

In implementing the Generalized System of Preferences, the Trade Policy Staff Committee (per Presidential determinations) considers the articles in the following HTSUS subheadings as not being produced in the United States on January 1, 1995.

0305.59.20	2208.90.12	3926.20.20	7615.20.00
0406.10.10	2208.90.14	3926.90.70	8446.21.00
0501.00.00	2208.90.15	4206.10.30	8447.20.10
0502.10.00	2208.90.55	4601.20.20	8447.20.60
0505.90.00	2208.90.72	4602.10.11	8448.51.10
0510.00.20	2306.60.00	4602.10.13	8452.10.00
0709.90.10	2401.10.40	4807.91.00	8525.20.15
0710.90.10	2402.20.10	4823.90.50	8527.11.11
0712.90.15	2402.20.90	5301.21.00	8714.93.10
0803.00.40	2504.10.10	5701.10.13	8714.93.60
0807.10.50	2805.22.10	5702.10.10	8714.94.25
0811.90.25	2904.10.04	5702.91.20	8714.94.40
0908.20.20	2907.15.30	5805.00.20	9101.12.80
1207.91.00	2908.20.08	5904.10.00	9101.91.20
1211.90.60	2908.20.15	6304.99.10	9101.91.40
1302.12.00	2912.30.50	6304.99.40	9101.91.80
1401.20.40	2912.50.00	6402.20.00	9101.99.20

1504.30.00	2914.61.00	6502.00.60	9101.99.40
1515.30.20	2918.13.10	6703.00.30	9101.99.60
1515.50.00	2918.13.20	6802.91.30	9101.99.80
1602.50.10	2918.23.10	6812.50.50	9102.12.80
1904.90.00	2922.29.23	7004.10.10	9102.91.20
2001.90.10	2922.30.14	7004.10.50	9102.99.20
2001.90.33	2924.29.04	7004.90.50	9102.99.40
2001.90.42	2924.29.42	7006.00.20	9102.99.60
2001.90.50	2925.20.15	7013.10.10	9102.99.80
2005.90.87	2926.90.17	7016.10.00	9105.99.10
2008.30.54	2933.51.10	7103.10.40	9202.90.20
2008.91.00	3205.00.20	7103.99.50	9405.91.10
2008.99.15	3301.29.10	7104.10.00	9502.10.60
2008.99.63	3301.29.20	7104.90.10	9502.99.10
2008.99.65	3806.20.00	7116.20.20	9617.00.40
2208.20.10	3808.10.10	7215.90.50	

## II. 6 Articles and Countries Granted Waivers of All Competitive-Need Limitations

06031030	Colombia	84022000	Philippines
07149020	Colombia	84073418	Brazil
08029094	Cote d'Ivoire	84073448	Brazil
16024120	Poland	84099130	Brazil
16041610	Morocco	84143040	Brazil
16041630	Morocco	84691200	Indonesia
17011105	Colombia	84713000	Indonesia
17011105	Philippines	84714100	Indonesia
17011110	Colombia	84714926	Thailand
17011110	Philippines	84716035	Thailand
17011120	Colombia	85171100	Philippines
17011120	Philippines	85171940	Thailand
20089915	Philippines	85171980	Thailand
20089928	Colombia	85211060	Indonesia
28369100	Chile	85252028	Philippines
29051120	Venezuela	85272110	Brazil
29091914	Venezuela	85273140	Indonesia
29157000	Philippines	85279085	Philippines
29159010	Philippines	85279095	Philippines
29173700	Romania	85299001	Indonesia
29333925	Brazil	85299029	Indonesia
29334030	Brazil	85443000	Philippines
29350032	Croatia	90328960	Philippines
29350032	Slovenia	94036080	Thailand
29350032	Bosnia and Hercegovina	95066100	Indonesia
29350032	Macedonia	96019020	Philippines
35030055	Colombia	96131000	Philippines
39219011	Colombia		
41043920	Thailand		
41079060	South Africa		
42032120	Indonesia		
44122205	Philippines		
44122250	Philippines		
44122300	Philippines		
44122955	Philippines		
46019140	Philippines		
46021016	Philippines		
46021018	Philippines		
46021080	Philippines		
67029065	Thailand		
69051000	Venezuela		
71131120	Thailand		
71131910	Peru		
71131950	Thailand		
72025000	Zimbabwe		
74130010	Peru		

## II.7 Articles for Which the Identified Beneficiary Country Is Ineligible for GSP Treatment

03037700 Argentina	17011120 Brazil	28046910 Brazil	28255030 India
03042050 Argentina	Guatemala	India	28256000 India
04049010 Argentina	17011205 Brazil	28052210 India	28257000 India
06031070 Colombia	17011210 Brazil		28259010 India
07031020 Chile	17019105 Brazil	28054000 Argentina	28259015 Brazil
07032000 Argentina	17019110 Brazil	India	India
07081020 Guatemala	17019905 Brazil	28062000 India	28259020 India
07089015 India	17019910 Brazil	28100000 India	28259075 India
07091000 Chile	17026022 Argentina	28111910 India	28259090 India
07092010 Peru	17029035 Belize	28111930 India	28261110 India
07108070 Guatemala	17029040 Dominican	28111960 India	28261150 India
07108093 Guatemala	Republic	28112100 India	28261900 India
07114000 India	17031030 Dominican	28112210 India	28262000 India
07139010 Peru	Republic	28112300 India	28269000 India
India	18061065 Brazil	28112950 India	28271000 India
07141010 Costa Rica	18063255 Colombia	28121050 India	28273100 India
07141020 Costa Rica	20041040 Colombia	28129000 India	28273300 India
07142020 Dominican	20079948 Argentina	28131000 India	28273400 India
Republic	20079950 Brazil	28139050 Argentina	28273500 India
08112020 Chile	20083010 Dominican	India	28273600 India
08112040 Chile	Republic	28153000 India	28273800 India
08119010 Costa Rica	20085020 Argentina	28161000 India	28273910 India
08119050 Costa Rica	20089913 Costa Rica	28162000 India	28273920 India
08131000 Turkey	20089923 Dominican	28163000 India	28273925 India
08133000 Argentina	Republic	28181020 India	28273930 India
10059020 Argentina	21069012 Dominican	28191000 India	28273950 India
10059040 Argentina	Republic	28199000 India	28274100 India
10070000 Argentina	22029036 Dominican	28201000 India	28274910 India
11063020 Ecuador	Republic	28209000 India	28274950 India
13019040 Indonesia	24021080 Dominican	28211000 India	28275950 India
14039040 India	Republic	28212000 India	28276020 India
16025020 Argentina	24039120 India	28220000 India	28276050 India
16041450 Thailand	25162200 India	28230000 India	28281000 India
16041610 Argentina	26030000 Chile	28241000 India	28289000 India
16051020 Thailand	Indonesia	28242000 India	28291900 India
16059055 Indonesia	26080000 Peru	28249010 India	28299005 India
17011105 Brazil	28013010 India	28249050 India	28299025 India
India	28041000 India	28251000 India	28299040 India
17011110 Argentina	28042100 India	28252000 India	28299060 India
Brazil	28042900 India	28253000 India	28301000 India
Dominican	28043000 India	28255010 India	28302020 India
Republic	28044000 India	28255020 India	28303000 India

