Comments Regarding Administration's Reviews and Report to the President on Trade Agreement Violations and Abuses
Docket No. USTR-2017-0010

Submitted by Coalition for GSP
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Introduction

The Coalition for GSP ("Coalition") welcomes the opportunity to submit comments for the review by the Office of the U.S. Trade Representative (USTR) and Department of Commerce on the "Administration's Reviews and Report to the President on Trade Agreement Violations and Abuses." The Coalition is a group of American companies and trade associations organized to educate policy makers and others about the important benefits to American companies, workers, and consumers of the Generalized System of Preferences (GSP) program. Since 1992, the Coalition has been the predominant U.S. business community voice advocating for GSP renewal. Coalition members range from small, family-owned businesses to Fortune 500 corporations and operate in all 50 states, the District of Columbia, and Puerto Rico.

About the GSP program

The GSP program was established in 1976. Since then, Congress has routinely reauthorized the program with broad, partisan support, most recently in June 2015. GSP eliminates U.S. import tariffs on approximately 3,400 non-sensitive tariff lines from more than 120 developing countries and an additional 1,400 tariff lines when imported from least-developed countries.

By lowering costs for raw materials, components, and machinery, GSP helps American manufacturers and workers compete in a tough global economy, where they face competition not only in the U.S. market from imported finished products, but also in international markets to which they export. In 2016, approximately 64 percent of U.S. imports under GSP were raw materials, components and machinery. GSP eliminated $423 million in U.S. tariffs on such products in 2016.

By lowering costs for consumer goods and food products, many of which are not available in the United States, GSP increases product choices and helps American families stretch paychecks further. In 2016, approximately 36 percent of U.S. imports under GSP were consumer goods and food products. GSP eliminated $298 million in tariffs on such products in 2016.

Beyond merely reducing U.S. tariffs, GSP plays an important role in U.S. foreign and commercial policy. GSP's long list of eligibility criteria gives the United States a tool to encourage beneficiary countries to improve labor practices, protect intellectual property rights, treat U.S. investors fairly, steer clear of child labor, and open their markets to U.S. goods and services.

Summary of comments

The Coalition's comments focus on specific benefits and opportunities to American workers, manufacturers, farmers, and ranchers created by the U.S. Generalized System of Preferences program.[1] Using information from USTR, data from official U.S. government trade statistics, and provided by American companies using GSP about their imports and exports, we demonstrate three key points:

1. The GSP program helps protect American workers, manufacturers, farmers, and ranchers from unfair treatment in more than 120 trading partners. The GSP program's extensive eligibility criteria, along with the Annual Review process, ensures that interested parties have regular opportunities to address perceived short-comings in GSP beneficiary developing countries (BDCs).

2. Expanding GSP product coverage would make it a more effective "carrot and stick." While incredibly important to current users, only 9.4 percent of U.S. imports from BDCs claimed GSP preferences in 2016. In fact, the United States collected about $6.60 in tariffs on imports from GSP countries for each $1 in tariffs waived by the program. The Administration could take a number of unilateral steps to increase product coverage without changing the GSP statute.

3. The GSP program supports American jobs, exports, investments, but lapsed authorizations undermine such American benefits. The on-again, off-again nature of the GSP program since 2010 helps show the benefits of GSP to American jobs, exports, investments – when in place. Conversely, American jobs, exports, investments, including into research and development, suffer when GSP benefits lapse.

The Coalition looks forward to working with the Administration to promote – and improve upon - trade programs such as GSP with a proven track record of benefiting American companies, workers, and families both at home and abroad.

Main comments

1. The GSP program helps protect American workers, manufacturers, farmers, and ranchers from unfair treatment in more than 120 trading partners.

The GSP statute establishes a long list of eligibility criteria that beneficiary countries must meet in order to receive benefits, which is accompanied by an administrative review process to ensure compliance. The statute lists specific countries ineligible to receive benefits (e.g., Canada, Japan, EU members, etc.) as well as a threshold at which countries automatically lose GSP benefits through "graduation" from the program (e.g., being deemed "high-income" by the World Bank). For countries not precluded by either of the above provisions, the GSP statute

[1] The Coalition previously submitted comments related to "Significant Trade Deficits" with GSP beneficiary countries India, Indonesia, and Thailand (available at https://www.regulations.gov/document?D=ITA-2017-0003-0149) and therefore will not address that topic as part of this submission.

also includes both mandatory and discretionary criteria associated with country-specific practices.

