

guarantee equal opportunity for all individuals with disabilities, regardless of the nature or severity of the disability; and to empower individuals with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

**ACCOMMODATIONS:** Those needing reasonable accommodations should notify NCD immediately.

Dated: February 26, 2009.

**Michael C. Collins,**

*Executive Director.*

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## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

### Generalized System of Preferences (GSP): Import Statistics Relating to Competitive Need Limitations (CNLS); Invitation for Public Comment on CNL Waivers Subject to Potential Revocation Based on New Statutory Thresholds, Possible *de minimis* Waivers, and Product Redesignations for the 2008 Annual Review

**AGENCY:** Office of the United States Trade Representative (USTR).

**ACTION:** Notice and Request for Comments.

**SUMMARY:** This notice announces the availability of full 2008 calendar year import statistics relating to competitive need limitations (CNLS) under the Generalized System of Preferences (GSP) program. The Office of the United States Trade Representative (USTR) will accept public comments submitted by 5 p.m., Monday, March 23, 2009, via <http://www.regulations.gov> regarding three issues: (1) Potential revocation of CNL waivers that meet the statutory thresholds set forth by section 503(d)(4)(B)(ii) of the Trade Act of 1974 (19 U.S.C. 2463(d)(4)(B)(ii)), as amended by Public Law 109-432; (2) possible *de minimis* CNL waivers; and (3) possible redesignations of articles currently not eligible for GSP benefits because they previously exceeded the CNL thresholds.

**FOR FURTHER INFORMATION CONTACT:** Tameka Cooper, GSP Program, Office of the United States Trade Representative, 1724 F Street, NW., Room F-601, Washington, DC 20508. The telephone number is (202) 395-6971, the fax number is (202) 395-2961, and the e-mail address is [Tameka\\_Cooper@ustr.eop.gov](mailto:Tameka_Cooper@ustr.eop.gov).

**SUPPLEMENTARY INFORMATION:**

### I. Competitive Need Limitations

The GSP program provides for the duty-free importation of designated articles when imported from designated beneficiary developing countries (BDCs). The GSP program is authorized by title V of the Trade Act of 1974 (19 U.S.C. 2461, *et seq.*), as amended (the "1974 Act"), and is implemented in accordance with Executive Order 11888 of November 24, 1975, as modified by subsequent Executive Orders and Presidential Proclamations.

Section 503(c)(2)(A) of the 1974 Act sets out the two CNLS. When the President determines that a BDC exported to the United States during a calendar year either (1) a quantity of a GSP-eligible article having a value in excess of the applicable amount for that year (\$135 million for 2008), or (2) a quantity of a GSP-eligible article having a value equal to or greater than 50 percent of the value of total U.S. imports of the article from all countries (the "50 percent CNL"), the President must terminate GSP duty-free treatment for that article from that BDC by no later than July 1 of the next calendar year.

*De minimis waivers.* Under section 503(c)(2)(F) of the 1974 Act, the President may waive the 50 percent CNL with respect to an eligible article imported from a BDC if the value of total imports of that article from all countries during the calendar year did not exceed the applicable *de minimis* amount for that year (\$19 million for 2008).

*Redesignations.* Under section 503(c)(2)(C) of the 1974 Act, if imports of an eligible article from a BDC ceased to receive duty-free treatment due to exceeding a CNL in a prior year, the President may, subject to the considerations in sections 501 and 502 of the 1974 Act, redesignate such an article for duty-free treatment if imports in the most recently completed calendar year did not exceed the CNLS.

*CNL waiver revocation.* Under Section 503(d)(5) of the 1974 Act, a CNL waiver remains in effect until the President determines that it is no longer warranted due to changed circumstances. Section 503(d)(4)(B)(ii) of the 1974 Act, as amended by Public Law 109-432, also provides that, "[n]ot later than July 1 of each year, the President should revoke any waiver that has then been in effect with respect to an article for 5 years or more if the beneficiary developing country has exported to the United States (directly or indirectly) during the preceding calendar year a quantity of the article—(I) having an appraised value in excess of 1.5 times the applicable amount set

forth in subsection (c)(2)(A)(ii) for that calendar year [\$202.5 million in 2008]; or (II) exceeding 75 percent of the appraised value of the total imports of that article into the United States during that calendar year."

### II. Implementation of Competitive Need Limitations, Waivers, and Redesignations

Exclusions from GSP duty-free treatment where CNLS have been exceeded will be effective July 1, 2009, unless granted a waiver by the President. Any CNL-based exclusions, CNL waiver revocations, and decisions with respect to *de minimis* waivers and redesignations will be based on full 2008 calendar year import data.

### III. 2008 Import Statistics

In order to provide notice of articles that have exceeded the CNLS for 2008 and to afford an opportunity for comment regarding (1) The potential revocation of waivers subject to the CNL waiver thresholds for 2008, (2) potential *de minimis* waivers, and (3) redesignations, the lists of the articles are available as supporting material within Docket USTR-2009-0008, or at: [http://www.ustr.gov/Trade\\_Development/Preference\\_Programs/GSP/GSP\\_2008\\_Annual\\_Review/Section\\_Index.html](http://www.ustr.gov/Trade_Development/Preference_Programs/GSP/GSP_2008_Annual_Review/Section_Index.html), under "2008 GSP Review, Full-Year 2008 Import Statistics Relating to Competitive Need Limitations (CNLS)." Full 2008 calendar year data for individual tariff subheadings may also be viewed on the Web site of the U.S. International Trade Commission at <http://dataweb.usitc.gov/>.

The lists available on the USTR Web site contain, for each article, the Harmonized Tariff Schedule of the United States (HTSUS) subheading and BDC country of origin, the value of imports of the article for the 2008 calendar year, and the percentage of total imports of that article from all countries. The annotations on the lists indicate, among other things, the status of GSP eligibility.