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     Tobago  
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Pakistan			
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Indonesia	Republic	Peru	84293000 Brazil
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 95069100 Pakistan



## **II. 8 Sample Outline for a GSP Petition**

This sample format for a GSP petition is provided

1. To ensure that interested parties meet the information requirements of the GSP regulations for requesting modifications in GSP eligibility for products and countries
2. To serve as a guide for interested parties requesting modifications in the U.S. GSP (Such parties should review the U.S. GSP Regulations in Part II.11 before responding to the information requested below.)

All information requested in this sample petition is required by the current regulations governing the GSP program. Petitions failing to include any of the required information will be rejected, unless the petitioner demonstrated that a good-faith effort was made to obtain the information required. Information that is submitted in confidence should be marked as such with a written explanation on a separate sheet stating the reason the material should be exempt from public inspection.

### **Sample Petition**

#### ***Part I: General Information Required of all Petitioners***

1. Provide the name of the petitioner, and the person, firm, or association represented by the petitioner. Describe briefly how the GSP operation affects the petitioner's interest.
2. Identify the product or products of interest, including a detailed description of the product and the item number in the HTSUS. Where the product or products of interest are included with other products in a basket category of the HTSUS, provide a detailed description of the product or products of interest.
3. Describe the action requested, together with a statement of the reasons for the action, and any supporting information.
4. Indicate whether, to the best of the petitioner's knowledge, the reasons and information in the request have been previously presented to the Trade Policy Staff Committee by the petitioner or any party. If the petitioner knows that the request had been made previously, the petitioner must include the information that indicates the changed circumstances that rebut the previous supporting arguments. (If the request is for a product addition, the previous request must not have been formally accepted for review within the preceding three calendar years.) Information on prior petitions is available from the GSP Information Center.

5. Provide a statement of the benefits the petitioner anticipates if the request is granted.

## ***Part 2: Supporting Information***

The following sections outline the information that must accompany requests:

### **Section I: Request to Withdraw, Limit, or Suspend Eligibility for Designated Articles**

Provide the following information on the relevant U.S. industry for the most recent three calendar years. This information should be submitted for each article that is the subject of a request, both for the party making the request, and, to the extent possible, for the industry to which the request pertains.

1. Number and location of firms
2. Actual production figures
3. Production capacity and capacity utilization
4. Employment figures, including number, type, wage rate, location, and changes in any of these elements
5. Sales figures in terms of quantity, value, and price
6. Quantity and value of exports, and principal export markets
7. Profitability of firms producing a like product, including profit data by product line, if possible
8. Analysis of costs, including materials, labor, and overhead
9. Discussion of the competitive situation of the U.S. domestic industry
10. Identification of competitors, analysis of the effect that the imports receiving GSP duty-free treatment have on competition, and the type of business on whose behalf this request is being made
11. Information relating to the factors listed in sections 501 and 502(c) of Title V of the Trade Act of 1974, as amended, such as identifying tariff and nontariff barriers to sales in foreign markets

12. Other relevant information, including that which may be requested by the GSP Subcommittee

**Section 2: Requests to Designate New Articles or Waive Competitive-Need Limitations**

Provide the following information for the most recent three calendar years for the beneficiary country on whose behalf the request is being made and, to the extent possible, other principal beneficiary country suppliers:

1. Identification of the principal beneficiary country suppliers that are expected to benefit from the proposed modifications
2. Name and location of firms
3. Actual production figures and estimated increase if GSP eligibility is granted
4. Actual production and capacity utilization and estimated increase if GSP eligibility is granted
5. Employment figures (including numbers, type, wage rate, and location) and changes in any of these elements if GSP eligibility is granted
6. Sales figures in terms of quantity, value, and price
7. Information on total exports, including principal markets, the distribution of products, existing tariff preferences in such markets, total quantity, value, and trends in exports
8. Information on quantity, value, and price, and factors affecting the competitiveness of these exports to the United States compared with like or directly competitive products from other beneficiary countries. Include, where possible, information on the development of the industry in beneficiary countries and trends in production and promotional activities
9. Analysis of costs, including materials, labor, and overhead
10. Profitability of firms producing the product
11. Information on unit prices and other considerations such as variations in quality or use that affect price competition
12. A statement on how the requested change would further the economic development of the petitioning country, if a foreign government or a government-controlled entity is the petitioner.



13. An assessment of how the article would qualify under the GSP's 35 percent value-added requirements
14. Other relevant information, including that which the GSP Subcommittee could request.

**II.9 *Federal Register* References for Presidential Documents  
(Executive Orders, Proclamations, and Memorandums Issued  
to USTR on GSP)**

<u>Executive Order</u>	<u>Proclamation</u>	<u><i>Federal Register</i></u>	<u>Date</u>
		40 F.R. 55275	November 26, 1975
1976		41 F.R. 8757	February 27,
1976		41 F.R. 37084	September 1,
1977		42 F.R. 4317	January 24,
1977		42 F.R. 11230A	February 28,
1977		42 F.R. 64851	December 27,
1978		43 F.R. 8099	February 25,
	4561	43 F.R. 70	April 11, 1978
1978		43 F.R. 244	December 19,
1979	4632	44 F.R. 5	January 5,
		44 F.R. 43	March 2, 1979
1979		44 F.R. 72077	December 11,
1979		44 F.R. 72083	December 11,
1980	4713	45 F.R. 3561	January 16,
March 27, 1980	12204: 12222: 2, 1980	5 F.R. 20740 45 F.R. 45233	July
1981		46 F.R. 4669	January 19,
		46 F.R. 19901	April 2, 1981
		46 F.R. 34305	July 1, 1981
		47 F.R. 8749	March 2, 1982
1982		47 F.R. 13477	March 31,
		47 F.R. 30449	July 14, 1982
1982		47 F.R. 47529	October 27,
		48 F.R. 13921	April 1, 1983
	5050	48 F.R. 16639	April 19, 1983
		48 F.R. 43157	September 22,