For example, 19 USC 2462(b)(2) of the GSP statute sets forth the mandatory criteria that each country must satisfy before being designated a GSP beneficiary. USTR provides the following summary of mandatory criteria in the GSP Guidebook:[2]

- A GSP beneficiary may not be a Communist country, unless such country receives Normal Trade Relations (NTR) treatment, is a World Trade Organization (WTO) member and a member of the International Monetary Fund (IMF), and is not dominated or controlled by international communism;
- A GSP beneficiary may not be a party to an arrangement of countries nor participate in actions the effect of which are (a) to withhold supplies of vital commodity resources from international trade or to raise the price of such commodities to an unreasonable level and (b) to cause serious disruption of the world economy;
- 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 U. S. commerce;
- 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;
- A GSP beneficiary may not have failed to recognize or enforce arbitral awards in favor of U.S. citizens or corporations;
- 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;
- A GSP beneficiary must have 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) a prohibition on the use of any form of forced or compulsory labor, 4) a minimum age for the employment of children, and a prohibition on the worst forms of child labor, and 5) acceptable conditions of work with respect to minimum wages, hours of work and occupational safety and health;
- A GSP beneficiary must implement any commitments it makes to eliminate the worst forms of child labor.

Additionally, 19 USC 2462(c) of the GSP statute sets forth discretionary criteria that the President must take into account when determining whether to grant – or remove – GSP benefits for a country. In the GSP Guidebook, USTR provides the following summary of the discretionary criteria related to country practices:[3]

- The extent to which such country has assured the United States that it will provide equitable and reasonable access to its markets and basic commodity resources and the

[2] See: https://ustr.gov/sites/default/files/gsp/GSP%20Guidebook%20March%202017.pdf
[3] *Ibid.*

extent to which it has assured the United States it will refrain from engaging in unreasonable export practices;

- The extent to which such country provides adequate and effective protection of intellectual property rights;
- The extent to which such country has taken action to reduce trade distorting investment practices and policies, including export performance requirements, and to reduce or eliminate barriers to trade in services.

The GSP Subcommittee of the Trade Policy Staff Committee (TPSC), which is chaired by USTR and comprised of representatives of other executive branch agencies, conducts an Annual Review during which changes are considered to the lists of articles and countries eligible for duty-free treatment under GSP. The Annual Review process ensures that interested parties have regular opportunities to address perceived short-comings in the GSP program.

As part of the review process, countries may lose benefits in response to specific actions or events. In 2012, Argentina was suspended as a result of a presidential determination that the country failed to enforce arbitral awards.[4] In 2013, Bangladesh was suspended as a result of a presidential determination that the country failed to meet labor rights standards.[5] Most recently, USTR announced a self-initiated country practice review regarding child labor in Bolivia in June 2017.[6]

GSP country practice reviews are not intended to be punitive. Instead, USTR and relevant government agencies attempt to work with BDCs to bring them into compliance with eligibility criteria, to the benefit of American workers, manufacturers, farmers, and ranchers. In 2016, USTR initiated a review into whether to reinstate Argentina's GSP benefits. Argentina settled the disputed arbitral awards in late 2013.

2. Expanding GSP product coverage would make it a more effective "carrot and stick."

The United States' ability to use GSP as both a "carrot and stick" is limited by GSP product coverage. In 2016, only 9.4 percent of U.S. imports from BDCs claimed GSP preferences. Furthermore, while GSP waived an estimated $729 million in import tariffs last year, the United States collected $4.8 billion in tariffs on imports from GSP countries. Put differently, despite GSP benefits the United States collected about $6.60 in tariffs on imports from GSP countries for each $1 in tariffs waived by the program. For a country like Sri Lanka, that figure was nearly $54 in tariffs for every $1 waived under GSP last year. Table 1 below summarizes the utilization rates, GSP tariffs saved, and tariffs collected on non-GSP imports for top BDCs in 2016.