The computer-generated lists published on the USTR Web site are for informational purposes only. They may not include all articles to which the GSP CNLS may apply. All determinations and decisions regarding the CNLS of the GSP program will be based on full 2008 calendar year import data with respect to each GSP-eligible article. Each interested party is advised to conduct its own review of 2008 import data with respect to the possible application of the GSP CNL provisions.

List I on the USTR Web site shows: (a) Articles from BDCs that became ineligible for GSP treatment on or before July 1, 2008; and (b) GSP-eligible articles from BDCs that exceeded a CNL by having been exported in excess of \$135 million, or by an amount greater than 50 percent of the total U.S. import value in 2008. Petitions to grant CNL waivers for those articles that received GSP benefits during 2008 but stand to lose GSP duty-free treatment on July 1, 2009, must have been previously submitted in the 2008 GSP Annual Review.

List II identifies GSP-eligible articles from BDCs that are above the 50 percent CNL, but that are eligible for a *de minimis* waiver of the 50 percent CNL. Articles eligible for *de minimis* waivers are automatically considered in the GSP annual review process, without petitions, and public comments are invited.

List III shows GSP-eligible articles from certain BDCs that are currently not receiving GSP duty-free treatment, but that may be considered for GSP redesignation based on 2008 trade data and consideration of certain statutory factors, as set forth above. Recommendations to the President on redesignations are normally made as part of the GSP annual review process, and public comments are invited.

List IV shows articles subject to the new CNL waiver thresholds of section 503(d)(4)(B)(ii) of the 1974 Act, as amended by Public Law 109-432. Recommendations to the President on revocation of these waivers will be made as part of the 2008 GSP annual review process, and public comments are invited.

#### IV. Public Comments

##### *Requirements for Submissions*

To ensure the most timely and expeditious receipt and consideration of comments, comments provided in response to this notice, with the exception of business confidential submissions, must be submitted on <http://www.regulations.gov> to docket number USTR-2009-0008. Submissions provided in response to this notice must be submitted in English by Monday, March 23, 2009. Hand-delivered and faxed submissions will not be accepted.

For additional information on using the <http://www.regulations.gov> Web site or for any technical assistance relating to a submission, please consult the resources provided on the Web site by clicking on "How to Use This Site" on

the left side of the home page. Each submitter will receive a submission tracking number upon completion of the submissions procedure at <http://www.regulations.gov>. The tracking number will be the submitter's confirmation that the submission was received into <http://www.regulations.gov>. The confirmation should be kept for the submitter's records. USTR is not responsible for any delays in a submission due to technical difficulties, nor is it able to provide any technical assistance for the Web site.

To make a submission using <http://www.regulations.gov>, enter docket number USTR-2009-0008 on the home page and click "go." The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting "Notice" under "Document Type" on the left side of the search-results page, and click on the link entitled "Send a Comment or Submission." The <http://www.regulations.gov> Web site offers the option of providing comments by filling in a "General Comments" field or by attaching a document. Given the detailed nature of the information sought by the GSP Subcommittee, it is expected that most submissions will be provided in an attached document.

All submissions must conform to the GSP regulations set forth at 15 CFR part 2007, except as modified below. Furthermore, each party providing comments should indicate in the General Comments box in the Public Comment or Submission section of the Web site: (1) The type of action in which the party is interested (i.e., *de minimis* waiver, redesignation, or CNL waiver revocation); (2) the relevant 8-digit HTSUS subheading(s) and name of product; (3) the country of interest; (4) the name of the party or parties providing comments; (5) whether the party supports or opposes the action; and (6) if the document is the public version of a business confidential version of the submission.

Comments must not exceed 20 single-spaced standard letter-size pages, including attachments. Any data attachments to the submission should be included in the same file as the submission itself, and not as separate files.

#### V. Business Confidential Comments

All business confidential documents must be submitted via email to [FR0807@ustr.eop.gov](mailto:FR0807@ustr.eop.gov). Business confidential submissions will not be

accepted at <http://www.regulations.gov>; however, public or non-confidential submissions that accompany business confidential submissions should be submitted at <http://www.regulations.gov>. For any document containing business confidential information submitted as an electronic attached file to an email transmission, the file name of the business confidential version should begin with the characters "BC-". The "BC-" should be followed by the relevant 8-digit HTSUS subheading(s), the country of interest, and the name of the party (government, company, union, association, etc.) that is submitting the comments.

Persons wishing to submit business confidential submissions must also follow each of these steps: (1) Provide a written explanation of why the information should be protected in accordance with 15 CFR 2007.7(b), which must be submitted along with the business confidential version of the submission; (2) clearly mark the business confidential submission "BUSINESS CONFIDENTIAL" at the top and bottom of each page of the submission; (3) indicate using brackets what information in the document is confidential; and (4) submit a non-confidential version of the submission, marked "Public" at the top and bottom of each page, that also indicates, using asterisks, where business confidential information was redacted or deleted from the applicable sentences to <http://www.regulations.gov>. Business confidential submissions that are submitted without the required markings or are not accompanied by a properly marked non-confidential version, as set forth above, might not be accepted or may be considered public documents. The non-confidential summary will be placed in the docket and open to public inspection.

Public versions of all documents relating to this review will be available for public viewing on <http://www.regulations.gov>, docket number USTR-2009-0008, upon completion of processing and no later than approximately two weeks after the due date.

#### Marideth J. Sandler,

*Executive Director, Generalized System of Preferences (GSP) Program, and Chair, GSP Subcommittee, Office of the U.S. Trade Representative.*

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