1983	12459:	49 F.R. 2089	January 18,
1984	12471:	49 F.R. 13101	April 3, 1984
	12483:	49 F.R. 26185	June 27, 1984
	12515:	50 F.R. 20385	May 16, 1985
	12519:	50 F.R. 25037	June 17, 1985
	12524:	50 F.R. 27409	July 3, 1985
		5365	50 F.R. 36220
1985		5423	50 F.R. 52755
1985		5452	51 F.R. 11539
		5453	51 F.R. 11545
		5458	51 F.R. 12681
		5617	52 F.R. 7265
		5646	52 F.R. 16805
		5660	52 F.R. 19259
		5690	52 F.R. 29655
1987		5754	52 F.R. 48959
1987			

	<u>Executive Order</u>	<u>Proclamation</u>	<u>Federal Register</u>	<u>Date</u>
		5758	52 F.R. 49129	December 30,
1987		5779	53 F.R. 9850	March 25,
1988		5787	53 F.R. 11031	April 5, 1988
		5805	53 F.R. 15785	May 4, 1988
		5911	53 F.R. 47413	November 22,
1988		5955	54 F.R. 15357	April 18, 1989
		6058	54 F.R. 46348	November 2,
1989		6087	55 F.R. 700	January 9,
1990		6103	55 F.R. 7685	March 2, 1990
		6123	55 F.R. 18075	May 1, 1990
		6152	55 F.R. 27411	July 3, 1990
		6162	55 F.R. 30189	July 25, 1990
		6244	56 F.R. 4707	February 6,
1991		6245	56 F.R. 4921	February 6,
1991		6282	56 F.R. 19525	April 29, 1991
		6309	56 F.R. 29883	June 28, 1991
		6388	56 F.R. 63863	December 6,

1991	6389	56 F.R. 64467	December 9,
1991	6402	57 F.R. 4833	February 7,
1992	6411	57 F.R. 9041	March 16,
1992	6425	57 F.R. 19067	May 4, 1992
	6446	57 F.R. 26969	June 17, 1992
	6447	57 F.R. 26981	June 17, 1992
<hr/>			
Memorandums to USTR		57 F.R. 27135	June 17, 1992
	6465	57 F.R. 39095	August 27,
1992	6510	57 F.R. 55439	November 25,
1992	6517	57 F.R. 61757	December 28,
1992	6575	58 F.R. 34855	June 29, 1993
	6599	58 F.R. 51561	October 1,
1993	6635	58 F.R. 65279	December 14,
1993	6650	59 F.R. 8115	February 17,
1994	6655	59 F.R. 10725	March 8, 1994
	6676	59 F.R. 19629	April 25, 1994
	6704	59 F.R. 34329	July 1, 1994
	6714	59 F.R. 43023	August 19,
1994	6763	60 F.R. 1007	January 7,
1995	6767	60 F.R. 7427	February 7,
1995	6788	60 F.R. 15455	March 23,
1995	6804	60 F.R. 27657	May 25, 1995
	6813	60 F.R. 39096	July 31, 1995
	6942	61 F.R. 54719	October 21,
1996	6969	62F.R. 4415	January 29,
1996	6988	62 F.R. 19017	April 17, 1997
	7007	62 F.R. 30415	June 3, 1997
	7107	63 F.R. 36531	July 6, 1998

## **II.10 Legislation Authorizing GSP**

### **C. GENERALIZED SYSTEM OF PREFERENCES**

#### **Title V of the Trade Act of 1974, as amended**

[19 U.S.C. 2461 et seq.; P.L. 93-618, as amended by P.L. 94-455, P.L. 96-39, P.L. 98-573, P.L. 99-47, P.L. 99-514, P.L. 99-570, P.L. 100-418, P.L. 101-179, P.L. 101-382, P.L. 103-66, P.L. 103-465, P.L. 104-188, and P.L. 104-295]

#### **SEC. 501. AUTHORITY TO EXTEND PREFERENCES**

The President may provide duty-free treatment for any eligible article from any beneficiary developing country in accordance with the provisions of this title. In taking any such action, the President shall have due regard for—

- (1) the effect such action will have on furthering the economic development of developing countries through the expansion of their exports;
- (2) the extent to which other major developed countries are undertaking a comparable effort to assist developing countries by granting generalized preferences with respect to imports of products of such countries;
- (3) the anticipated impact of such action on United States producers of like or directly competitive products; and
- (4) the extent of the beneficiary developing country's competitiveness with respect to eligible articles.

#### **SEC. 502. DESIGNATION OF BENEFICIARY DEVELOPING COUNTRIES**

##### **(a) Authority To Designate Countries.--**

(1) Beneficiary developing countries.--The President is authorized to designate countries as beneficiary developing countries for purposes of this title.

(2) Least-developed beneficiary developing countries.--The President is authorized to designate any beneficiary developing country as a least-developed beneficiary developing country

for purposes of this title, based on the considerations in section 501 and subsection (c) of this section.

(b) Countries Ineligible for Designation.--

(1) Specific countries.--The following countries may not be designated as beneficiary developing countries for purposes of this title:

- (A) Australia
- (B) Canada
- (C) European Union member states.
- (D) Iceland.
- (E) Japan.
- (F) Monaco.
- (G) New Zealand.
- (H) Norway.
- (I) Switzerland.

(2) Other bases for ineligibility.--The President shall not designate any country a beneficiary developing country under this title if any of the following applies:

(A) Such country is a Communist country, unless--

- (i) the products of such country receive nondiscriminatory treatment,
- (ii) such country is a WTO Member (as such term is defined in section 2(10) of the Uruguay Round Agreements Act) (19 U.S.C. 3501(10)) and a member of the International Monetary Fund, and

(iii) such country is not dominated or controlled by international communism.

(B) Such country is a party to an arrangement of countries and participates in any action pursuant to such arrangement, the effect of which is--

- (i) to withhold supplies of vital commodity resources from international trade or to raise the price of such commodities to an unreasonable level, and
- (ii) to cause serious disruption of the world economy.

(C) Such country affords preferential treatment to the products of a developed country, other than the United States, which has, or is likely to have, a significant adverse effect on United States commerce.

(D)(i) Such country--

(I) has nationalized, expropriated, or otherwise seized ownership or control of property, including patents, trademarks, or copyrights, owned by a United States citizen or by a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens,

(II) has taken steps to repudiate or nullify an existing contract or agreement with a United States citizen or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of property, including patents, trademarks, or copyrights, so owned, or

(III) has imposed or enforced taxes or other exactions, restrictive maintenance or operational conditions, or other measures with respect to property, including patents, trademarks, or copyrights, so owned, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of such property, unless clause (ii) applies.