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[4] See: https://www.federalregister.gov/documents/2016/11/21/2016-27917/generalized-system-of-preferences-gsp-initiation-of-a-review-of-argentina-for-possible-designation

[5] See: https://www.federalregister.gov/documents/2013/07/02/2013-16104/to-modify-duty-free-treatment-under-the-generalized-system-of-preferences-and-for-other-purposes

[6] See: https://www.federalregister.gov/documents/2017/07/10/2017-14369/results-of-the-20162017-annual-generalized-system-of-preferences-review-and-initiation-of-a-country

TABLE 1: GSP VERSUS NON-GSP IMPORTS FROM BENEFICIARY DEVELOPING COUNTRIES, 2016

BDC	**Share of BDC Imports Claiming GSP**	**Estimated U.S. Tariffs Waived by GSP** ($ million)	**U.S. Tariffs Collected on Non-GSP Imports** ($ million)	**Estimated Tariffs Paid per $1 Waived by GSP** ($)
India	10.1%	$189.2	$1,111.7	$5.87
Thailand	13.5%	$138.0	$454.8	$3.29
Brazil	8.3%	$89.1	$250.0	$2.80
Indonesia	9.3%	$73.8	$1,246.6	$16.89
Philippines	14.6%	$58.3	$273.1	$4.68
Turkey	17.6%	$54.5	$181.9	$3.33
South Africa*	14.0%	$32.0	$5.9	$0.18
Ecuador	6.6%	$18.8	$35.0	$1.87
Pakistan	7.2%	$11.6	$315.7	$27.30
Sri Lanka	6.1%	$6.4	$342.5	$53.77
All GSP BDCs	9.4%	$728.8	$4,808.4	$6.60

* Imports from South Africa also receive duty-free treatment under the African Growth and Opportunity Act (AGOA), which includes more expansive product coverage, which explains the low tariffs paid.

The suspended benefits for Bangladesh illustrate the limitations of using GSP to change country practices. The review focused on labor conditions in the country's garment manufacturing sector, yet most apparel products are excluded from GSP. In the last full year before it was removed from the program (2012), just 0.7 percent of U.S. imports from Bangladesh received GSP benefits. While GSP waived about $3 million in tariffs on imports from Bangladesh, the United States collected $732 million in tariffs on non-GSP imports, or about $244 in tariffs collected for every $1 waived from GSP. It is little surprise that the threat of lost GSP benefits – to an industry that did not receive them in the first place – was not an effective "stick."

Recently, the Administration took an important step to increasing GSP product coverage by extending GSP benefits for travel goods to all BDCs.[7] According to the American Apparel and Footwear Association, U.S. industry pays $90 million a year in tariffs on imports of travel goods from GSP countries.[8] Yet even this large expansion represents less than 2 percent of the tariffs paid on imports from GSP countries in 2016.

If the Administration seeks to maximize the GSP program's effectiveness as both a carrot and a stick, it should take steps to further expand product coverage. The Administration has a number of tools available to increase coverage that do not require changing the GSP statute. For example, the President could reinstate benefits unilaterally for products that exceeded previously exceeded a statutory competitive need limit (CNL) but have since fallen below the threshold. USTR published a list of about 150 products eligible for re-designation as part of the

[7] See: https://www.federalregister.gov/documents/2017/07/10/2017-14369/results-of-the-20162017-annual-generalized-system-of-preferences-review-and-initiation-of-a-country

[8] See: https://www.aafaglobal.org/AAFA/AAFA_News/2017_Press_Releases/AAFA_Applauds_GSP_Travel_Goods_Decision.aspx

2016/2017 Annual Review, which had a combined import value of over $1.6 billion in 2016.[9] Benefits were not reinstated for any of the products.

3. The GSP program supports American jobs, exports, investments, but lapsed authorizations undermine such American benefits.