(ii) This clause applies if the President determines that—

(I) prompt, adequate, and effective compensation has been or is being made to the citizen, corporation, partnership, or association referred to in clause (i),

(II) good faith negotiations to provide prompt, adequate, and effective compensation under the applicable provisions of international law are in progress, or the country described in clause (i) is otherwise taking steps to discharge its obligations under international law with respect to such citizen, corporation, partnership, or association, or

(III) a dispute involving such citizen, corporation, partnership, or association over compensation for such a seizure has been submitted to arbitration under the provisions of the Convention for the Settlement of Investment Disputes, or in another mutually agreed upon forum, and the President promptly furnishes a copy of such determination to the Senate and House of Representatives.

(E) Such country fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of United States citizens or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, which have been made by arbitrators appointed for each case or by permanent arbitral bodies to which the parties involved have submitted their dispute.

(F) Such country aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism or the Secretary of State

makes a determination with respect to such country under section 6(j)(1)(A) of the Export Administration Act of 1979.

(G) Such country has not taken or is not taking steps to afford internationally recognized worker rights to workers in the country (including any designated zone in that country). Subparagraphs (D), (E), (F), and (G) shall not prevent the designation of any country as a beneficiary developing country under this title if the President determines that such designation will be in the national economic interest of the United States and reports such determination to the Congress with the reasons therefor.

(c) Factors Affecting Country Designation.--In determining whether to designate any country as a beneficiary developing country under this title, the President shall take into account--

- (1) an expression by such country of its desire to be so designated;
- (2) the level of economic development of such country, including its per capita gross national product, the living standards of its inhabitants, and any other economic factors which the President deems appropriate;
- (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 the markets and basic commodity resources of such country and the extent to which such country has assured the United States that it will refrain from engaging in unreasonable export practices;
- (5) the extent to which such country is providing adequate and effective protection of intellectual property rights;
- (6) the extent to which such country has taken action to--
  - (A) reduce trade distorting investment practices and policies (including export performance requirements); and
  - (B) reduce or eliminate barriers to trade in services; and
- (7) whether or not such country has taken or is taking steps to afford to workers in that country (including any designated zone in that country) internationally recognized worker rights.

(d) Withdrawal, Suspension, or Limitation of Country Designation.--

(1) In general.--The President may withdraw, suspend, or limit the application of the duty-free treatment accorded under this title with respect to any country. In taking any action under



this subsection, the President shall consider the factors set forth in section 501 and subsection (c) of this section.

(2) Changed circumstances.--The President shall, after complying with the requirements of subsection (f)(2), withdraw or suspend the designation of any country as a beneficiary developing country if, after such designation, the President determines that as the result of changed circumstances such country would be barred from designation as a beneficiary developing country under subsection (b)(2). Such country shall cease to be a beneficiary developing country on the day on which the President issues an Executive order or Presidential proclamation revoking the designation of such country under this title.

(3) Advice to congress.--The President shall, as necessary, advise the Congress on the application of section 501 and subsection (c) of this section, and the actions the President has taken to withdraw, to suspend, or to limit the application of duty-free treatment with respect to any country which has failed to adequately take the actions described in subsection (c).

(e) Mandatory Graduation of Beneficiary Developing Countries.--If the President determines that a beneficiary developing country has become a "high income" country, as defined by the official statistics of the International Bank for Reconstruction and Development, then the President shall terminate the designation of such country as a beneficiary developing country for purposes of this title, effective on January 1 of the second year following the year in which such determination is made.

(f) Congressional Notification.--

(1) Notification of designation.--

(A) In general.--Before the President designates any country as a beneficiary developing country under this title, the President shall notify the Congress of the President's intention to make such designation, together with the considerations entering into such decision.

(B) Designation as least-developed beneficiary developing country.--At least 60 days before the President designates any country as a least-developed beneficiary developing country, the President shall notify the Congress of the President's intention to make such designation.

(2) Notification of termination.--If the President has designated any country as a beneficiary developing country under this title, the President shall not terminate such designation unless, at least 60 days before such termination, the President has notified the Congress and has notified such country of the President's intention to terminate such designation, together with the considerations entering into such decision.

## SEC. 503. DESIGNATION OF ELIGIBLE ARTICLES

### (a) Eligible Articles.--

#### (1) Designation.--

(A) In general.--Except as provided in subsection (b), the President is authorized to designate articles as eligible articles from all beneficiary developing countries for purposes of this title by Executive order or Presidential proclamation after receiving the advice of the International Trade Commission in accordance with subsection (e).

(B) Least-developed beneficiary developing countries.--Except for articles described in subparagraphs (A), (B), and (E) of subsection (b)(1) and articles described in paragraphs (2) and (3) of subsection (b), the President may, in carrying out section 502(d)(1) and subsection (c)(1) of this section, designate articles as eligible articles only for countries designated as least-developed beneficiary developing countries under section 502(a)(2) if, after receiving the advice of the International Trade Commission in accordance with subsection (e) of this section, the President determines that such articles are not import-sensitive in the context of imports from least-developed beneficiary developing countries.

(C) Three-year rule.--If, after receiving the advice of the International Trade Commission under subsection (e), an article has been formally considered for designation as an eligible article under this title and denied such designation, such article may not be reconsidered for such designation for a period of 3 years after such denial.

#### (2) Rule of origin.--

(A) General rule.--The duty-free treatment provided under this title shall apply to any eligible article which is the growth, product, or manufacture of a beneficiary developing country if--

(i) that article is imported directly from a beneficiary developing country into the customs territory of the United States; and

(ii) the sum of--

(I) the cost or value of the materials produced in the beneficiary developing country or any two or more such countries that are members of the same association of countries and are treated as one country under section 507(2), plus (II) the direct costs of processing operations performed in such beneficiary developing country or such member countries, is not less than 35 percent of the appraised value of such article at the time it is entered.

(B) Exclusions.--An article shall not be treated as the growth, product, or manufacture of a beneficiary developing country by virtue of having merely undergone--

(i) simple combining or packaging operations, or

(ii) mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.

(3) Regulations.--The Secretary of the Treasury, after consulting with the United States Trade Representative, shall prescribe such regulations as may be necessary to carry out paragraph (2), including, but not limited to, regulations providing that, in order to be eligible for duty-free treatment under this title, an article--

(A) must be wholly the growth, product, or manufacture of a beneficiary developing country, or

(B) must be a new or different article of commerce which has been grown, produced, or manufactured in the beneficiary developing country.

(b) Articles That May Not Be Designated As Eligible Articles.--

(1) Import sensitive articles.--The President may not designate any article as an eligible article under subsection (a) if such article is within one of the following categories of import-sensitive articles:

(A) Textile and apparel articles which were not eligible articles for purposes of this title on January 1, 1994, as this title was in effect on such date.

(B) Watches, except those watches entered after June 30, 1989, that the President specifically determines, after public notice and comment, will not cause material injury to watch or watch band, strap, or bracelet manufacturing and assembly operations in the United States or the United States insular possessions.