The Coalition for GSP has worked with hundreds of American companies that use the GSP program. Since 2010, the GSP program's authorization has lapsed twice and each time was renewed retroactively, most recently in June 2015 following a two-year expiration. The on-again, off-again nature of the GSP program since 2010 helps show the benefits of GSP to American jobs, exports, investments – when in place. Conversely, American jobs, exports, investments, including into research and development, suffer when GSP benefits lapse.

The following conclusions are drawn from three separate information gathering efforts: 1) a survey from August 2014, at which point GSP had been expired for a year; 2) a survey from August 2016, at which point GSP had been renewed for a year, and 3) the Coalition's "GSP Supporter List,"[10] a list of American companies that use GSP.[11]

The GSP program supports American jobs. According to our 2014 survey report, 13 percent of respondent companies laid off workers as a result of GSP expiration, while 44 percent delayed new hires. The negative employment impacts were greatest on companies with 11-25 employees, among which 21 percent laid off workers and 65 percent delayed new hires, respectively.[12] This stands in sharp contrast to the 2016 survey report – after retroactive renewal – when 46 percent of respondents reported hiring new workers.

Not only does GSP support *more* jobs, it supports *better* jobs. When the program was expired, 22 percent of survey respondents reported cutting employee wages or benefits (e.g., bonuses, retirement contributions, health insurance). Conversely, a slightly greater share – 23 percent – reported increasing employee wages and benefits after GSP had been renewed.

The GSP program supports American exports. When adding their company's name to the GSP Supporter List, company officials answer a number of questions, including some about their exports and export destinations. About 80 percent of GSP Supporter List companies are small businesses with fewer than 100 workers. Though only 1 percent of U.S. small businesses export, 44 percent of the GSP Supporter List companies export some of their GSP-eligible products. When GSP lapses and import prices go up, these companies' products are less competitive both at home and in third-country markets.

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[9] See: https://ustr.gov/sites/default/files/IssueAreas/gsp/Lists%20of%202016%20Import%20statistics%20relating%20to%20Competitive%20Need%20Limitations%20for%20GSP.pdf

[10] See: http://renewgsptoday.com/gsp-supporter-list/

[11] The 2014 survey received responses from 230 companies; the 2016 survey received responses from 135 companies; the GSP Supporter List had 212 companies as of July 31, 2017.

[12] See: http://renewgsptoday.com/wp-content/uploads/2014/09/lost-sales-investments-and-jobs-impact-of-gsp-expiration-after-one-year.pdf

<u>The GSP program supports American investments, including research and development</u>. According to the 2014 survey report, 40 percent of respondent companies delayed specific capital investments, such as buying new equipment, upgrading existing systems, or expanding into larger facilities. Once again, a slightly greater share – 41 percent – reported making new investments into their U.S. facilities as a direct result of GSP renewal. As part of company responses, multiple companies reported new R&D investments into everything from bicycles to washing machines.

Often times, a single company experience demonstrates all of these issues. For example, one company bought a new facility but, as a result of GSP expiration, no longer had the capital to complete the required upgrades. Only after GSP was renewed was it able to complete the build-out for its new facility. It started developing a new product line, which required hiring new R&D workers in Florida. It was able to increase employee wages and benefits and expects to hire more workers soon. It also exports from Florida to Canada, Latin America, and South America.[13]

The GSP Coalition website has numerous other examples of specific companies supporting American jobs, exports, and investments since GSP was renewed, many of which struggled greatly while the program was expired.[14]

Conclusion

The Coalition for GSP appreciates the opportunity to contribute to the Administration's Reviews on Trade Agreement Violations and Abuses. Over the last 25 years, the Coalition has helped U.S. trade policy makers better understand how U.S. preference programs such as GSP support American jobs, exports, and investments. The Coalition also has helped highlight how GSP helps protect American companies from unfair treatment in more than 120 countries around the world, though more could be done to make the program more effective in that regard.

The Coalition looks forward to working with the Administration to promote – and improve upon – trade policies such as GSP with a proven track record of benefiting American companies, workers, and families both at home and abroad.

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[13] See: http://renewgsptoday.com/profiles/bc-technologies-llc/
[14] See: http://renewgsptoday.com/profiles/