(C) Import-sensitive electronic articles.

(D) Import-sensitive steel articles.

(E) Footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel which were not eligible articles for purposes of this title on January 1, 1995, as this title was in effect on such date.

(F) Import-sensitive semimanufactured and manufactured glass products.

(G) Any other articles which the President determines to be import-sensitive in the context of the Generalized System of Preferences.

(2) Articles against which other actions taken.--An article shall not be an eligible article for purposes of this title for any period during which such article is the subject of any action proclaimed pursuant to section 203 of this Act (19 U.S.C. 2253) or section 232 or 351 of the Trade Expansion Act of 1962 (19 U.S.C. 1862, 1981).

(3) Agricultural products.--No quantity of an agricultural product subject to a tariff-rate quota that exceeds the in-quota quantity shall be eligible for duty-free treatment under this title.

(c) Withdrawal, Suspension, or Limitation of Duty-Free Treatment; Competitive Need Limitation.--

(1) In general.--The President may withdraw, suspend, or limit the application of the duty-free treatment accorded under this title with respect to any article, except that no rate of duty may be established with respect to any article pursuant to this subsection other than the rate which would apply but for this title. In taking any action under this subsection, the President shall consider the factors set forth in sections 501 and 502(c).

(2) Competitive need limitation.--

(A) Basis for withdrawal of duty-free treatment.--

(i) In general.--Except as provided in clause

(ii) and subject to subsection (d), whenever the President determines that a beneficiary developing country has exported (directly or indirectly) to the United States during any calendar year beginning after December 31, 1995--

(I) a quantity of an eligible article having an appraised value in excess of the applicable amount for the calendar year, or

(II) a quantity of an eligible article equal to or exceeding 50 percent of the appraised value of the total imports of that article into the United States during any calendar year, the President shall, not later than July 1 of the next calendar year, terminate the duty-free treatment for that article from that beneficiary developing country.

(ii) Annual adjustment of applicable amount.--For purposes of applying clause (i), the

applicable amount is--

(I) for 1996, \$75,000,000, and

(II) for each calendar year thereafter, an amount equal to the applicable amount in effect for the preceding calendar year plus \$5,000,000.

(B) Country defined.--For purposes of this paragraph, the term "country" does not include an association of countries which is treated as one country under section 507(2), but does include a country which is a member of any such association.

(C) Redesignations.--A country which is no longer treated as a beneficiary developing country with respect to an eligible article by reason of subparagraph (A) may, subject to the considerations set forth in sections 501 and 502, be redesignated a beneficiary developing country with respect to such article if imports of such article from such country did not exceed the limitations in subparagraph (A) during the preceding calendar year.

(D) Least-developed beneficiary developing countries.--Subparagraph (A) shall not apply to any least-developed beneficiary developing country.

(E) Articles not produced in the United States excluded.--Subparagraph (A)(i)(II) shall not apply with respect to any eligible article if a like or directly competitive article was not produced in the United States on January 1, 1995.

(F) De minimis waivers.--

(i) In general.--The President may disregard subparagraph (A)(i)(II) with respect to any eligible article from any beneficiary developing country if the aggregate appraised value of the imports of such article into the United States during the preceding calendar year does not exceed the applicable amount for such preceding calendar year.

(ii) Applicable amount.--For purposes of applying clause (i), the applicable amount is--

(I) for calendar year 1996, \$13,000,000, and

(II) for each calendar year thereafter, an amount equal to the applicable amount in effect for the preceding calendar year plus \$500,000.

(d) Waiver of Competitive Need Limitation.--

(1) In general.--The President may waive the application of subsection (c)(2) with respect to any eligible article of any beneficiary developing country if, before July 1 of the calendar year

beginning after the calendar year for which a determination described in subsection (c)(2)(A) was made with respect to such eligible article, the President--

(A) receives the advice of the International Trade Commission under section 332 of the Tariff Act of 1930 on whether any industry in the United States is likely to be adversely affected by such waiver,

(B) determines, based on the considerations described in sections 501 and 502(c) and the advice described in subparagraph (A), that such waiver is in the national economic interest of the United States, and

(C) publishes the determination described in subparagraph (B) in the *Federal Register*.

(2) Considerations by the president.--In making any determination under paragraph (1), the President shall give great weight to--

(A) the extent to which the beneficiary developing country has assured the United States that such country will provide equitable and reasonable access to the markets and basic commodity resources of such country, and

(B) the extent to which such country provides adequate and effective protection of intellectual property rights.

(3) Other bases for waiver.--The President may waive the application of subsection (c)(2) if, before July 1 of the calendar year beginning after the calendar year for which a determination described in subsection (c)(2) was made with respect to a beneficiary developing country, the President determines that--

(A) there has been a historical preferential trade relationship between the United States and such country,

(B) there is a treaty or trade agreement in force covering economic relations between such country and the United States, and

(C) such country does not discriminate against, or impose unjustifiable or unreasonable barriers to, United States commerce, and the President publishes that determination in the *Federal Register*.

(4) Limitations on waivers.--

(A) In general.--The President may not exercise the waiver authority under this subsection

with respect to a quantity of an eligible article entered during any calendar year beginning after 1995, the aggregate appraised value of which equals or exceeds 30 percent of the aggregate appraised value of all articles that entered duty-free under this title during the preceding calendar year.

(B) Other waiver limits.--The President may not exercise the waiver authority provided under this subsection with respect to a quantity of an eligible article entered during any calendar year beginning after 1995, the aggregate appraised value of which exceeds 15 percent of the aggregate appraised value of all articles that have entered duty-free under this title during the preceding calendar year from those beneficiary developing countries which for the preceding calendar year--

(i) had a per capita gross national product (calculated on the basis of the best available information, including that of the International Bank for Reconstruction and Development) of \$5,000 or more; or

(ii) had exported (either directly or indirectly) to the United States a quantity of articles that was duty-free under this title that had an aggregate appraised value of more than 10 percent of the aggregate appraised value of all articles that entered duty-free under this title during that year.

(C) Calculation of limitations.--There shall be counted against the limitations imposed under subparagraphs (A) and (B) for any calendar year only that value of any eligible article of any country that--

(i) entered duty-free under this title during such calendar year; and

(ii) is in excess of the value of that article that would have been so entered during such calendar year if the limitations under subsection (c)(2)(A) applied.

(5) Effective period of waiver.--Any waiver granted under this subsection shall remain in effect until the President determines that such waiver is no longer warranted due to changed circumstances.

(e) International Trade Commission Advice.--Before designating articles as eligible articles under subsection (a)(1), the President shall publish and furnish the International Trade Commission with lists of articles which may be considered for designation as eligible articles for purposes of this title. The provisions of sections 131, 132, 133, and 134 shall be complied with as though action under section 501 and this section were action under section 123 to carry out a trade agreement entered into under section 123.

(f) Special Rule Concerning Puerto Rico.--No action under this title may affect any tariff duty imposed by the Legislature of Puerto Rico pursuant to section 319 of the Tariff Act of 1930 on coffee imported into Puerto Rico.(19 U.S.C. 2463)

#### **SEC. 504. REVIEW AND REPORT TO CONGRESS**

The President shall submit an annual report to the Congress on the status of internationally recognized worker rights within each beneficiary developing country.

#### **SEC. 505. DATE OF TERMINATION**

No duty-free treatment provided under this title shall remain in effect after May 31, 1997.

#### **SEC. 506. AGRICULTURAL EXPORTS OF BENEFICIARY DEVELOPING COUNTRIES**

The appropriate agencies of the United States shall assist beneficiary developing countries to develop and implement measures designed to assure that the agricultural sectors of their economies are not directed to export markets to the detriment of the production of foodstuffs for their citizenry.

#### **SEC. 507. DEFINITIONS**

For purposes of this title:

(1) Beneficiary developing country.--The term "beneficiary developing country" means any country with respect to which there is in effect an Executive order or Presidential proclamation by the President designating such country as a beneficiary developing country for purposes of this title.

(2) Country.--The term "country" means any foreign country or territory, including any overseas dependent territory or possession of a foreign country, or the Trust Territory of the Pacific Islands. In the case of an association of countries which is a free trade area or customs union, or which is contributing to comprehensive regional economic integration among its members through appropriate means, including, but not limited to, the reduction of duties, the President may by Executive order or Presidential proclamation provide that all members of such association other than members which are barred from designation under section 502(b) shall be treated as one country for purposes of this title.

(3) Entered.--The term "entered" means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.



(4) Internationally recognized worker rights.--The term “internationally recognized worker rights” includes–

- (A) the right of association;
- (B) the right to organize and bargain collectively;
- (C) a prohibition on the use of any form of forced or compulsory labor;
- (D) a minimum age for the employment of children; and
- (E) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

(5) Least-developed beneficiary developing country.-- The term “least-developed beneficiary developing country” means a beneficiary developing country that is designated as a least-developed beneficiary developing country under section 502(a)(2).

**II.11 Regulations of the U.S. Trade Representative Pertaining to  
Eligibility of Articles and Countries for the GSP Program (15 CFR  
Part 2007)**

**TITLE 15--COMMERCE AND FOREIGN TRADE  
(Code of Federal Regulations as of February 11, 1986)**

**CHAPTER XX--OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE**

**PART 2007--REGULATIONS OF THE U.S. TRADE REPRESENTATIVE  
PERTAINING TO ELIGIBILITY OF ARTICLES AND COUNTRIES  
FOR THE GENERALIZED SYSTEM OF PREFERENCE PROGRAM**

**Sec. 2007.0 Requests for reviews.**

(a) An interested party may submit a request (1) that additional articles be designated as eligible for GSP duty-free treatment, provided that the article has not been accepted for review within the three preceding calendar years; or (2) that the duty-free treatment accorded to eligible articles under the GSP be withdrawn, suspended or limited; or (3) for a determination of whether a like or directly competitive product was produced in the United States on January 3, 1985 for the purposes of section 504(d)(1) (19 U.S. 2464(d)(1)); or (4) that the President exercise his waiver authority with respect to a specific article or articles pursuant to section 504(c)(3) (19 U.S.C. 2464(c)(3)); or (5) that product coverage be otherwise modified.

(b) During the annual reviews and general reviews conducted pursuant to the schedule set out in Sec. 2007.3 any person may file a request to have the GSP status of any eligible beneficiary developing country reviewed with respect to any of the designation criteria listed in section 502(b) or 502(c) (19 U.S.C. 2642 (b) and (c)). Such requests must (1) specify the name of the person or the group requesting the review; (2) identify the beneficiary country that would be subject to the review; (3) indicate the specific section 502(b) or 502(c) criteria which the requestor believes warrants review; (4) provide a statement of reasons why the beneficiary country's status should be reviewed along with all available supporting information; (5) supply any other relevant information as requested by the GSP Subcommittee. If the subject matter of the request has been reviewed pursuant to a previous request, the request must include substantial new information warranting further consideration of the issue.

(c) An interested party or any other person may make submissions supporting, opposing or otherwise commenting on a request submitted pursuant to either paragraph (a) or (b) of this section.

(d) For the purposes of the regulations set out under Sec. 2007.0 et seq., an interested party is defined as a party who has significant economic interest in the subject matter of the request, or any other party representing a significant economic interest that would be materially affected by the action requested, such as a domestic producer of a like or directly competitive article, a commercial importer or retailer of an article which is eligible for the GSP or for which such eligibility is requested, or a foreign government.

(e) All requests and other submissions should be submitted in 20 copies, and should be addressed to the Chairman, GSP Subcommittee, Trade Policy Staff Committee, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508. Requests by foreign governments may be made in the form of diplomatic correspondence provided that such requests comply with the requirements of Sec. 2007.1.

(f) The Trade Policy Staff Committee (TPSC) may at any time, on its own motion, initiate any of the actions described in paragraph (a) or (b) of this section.

**Sec. 2007.1 Information required of interested parties in submitting requests for modifications in the last of eligible articles.**

(a) General Information Required. A request submitted pursuant to this part, hereinafter also referred to as a petition, except requests submitted pursuant to Sec. 2007.0(b), shall state clearly on the first page that it is a request for action with respect to the provision of duty-free treatment for an article or articles under the GSP, and must contain all information listed in this paragraph and in paragraphs (b) and (c). Petitions which do not contain the information required by this paragraph shall not be accepted for review except upon a showing that the petitioner made a good faith effort to obtain the information required. Petitions shall contain, in addition to any other information specifically requested, the following information:

(1) The name of the petitioner, the person, firm or association represented by the petitioner, and a brief description of the interest of the petitioner claiming to be affected by the operation of the GSP;

(2) An identification of the product or products of interest to the petitioner, including a detailed description of products and their uses and the identification of the pertinent item number of the Tariff Schedules of the United States (TSUS). Where the product or products of interest are included with other products in a basket category of the TSUS, provide a detailed description of the product or products of interest;

(3) A description of the action requested, together with a statement of the reasons therefor and any supporting information;

(4) A statement of whether to the best of the Petitioner's knowledge, the reasoning and information has been presented to the TPSC previously either by the petitioner or another party. If the Petitioner has knowledge the request has been made previously, it must include either new information which indicates changed circumstances or a rebuttal of the factors supporting the denial of the previous request. If it is a request for a product addition, the previous request must not have been formally accepted for review within the preceding three calendar year period; and

(5) A statement of the benefits anticipated by the petitioner if the request is granted, along with supporting facts or arguments.

(b) *Requests to withdraw, limit or suspend eligibility with respect to designated articles.* Petitions requesting withdrawal or limitation of duty-free treatment accorded under GSP to an eligible article or articles must include the following information with respect to the relevant United States industry for the most recent three year period:

(1) The names, number and locations of the firms producing a like or directly competitive product;

(2) Actual production figures;

(3) Production capacity and capacity utilization;

(4) Employment figures, including number, type, wage rate, location, and changes in any of these elements;

(5) Sales figures in terms of quantity, value and price;

(6) Quantity and value of exports, as well as principal export markets;

(7) Profitability of firm on firms producing the like product, if possible show profit data by product line;

(8) Analysis of cost including materials, labor and overhead;

(9) A discussion of the competitive situation of the domestic industry;

(10) Identification of competitors; analysis of the effect imports receiving duty-free treatment under the GSP have on competition and the business of the interest on whose behalf the request is made;

(11) Any relevant information relating to the factors listed in section 501 and 502(c) of Title V of the Trade Act of 1974, as amended (19 U.S.C. 2501, 502(c)) such as identification of tariff and non-tariff barriers to sales in foreign markets;

(12) Any other relevant information including any additional information that may be requested by the GSP Subcommittee.

This information should be submitted with the request for each article that is the subject of the request, both for the party making the request, and to the extent possible, for the industry to which the request pertains.

(c) *Requests to designate new articles.* Information to be provided in petitions requesting the designation of new articles submitted by interested parties must include for the most recent three year period the following information for the beneficiary country on whose behalf the request is being made and, to the extent possible, other principal beneficiary country suppliers:

(1) Identification of the principal beneficiary country suppliers expected to benefit from proposed modification;

(2) Name and location of firms;

(3) Actual production figures (and estimated increase in GSP status is granted);

(4) Actual production and capacity utilization (and estimated increase if GSP status is granted);

(5) Employment figures, including numbers, type, wage rate, location and changes in any of these elements if GSP treatment is granted;

(6) Sales figures in terms of quantity, value and prices;

(7) Information on total exports including principal markets, the distribution of products, existing tariff preferences in such markets, total quantity, value and trends in exports;

(8) Information on exports to the United States in terms of quantity, value and price, as well as considerations which affect the competitiveness of these exports relative to exports to the United States by other beneficiary countries of a like or directly competitive product. Where possible, petitioners should provide information on the development of the industry in beneficiary countries and trends in their production and promotional activities;

(9) Analysis of cost including materials, labor and overhead;

(10) Profitability of firms producing the product;

(11) Information on unit prices and a statement of other considerations such as variations in quality or use that affect price competition;

(12) If the petition is submitted by a foreign government or a government controlled entity, it should include a statement of the manner in which the requested action would further the economic development of the country submitting the petition;

(13) If appropriate, an assessment of how the article would qualify under the GSP's 35 percent value-added requirements; and

(14) Any other relevant information, including any information that may be requested by the GSP Subcommittee. Submissions made by persons in support of or opposition to a request made under this part should conform to the requirements for requests contained in Sec. 2007.1(a) (3) and (4), and should supply such other relevant information as is available.

**Sec. 2007.2 Action following receipt of requests for modifications in the list of eligible articles and for reviews of the GSP status of eligible beneficiary countries with respect to designation criteria.**

I.7 (1) If a request submitted pursuant to Sec. 2007.0(a) does not conform to the requirements set forth above, or if it is clear from available information that the request does not warrant further consideration, the request shall not be accepted for review. Upon written request, requests which are not accepted for review will be returned together with a written statement of the reasons why the request was not accepted.

(2) If a request submitted pursuant to Sec. 2007.0(b) does not conform to the requirements set forth above, or if the request does not provide sufficient information relevant to subsection 502(b) or 502(c) (19 U.S.C. 2642 (b) and (c)) to warrant review, or if it is clear from available information that the request does not fall within the criteria of subsection 502(b) or 502(c), the request shall not be accepted for review. Upon written request, requests which are not accepted for review will be returned together with a written statement of the reasons why the request was not accepted.

(b) Requests which conform to the requirements set forth above or for which petitioners

have demonstrated a good faith effort to obtain information in order to meet the requirements set forth above, and for which further consideration is deemed warranted, shall be accepted for review.

(c) The TPSC shall announce in the *Federal Register* those requests which will be considered for full examination in the annual review and the deadlines for submissions made pursuant to the review, including the deadlines for submission of comments on the U.S. International Trade Commission (USITC) report in instances in which USITC advice is requested.

(d) In conducting annual reviews, the TPSC shall hold public hearings in order to provide the opportunity for public testimony on petitions and requests filed pursuant to paragraphs (a) and (b) of Sec. 2007.0.

(e) As appropriate, the USTR on behalf of the President will request advice from the USITC.

(f) The GSP Subcommittee of the TPSC shall conduct the first level of interagency consideration under this part, and shall submit the results of its review to the TPSC.

(g) The TPSC shall review the work of the GSP Subcommittee and shall conduct, as necessary, further reviews of requests submitted and accepted under this part. Unless subject to additional review, the TPSC shall prepare recommendations for the President on any modifications to the GSP under this part. The Chairman of the TPSC shall report the results of the TPSC's review to the U.S. Trade Representative who may convene the Trade Policy Review Group (TPRG) or the Trade Policy Committee (TPC) for further review of recommendations and other decisions as necessary. The U.S. Trade Representative, after receiving the advice of the TPSC, TPRG or TPC, shall make recommendations to the President on any modifications to the GSP under this part, including recommendations that no modifications be made.

(h) In considering whether to recommend: (1) That additional articles be designated as eligible for the GSP; (2) that the duty-free treatment accorded to eligible articles under the GSP be withdrawn, suspended or limited; (3) that product coverage be otherwise modified; or (4) that changes be made with respect to the GSP status of eligible beneficiary countries, the GSP Subcommittee on behalf of the TPSC, TPRG, or TPC shall review the relevant information submitted in connection with or concerning a request under this part together with any other information which may be available relevant to the statutory prerequisites for Presidential action contained in Title V of the Trade Act of 1974, as amended (19 U.S.C. 2461-2465).

### **Sec. 2007.3 Timetable for reviews.**

(a) Annual review. Beginning in calendar year 1986, reviews of pending requests shall be

conducted at least once each year, according to the following schedule, unless otherwise specified by *Federal Register* notice:

- (1) June 1, deadline for acceptance of petitions for review;
- (2) July 15, *Federal Register* announcement of petitions accepted for review;
- (3) September/October--public hearings and submission of written briefs and rebuttal materials;
- (4) December/January--opportunity for public comment on USITC public reports;
- (5) Results announced on April 1 will be implemented on July 1, the statutory effective date of modifications to the program. If the date specified is on or immediately follows a weekend or holiday, the effective date will be on the second working day following such weekend or holiday.

(b) Requests filed pursuant to paragraph (a) or (b) of Sec. 2007.0 which indicate the existence of unusual circumstances warranting an immediate review may be considered separately. Requests for such urgent consideration should contain a statement of reasons indicating why an expedited review is warranted.

(c) General Review. Section 504(c)(2) of Title V of the Trade Act of 1974 (19 U.S.C. 2464(c)(2)) requires that, not later than January 4, 1987 and periodically thereafter, the President conduct a general review of eligible articles based on the considerations in sections 501 and 502(c) of Title V. The initiation and scheduling of such reviews as well as the timetable for submission of comments and statements will be announced in the *Federal Register*. The first general review was initiated on February 14, 1985, and will be completed by January 3, 1987.

The initiation of the review and deadlines for submission of comments and statements were announced in the *Federal Register* on February 14, 1985 (50 FR 6294).

#### **Sec. 2007.4 Publication regarding requests.**

(a) Whenever a request is received which conforms to these regulations or which is accepted pursuant to Sec. 2007.2 a statement of the fact that the request has been received, the subject matter of the request (including if appropriate, the TSUS item number or numbers and description of the article or articles covered by the request), and a request for public comment on the petitions received shall be published in the *Federal Register*.

(b) Upon the completion of a review and publication of any Presidential action modifying the



GSP, a summary of the decisions made will be published in the *Federal Register* including:

- (1) A list of actions taken in response to requests; and
- (2) A list of requests which are pending.

(c) Whenever, following a review, there is to be no change in the status of an article with respect to the GSP in response to a request filed under Sec. 2007.0(a), the party submitting a request with respect to such articles may request an explanation of factors considered.

(d) Whenever, following a review, there is to be no change in the status of a beneficiary country with respect to the GSP in response to a request filed under Sec. 2007.0(b), the GSP Subcommittee will notify the party submitting the request in writing of the reasons why the requested action was not taken.

**Sec. 2007.5 Written briefs and oral testimony.**

Sections 2003.2 and 2003.4 of this chapter shall be applicable to the submission of any written briefs or requests to present oral testimony in connection with a review under this part. For the purposes of this section, the term “interested party” as used in Secs. 2003.2 and 2003.4 shall be interpreted as including parties submitting petitions and requests pursuant to Sec. 2007.0(a) or (b) as well as any other person wishing to file written briefs or present oral testimony.

**Sec. 2007.6 Information open to public inspection.**

With exception of information subject to Sec. 2007.7 any person may, upon request inspect at the Office of the United States Trade Representative:

- (a) Any written request, brief, or similar submission of information made pursuant to this part; and
- (b) Any stenographic record of any public hearings which may be held pursuant to this part

**Sec. 2007.7 Information exempt from public inspection.**

(a) Information submitted in confidence shall be exempt from public inspection if it is determined that the disclosure of such information is not required by law.

(b) A party requesting an exemption from public inspection for information submitted in writing shall clearly mark each page “Submitted in Confidence” at the top, and shall submit a nonconfidential summary of the confidential information. Such person shall also provide a written

explanation of why the material should be so protected.

(c) A request for exemption of any particular information may be denied if it is determined that such information is not entitled to exemption under law. In the event of such a denial, the information will be returned to the person who submitted it, with a statement of the reasons for the denial.

**Sec. 2007.8 Other reviews of article eligibilities.**

(a) As soon after the beginning of each calendar year as relevant trade data for the preceding year are available, modifications of the GSP in accordance with section 504(c) of the Trade Act of 1974 as amended (19 U.S.C. 2464) will be considered.

(b) General Review. Section 504(c)(2) of Title V of the Trade Act of 1974 as amended (19 U.S.C. 2464(c)(2)) requires that not later than January 4, 1987, and periodically thereafter, the President conduct a general review of eligible articles based on the considerations in sections 501 and 502 of Title V. The purpose of these reviews is to determine which articles from which beneficiary countries are “sufficiently competitive” to warrant a reduced competitive need limit. Those articles determined to be “sufficiently competitive” will be subject to a new lower competitive need limit set at 25 percent of the value of total U.S imports of the article, or \$25 million (this figure will be adjusted annually in accordance with nominal changes in U.S. gross national product (GNP), using 1984 as the base year). All other articles will continue to be subject to the original competitive need limits of 50 percent or \$25 million (this figure is adjusted annually using 1974 as the base year).

(1) Scope of General Reviews. In addition to an examination the competitiveness of specific articles from particular beneficiary countries, the general review will also include consideration of requests for competitive need limit waivers pursuant to section 504(c)(3)(A) of Title V of the Trade Act of 1974 as amended (19 U.S.C. 2464(c)) and requests for a determination of no domestic production under section 504(d)(1) of Title V of the Trade Act of 1974 as amended (19 U.S.C. 2464(d)(1)).

(2) Factors To Be Considered. In determining whether a beneficiary country should be subjected to the lower competitive need limits with respect to a particular article, the President shall consider the following factors contained in sections 501 and 502(c) of Title V:

- (i) The effect such action will have on furthering the economic development of developing countries through expansion of their exports;
- (ii) The extent to which other major developed countries are undertaking a

comparable effort to assist developing countries by granting generalized preferences with respect to imports of products of such countries;

(iii) The anticipated impact of such action on the United States producers of like or directly competitive products;

(iv) The extent of the beneficiary developing country's competitiveness with respect to eligible articles;

(v) The level of economic development of such country, including its per capita GNP, the living standard of its inhabitants and any other economic factors the President deems appropriate;

(vi) Whether or not the other major developed countries are extending generalized preferential tariff treatment to such country;

(vii) The extent to which such country has assured the United States it will provide equitable and reasonable access to the markets and basic commodity resources of such country and the extent to which such country has assured the United States that it will refrain from engaging in unreasonable export practices;

(viii) The extent to which such country is providing adequate and effective means under its laws for foreign nationals to secure, to exercise and to enforce exclusive rights in intellectual property, including patents, trademarks and copyrights;

(ix) The extent to which such country has taken action to--

(A) Reduce trade distorting investment practices and policies (including export performance requirements); and

(B) Reduce or eliminate barriers to trade in services; and

(x) Whether or not such country has taken or is taking steps to afford workers in that country (including any designated zone in that country) internationally recognized worker rights.